



**State of Washington
PUBLIC DISCLOSURE COMMISSION**

711 Capitol Way Rm. 206, PO Box 40908 • Olympia, Washington 98504-0908
(360) 753-1111 • FAX (360) 753-1112

Toll Free 1-877-601-2828 • E-mail: pdcc@pdcc.wa.gov • Website: www.pdcc.wa.gov

NICHOLAS HENDERSON
PO BOX 757
SOUTH CLE ELUM, WA 98943

Also delivered electronically to "NICKHENDERSON7557@GMAIL.COM"

August 16, 2018

Subject: C-1 Brief Enforcement Hearing Notice PDC Case Number 38927

Dear NICHOLAS HENDERSON:

The Public Disclosure Commission (PDC) records indicate that you are a candidate for public office in 2018, and we have not received a Candidate Registration (C-1 report) disclosing your campaign information for the 2018 election cycle.

RCW 42.17A.205 requires candidates to file a C-1 report, which was to have been filed within two weeks of declaring her/his candidacy, or no later than June 1, 2018. On July 16, 2018, PDC staff sent you a warning letter reminding you letter to file the missing C-1 report.

In accordance with RCW 42.17A.110 and RCW 42.17A.755, a Brief Adjudicative Proceeding (Brief Enforcement Hearing) has been scheduled to determine if you violated RCW 42.17A.205 by failing to file the required C-1 report for the 2018 election cycle. Under the Brief Enforcement Hearing rules, the Presiding Officer has the authority to assess a civil penalty in accordance with WAC 390-37-143, a penalty schedule adopted by the Commission (see enclosed copy).

HEARING INFORMATION

Date and time: **September 24, 2018 at 10 a.m.**
Place: Evergreen Plaza Building, Room 206
711 Capitol Way, Olympia, WA, 98504-0908
Presiding Officer: Anne Levinson, Chair, Public Disclosure Commission

TO AVOID THE HEARING

In order to avoid the Brief Enforcement Hearing, please ensure that the following items are received by the PDC by **12:00 p.m. Wednesday, September 19, 2018**:

1. A completed and signed C-1 Report (a blank C-1 form is enclosed).
2. A signed Statement of Understanding (blank copy enclosed); and
3. A check or money order for \$100 for the late filed C-1 report, made payable to Washington State Treasurer and mail all three items to the following address:

**WA State Treasurer - Public Disclosure Commission
Financial Office
PO Box 41465
Olympia, WA 98504-1465**

If there are circumstances you wish to have considered at the Brief Enforcement Hearing, you may attend the hearing in person, participate by telephone, or submit written materials addressed to the Presiding Officer. For your information, most Respondents who participate at the Brief Enforcement hearings participate by telephone or in writing.

If you cannot participate either in person or by telephone at the Brief Enforcement Hearing, you may provide a written response describing the facts of your case and any circumstances or mitigating factors you would like the Presiding Officer to consider. Please submit your written response by **12:00 p.m. Friday, September 21, 2018**.

If you plan on participating at the Brief Enforcement hearing or have questions about the hearing process, please contact PDC Staff by email at pdcc@pdcc.wa.gov – and be sure to reference your case number in the subject line of the email.

Sincerely,

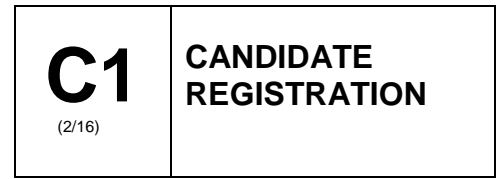
PDC Staff
Compliance and Enforcement Division

Enclosures:

- Statement of Understanding
- Blank C-1 report
- Brief Enforcement Hearings FAQ
- PDC Penalty Schedule

<p style="font-size: small;">PUBLIC DISCLOSURE COMMISSION</p> <p style="font-size: x-small; margin-top: 5px;">711 CAPITOL WAY RM 206 PO BOX 40908 OLYMPIA WA 98504-0908 (360) 753-1111 Toll Free 1-877-601-2828</p>	<h1 style="margin: 0;">Candidate Registration</h1>	<h1 style="margin: 0;">C1</h1> <p style="font-size: x-small;">(6/18)</p>
Candidate's Name (Give candidate's full name.)		Telephone Number ()
Candidate's Committee Name (Do not abbreviate.)		
Mailing Address		Candidate's E-Mail Address
City	County	Zip + 4
1. What office are you running for? _____ Legislative District, County or City		Position No. _____ Do you now hold this office? Yes <input type="checkbox"/> No <input type="checkbox"/>
2. Political party (if partisan office) _____		3. Date of general or special election _____
<p>4. How much do you plan to spend during your entire election campaign, including the primary and general elections? Based on that estimate, choose one of the reporting options below. If no box is checked you are obligated to use Option II, Full Reporting. See instruction manuals for information about reports required and changing reporting options.</p> <p><input type="checkbox"/> Option I MINI REPORTING: In addition to my filing fee of \$_____, I will raise and spend no more than \$5,000, including any charges for inclusion in state and local voters pamphlets. I will not accept more than \$500 in the aggregate from any contributor except myself.</p> <p><input type="checkbox"/> Option II FULL REPORTING: I will use the Full Reporting system. I will file the frequent, detailed campaign reports required by law.</p>		
5. Treasurer's Name and Address. Does treasurer perform <u>only</u> ministerial functions? Yes ___ No ___. See WAC 390-05-243 and next page for details. List deputy treasurers on attached sheet.		Daytime Telephone Number ()
6. Persons who perform only ministerial functions on your behalf <u>and</u> on behalf of other candidates or political committees. List name, title and address of these persons. See WAC 390-05-243 and next page for details. <input type="checkbox"/> Continued on attached sheet.		
7. Committee Officers and other persons who authorize expenditures or make decisions on your behalf. List name, title and address. See next page for definition of "officer." <input type="checkbox"/> Continued on attached sheet.		
8. Campaign Bank or Depository	Branch	City
9. Related or Affiliated Political Committees. List name, address and relationship. <input type="checkbox"/> Continued on attached sheet.		
<p>10. Campaign books must be open to the public by appointment between 9 a.m. and 5 p.m. during the 10 calendar days before the election, except Saturdays, Sundays and legal holidays. In the space below, please provide an email address for scheduling an appointment at a location agreed upon by the treasurer and individual requesting the inspection.</p> <p>In order to make an appointment, contact the campaign at (e-mail):</p>		
<p>11. CERTIFICATION: I certify that this report is true, complete and correct to the best of my knowledge. I acknowledge that the candidate's email address herein shall constitute the official address for purposes of all communications with the commission, and that I must notify the commission of any change to that address within ten days.</p> <p>Candidate's Signature _____ Date _____</p>		

Please consult PDC instruction manuals when completing this report. Reporting requirements are contained in and governed by RCW 42.17A and WAC 390.



Who Must File – Candidates who seek:

- state office (legislative or statewide executive),
- a state supreme court or state court of appeals position,
- local office in jurisdictions having 5,000 or more registered voters as of the last general election or in jurisdictions covering an entire county,
- local office in jurisdictions of any size if the candidate receives or expects to receive \$5,000 or more in contributions.

When To File – Within 2 weeks of becoming a candidate. A person becomes a candidate for PDC purposes when he or she **first** does any of the following:

- receives contributions, makes expenditures, or reserves space or facilities with intent to promote his or her candidacy;
- purchases commercial advertising space or broadcast time to promote his or her candidacy;
- authorizes another person to take one of these above actions on his or her behalf;
- announces publicly that he or she is seeking office; or
- files a declaration of candidacy with the appropriate elections official.

File an amended registration within 10 days of a material change to information provided on previously filed C-1. Reports are considered filed as of the postmark date or date hand-delivered to PDC.

Where To File – Send the **original to PDC** at the address [on the reverse side](#). Candidates for city offices are advised to contact their City Clerk to learn if local filing is required by local ordinance. Keep a copy for the campaign's records.

“Officer” of a Candidate’s Committee – Officer of a candidate’s committee includes the following persons:

- any person designated as an officer on the C-1 registration statement, and
- any person who alone or in conjunction with other persons makes, directs, or authorizes contribution, expenditure, strategic or policy decisions on behalf of the committee. [WAC 390-05-245]

Persons who perform “Ministerial Functions” for two or more campaigns

A person may perform ministerial functions for a candidate and a political committee without jeopardizing that political committee’s eligibility to make independent expenditures or electioneering communications regarding that candidate as long as:

- the person performs solely ministerial functions for both the candidate and the political committee;
- the person is identified on both the candidate’s and political committee’s registration statements as a person performing ministerial functions for the campaign; and
- the person does not share information from or about one of the campaigns with the other campaign, or does not use information from or about one of the campaigns to assist the other campaign. [See RCW 42.17A.005 (13)(b)(ix) and WAC 390-05-243 for more detailed information.]

“Ministerial functions” means activities carried out as part of the duties of an administrative office without exercise of personal judgment or discretion. RCW 42.17A.005(33). Also see WAC 390-05-243 for a non-exclusive list of ministerial functions and a definition of administrative office. Typically, persons performing ministerial functions may, under the supervision of a candidate or committee officer, file PDC reports, make deposits, pay bills and maintain campaign finance records. However, if a person performs functions for both a candidate and a political committee and those functions for one or both campaigns entail duties beyond those deemed ministerial, any expenditure by the committee benefiting the candidate may be a contribution, rather than an independent expenditure or electioneering communication. [RCW 42.17A.005(33) and WACs 390-05-243 and 390-05-210]

For Instruction Manuals and Reporting Forms click on the “Learn” tab at www.pdc.wa.gov

**Public Disclosure Commission
Statement of Understanding
2018 Candidate Enforcement Re: C-1 Report**

I hereby acknowledge that I, _____,
(Printed Name of Respondent)

did not timely file the required Candidate Registration (C-1 Report) with the Public Disclosure Commission (PDC) as required for a candidate seeking elected office in 2018. The C-1 Report was due to be filed within two weeks of my becoming a candidate in the 2018 election, or no later than June 1, 2018, thereby violating RCW 42.17A.700.

I want to avoid the time and expense resulting from a Brief Adjudicative Hearing (Brief Enforcement Hearing) before the Presiding Officer. Therefore, I am filing the C-1 Report, completing the Statement of Understanding, and enclosing a check or money order in the amount of \$100 for the late filed C-1 Report, in lieu of a September 24, 2018 Brief Enforcement hearing being held.

I understand that this will resolve all issues with the PDC regarding my failure to timely file the C-1 Report, provided that a check or money order for \$100, the completed C-1 Report, and this signed Statement of Understanding are all received by **Wednesday, September 19, 2018.**

I further understand that Commission staff will not be scheduling a Brief Enforcement hearing before the Presiding Officer regarding my obligation to timely file the C-1 Report that were due within two weeks.

Signature of Respondent/Candidate

Date Signed

Be sure to include your C-1 Report, make your check or money order payable to "Washington State Treasurer" and mail or deliver this Statement of Understanding, your completed C-1 and Report, and your \$200 payment to the following address:

**WA State Treasurer - Public Disclosure Commission
Financial Office
PO Box 41465
Olympia, WA 98504-1465**

BRIEF ENFORCEMENT HEARINGS

You have received a letter scheduling a brief enforcement hearing before the Public Disclosure Commission. You are referred to as the Respondent in this matter. Here are the answers to some Frequently Asked Questions about brief hearings. They are informational only and should not be considered legal advice.

What is a brief enforcement hearing?

The PDC may schedule a brief enforcement hearing (also known as a “brief adjudicative proceeding” under the Administrative Procedure Act) when evidence shows the following types of alleged violations may have occurred:

- Failure to file or timely file required reports of financial affairs, campaign contributions and/or expenditures, independent expenditures or funds spent on lobbying;
- Improper use of public facilities or resources in election campaigns when the value of public funds expended or facilities used was minimal; and
- Infractions of political advertising laws regarding sponsor identification or political party identification.

Brief hearings may be scheduled on other matters as well, if the basic facts are agreed to or not being contested, and it is anticipated that the likely penalty imposed (if a violation of law or rule is found) will be \$1,000 or less. The Commission has adopted a penalty schedule for Brief Enforcement Hearings which can be found in WAC 390-37-143.

A Presiding Officer, who is the Chair of the Public Disclosure Commission or another commissioner, will conduct the hearing. PDC staff will present the case to the Presiding Officer, and you will have an opportunity to explain the circumstances related to the alleged violations. You may do this in person, by telephone, or in writing by email or letter.

What can I do to avoid the hearing?

If you received a hearing notice that included information about how to avoid a hearing, you may do so by filing the missing report(s), paying the stated penalty, and completing a Statement of Understanding stipulating to a violation. If you would like to stipulate and have questions, please contact PDC Compliance and Enforcement staff.

What do I do to prepare for the hearing?

The brief hearings are informal in nature, and you are not required to have an attorney for this hearing. Most people represent themselves, but that is your decision.

In-person participation. If you are attending in-person, bring all of the written information that you want the Presiding Officer to consider in making a decision. You will need to bring three copies of each — one for you, one for PDC staff, and one for the Presiding Officer. Alternatively, you may submit one copy to PDC staff so long as it is received five business days before the day of the hearing.

If you are having other people (witnesses) testify on your behalf, they must be available at the hearing, and staff needs to be informed of the number of witnesses and time needed. The scheduled hearing starting time is an estimate, as there is frequently more than one hearing scheduled for that day, and you will need to remain available to participate until your case is called.

Telephone participation. If you wish to participate by phone, please let PDC staff know five business days in advance the number where you can be reached and the timeframe you are available. You must be available at the designated time and telephone number. Be aware the hearing time is an estimate, and you must be available until your case is called.

Participation in writing. If you are participating in writing only, make sure any written materials you want the Presiding Officer to consider are delivered to the PDC office no later than five business days before the hearing.

If you have submitted nothing in writing prior to the hearing, have made no other arrangements, and you do not appear in person or through your legal counsel at the hearing, it will be presumed that you have decided to waive your right to participate at the hearing.

What happens at the hearing?

The Presiding Officer will introduce the participants and explain the procedure for the hearing. Hearings typically follow a set format and time limits, but the process is informal enough that non-lawyers can effectively present their cases and respondents can represent themselves.

PDC staff will first present information regarding the alleged violation of law or rule. You will then have an opportunity to present information relevant to your case. All testimony is given under oath. The Presiding Officer may ask you some questions about the information you or PDC staff have presented. If you have decided to participate in writing instead of in person or by phone, your written information will be considered by the Presiding Officer as part of the hearing materials.

If at any time the Presiding Officer believes the alleged violations are serious enough to merit penalties greater than \$1,000, the Presiding Officer will adjourn the hearing and direct the matter be scheduled for a hearing before the full Commission at a later time.

How is the decision made?

After considering all the information presented at the hearing, the Presiding Officer will make a decision about the allegations and any appropriate penalty amount. The decision is typically announced orally at the hearing. A written decision, called an initial order, will be sent to you within 10 business days.

In some cases, the Presiding Officer may use a penalty schedule referred to above that has been adopted by the Commission in rule to determine the appropriate penalty for certain types of violations.

What happens after my hearing?

You will receive a written initial order, along with a cover letter explaining the Presiding Officer's findings, within 10 business days. If a monetary penalty is imposed in this initial order, the penalty must be paid to the **Washington State Treasurer**, and mailed to the address listed in the order cover letter within the time frame stated in the order.

Along with your initial order, you will also receive information about your appeal rights, including how to request review or reconsideration by the full Commission if you disagree with the order. Follow these procedures carefully if you wish to appeal. If there is no appeal before the PDC, the initial order becomes a final order, and further appeals must be made in Superior Court.

What are the rules that apply to the procedures of my hearing?

The PDC's laws and rules are available on the PDC's website at www.pdc.wa.gov. The laws are in the Revised Code of Washington (RCW) Chapter 42.17A. The rules are in the Washington Administrative Code (WAC) Title 390. Brief adjudicative proceedings are described at WAC 390-37-140 through 390-37-150 and in the Administrative Procedure Act (APA) at RCW 34.05.482-4

WAC 390-37-143

Brief enforcement hearings (adjudicative proceeding)—Penalty schedule.

The presiding officer may assess a penalty up to one thousand dollars 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	\$150 - \$300	\$300 - \$600
Filed report after hearing notice, but before enforcement hearing. Did not enter into statement of understanding.	\$150	\$300	\$600
Failed to file report by date of enforcement hearing.	\$250	\$500	\$1,000
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 per report	\$150 - \$300 per report	\$300 - \$600 per report up to \$1,000
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

.... (emphasis added)

"Occasion" means established violation. 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 commission staff prior to initiation of enforcement action and cooperation with commission 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;
 - (l) Commission staff, third-party vendor, or equipment error, including technical problems at the agency preventing or delaying electronic filing.

(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 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 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 found in violation during a previous reporting period;

(b) The 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.

[Statutory Authority: RCW [42.17A.110](#)(1) and [42.17A.570](#). WSR 18-10-088, § 390-37-143, filed 5/1/18, effective 6/1/18. Statutory Authority: RCW [42.17A.110](#). WSR 17-03-004, § 390-37-143, filed 1/4/17, effective 2/4/17.]