

Washington State Tightens Eligibility Requirements for Out-of-State Committees

July 2009

At its May 28, 2009, meeting, the Washington Public Disclosure Commission (PDC) adopted an emergency rule identifying a specific set of criteria with which a political committee must comply in order to become an "out-of-state political committee" under Washington law. Entities located outside of Washington state (including many federal PACs) that participate in Washington elections-but that do not meet these criteria-must register and report as in-state committees. In-state committees are subject to more detailed disclosure obligations than out-of-state committees.

The new rule establishes two general requirements for achieving out-of-state committee status. First, "the committee must be located out-of-state." To satisfy this criterion, the committee must maintain its office or be headquartered in another state or the District of Columbia. Where there is no such office or headquarters, and the committee does not have a registered agent in Washington, it is sufficient that the political committee's treasurer resides outside the state.

Second, "the committee must also be currently organized primarily for engaging in campaign activities in another state." According to the rule, this means the committee must satisfy all three of the following criteria:

- Both currently, and for the past two years, the political committee must be filing disclosure reports in one or more states other than Washington.
- The committee must have organizational documents demonstrating "it was originally formed and is currently organized for the purpose of making expenditures in another

Authors

Caleb P. Burns
Partner

202.719.7451
cburns@wiley.law

Andrew G. Woodson
Partner

202.719.4638
awoodson@wiley.law

state or soliciting contributions for use in another state's election campaigns"; and

- At no time during a calendar year may the committee have spent at least 20% of its total aggregate expenditures for political activities in Washington state, including activities to support state and local candidates, ballot measures and political committees.

A political committee that fails to satisfy all of these requirements must register and report as an in-state committee.

The emergency rule went into effect on June 30. The PDC indicated that it will adopt a permanent rule at a later date.