

## Nonprofits Involved in Washington Elections Face New Disclosure Requirements

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Nonprofits involved in electoral campaigns in Washington State may now have to publicly disclose their major donors as well as their campaign contributions and expenditures under a new law that went into effect earlier this year.

Under the Disclose Act of 2018, a nonprofit must register with the Washington Public Disclosure Commission (PDC) as an “incidental committee” and file regular reports if it (1) expects to spend \$25,000 or more in a calendar year to support or oppose state or local candidates or ballot propositions and (2) receives cumulative payments of \$10,000 or more from a single source. The PDC has indicated that a nonprofit that only makes independent expenditures need not file as an incidental committee, but may be subject to other reporting requirements. The PDC also clarified in recent emergency rules that a wide range of entities may qualify as an incidental committee, including but not limited to charities, social welfare organizations, trade associations, and even limited partnerships and LLCs controlled by any of the above. Previously, only nonprofits with a primary purpose of conducting campaign-related activities were required to report.

Incidental committees must now register with the PDC within two weeks of meeting the two criteria outlined above, or within three business days if meeting the criteria during the final three weeks of an election. They must publicly disclose several categories of information, including their leadership, affiliated political or incidental committees, their top ten sources of \$10,000 or more (regardless of whether the underlying payments were designated for non-campaign activity or the donor wishes to remain anonymous), and any campaign contributions and expenditures. Incidental committees automatically dissolve for PDC purposes on December 31 or upon filing a final report, if required, in January of the following year.

There are several important exceptions to what is reportable or triggers the reporting requirements, including (1) support from 501(c)(3) foundations meeting certain outlined criteria, (2) payments from multiple persons received in aggregated form, so long as no portion exceeds \$10,000 from any single person, and (3) neutral analysis or commentary on a ballot proposition.

The Disclose Act’s requirements may present significant challenges to politically active nonprofits, especially those with donors who do not want to be revealed. Nonprofits have several potential strategies for addressing such concerns, including establishing a separate political action committee to receive contributions and conduct campaign activity, limiting the amount or types of its campaign-related activities to avoid triggering the requirements, or seeking a hardship exemption from the PDC, among others.

Pacifica Law Group has assisted numerous nonprofits and political committees with PDC compliance and is prepared to advise and assist our clients on this new law and related PDC guidance as it emerges.



If you have any questions or need more information, please contact:

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