

RULES OF THE ETHICS COMMISSION PROPOSED AMENDMENTS and/or DRAFTS

**for the 2010 Legislative Session
[Section 257:1-1-1 et seq., 74 O.S. Supp. 2009, Ch. 62, App.]**

**for consideration at the June 19, 2009
Regular Meeting of the Ethics Commission¹
[incorporated into the Notice/Agenda by reference]**

SYNOPSIS OF AMENDMENTS

Amendment	Section	Subject
1.	257:10-1-10(d)	[former Proposed Amendment #13] A candidate seems to be liable for the conduct of a third party under the current language (a person who might be holding checks for a time). The 10-day rule would still apply, which should make the 5-day rule more easily removed from the existing text. The current language is confusing, also, in that it apparently makes a candidate the same as an agent of his own committee. It also implies that a deputy treasurer must turn over contributions just because the treasurer is not around.
	257:10-1-13(b)(4) & (c)(1).	If the purpose of filing campaign contributions and expenditure reports is to let voters know the source and amount of each candidate's campaign finances, then this amendment will continue to let that be done. The question behind this proposal is when an unopposed candidate in the general election needs to file reports prior to either the primary or run-off. Thus, there will be reports filed prior only to elections at which a candidate's name will appear on the ballot.
2.	257:10-1-17(a)	Amendments would allow sending notices 10 days before reporting due dated by either first class or email and would eliminate requirement for certified late letters and late fee assessment letters
3.	257:20-1-9(i)	[Former Proposed Amendment #6] would create a "gift list" [Alternative 1] or "no gifts list" [Alternative 2] whereby legislators can specify whether they will or will not accept things of value from lobbyists
4.	257:20-1-4(a)	would add prohibiting a state officer or employee from "attempting or threatening to use" official position to the prohibition against "using" official position to solicit or secure

¹Commission procedure is to receive oral or written comments on rule amendments at each regular meeting throughout the year, with formal public hearings held in November and December. A vote may be taken at any regular meeting but no later than the January 2010 Regular Meeting.

- for oneself or others special privileges, exemptions or compensation, except as may be allowed by law
5. 257:1-1-5(c) removes replacement of a commissioner by the Chief Justice of the Supreme Court as unconstitutional;
257:30-1-3(f) & (g) removes restrictions on informants and witnesses speaking of informations or names of respondents; and
257:30-1-6 retains restrictions on Commissioners and Commission staff to keep informations confidential until filed as complaints in district court or referred to a law enforcement agency, officer, or prosecuting authority; repeals restrictions on communications between the Executive Director and the Chief Justice on disqualification of Commissioners; and makes open record public reprimands, settlement agreements, complaints, and referrals
6. 257:15-1-5 requires email addresses of agency ethics liaisons
257:15-1-7(a)(1) requires email addresses of compensated F-1R filers
(b)(1) requires email addresses of uncompensated F-1R filers
257:23-1-2(d) requires email addresses of lobbyists or other persons filing expenditures reports
7. 257:10-1-14(a)(20) changes the requirement for filers to certify that contributor statements were obtained within 10 days of —instead of before — contributions being accepted; eliminates the need for a notarized verification of campaign contributions and expenditures reports [Form C-1R or C-3R] and reports of last minute contributions/receipts [Form C-4R]. Instead of filing a Form C-VR —verification of C-1R, C-3R or C-4R —filers would, by filing online or by paper, certify that the report is true and correct, and that they are appointed to file reports on behalf of the committee

ETHICS COMMISSION
STATE OF OKLAHOMA

DISPOSITION BY COMMISSION

RULE AMENDMENT

No. 1

(Date)

Mr. Chairman:

I agree to sponsor Ethics Commission Rule No. 257:10-1-10(d) and Rule No. 257:10-1-13(b)(4) and (c)(1) as follows:

257:10-1-10. Campaign depositories and campaign accounts.

(d) All contributions, other than in-kind contributions, accepted by the committee, directly or indirectly, shall be deposited in a campaign account within ten (10) days after acceptance. ~~All contributions received by a deputy treasurer or agent of the committee, including the candidate, on behalf of a committee shall be provided to the treasurer or, in the treasurer's absence, the deputy treasurer not later than five (5) days after receipt.~~

Section 257: 10-1-13. Pre-election reports by all committees.

(b) **Pre-election reports by all committees.**

* * *

(4) The first quarterly report due after a General Election in which a committee supported or opposed candidates on the ballot shall cover a period beginning with the first day following the end of the reporting period of the pre-election report for the General Election and end with the last day of the quarter.

* * *

(c) **Exemptions**

(1) **Candidate committees.** A candidate whose name will not appear on the ballot at the next election following the pre-election report dates provided by this subsection shall not be required to file a pre-election report for that election. The next report filed by that candidate shall include information for all transactions beginning with the end of the last reporting period for which the candidate was required to file a report and ending on the date specified for the report to be filed.

* * *

Submitted by

Vice Chair Jo Pettigrew

Explanation and Purpose: The rationale for this amendment, as written by Commissioner Pettigrew, is:

257:10-1-10(d). A candidate seems to be liable for the conduct of a third party under the current language (a person who might be holding checks for a time). The 10-day rule would still apply, which should make the 5-day rule more easily removed from the existing text. The current language is confusing, also, in that it apparently makes a candidate the same as an agent of his own committee. It also implies that a deputy treasurer must turn over contributions just because the treasurer is not around.

257:10-1-13(b)(4) and (c)(1). If the purpose of filing campaign contributions and expenditure reports is to let voters know the source and amount of each candidate's campaign finances, then this amendment will continue to let that be done. The question behind this proposal is when an unopposed candidate in the general election needs to file reports prior to either the primary or run-off. Thus, there will be reports filed prior only to elections at which a candidate's name will appear on the ballot.

Person requesting amendment: This amendment was originally requested by Vice Chair Jo Pettigrew. It was continued by the Commission on January 30, 2009.

ETHICS COMMISSION
STATE OF OKLAHOMA

DISPOSITION BY COMMISSION

RULE AMENDMENT

No. 2

(Date)

Mr. Chairman:

I agree to sponsor Ethics Commission Rule No. 257:10-1-17(a) as follows:

257:10-1-17. Notification of filing obligation

(a) The Commission shall send by first class ~~or electronic~~ mail a notice of obligation to file ~~and appropriate paper forms for filing the necessary report or statement~~ no less than ten (10) days before the first day a report is due for each period for which a committee is required to file or electronically transmit such statement or report. The Commission shall notify each registered committee no less than ten (10) days before each filing date for a monthly or quarterly report. The Commission shall send by first class or electronic mail a notice of obligation to file a pre-election report to a committee if information provided on the statement of organization indicates probable involvement in a particular election.

(b) A committee is not relieved of its reporting responsibilities if:

- (1) the Commission fails to send a notice ~~or form~~; or
- (2) the committee does not receive a notice ~~or form~~.

(c) **Publication, notice, and late filing fees.** The Commission shall post in public view in its office a list of those delinquent in filing any designation, registration, statement or report required by the Rules. The Commission shall send a delinquency notice to the appropriate person within twenty-four (24) hours after the filing deadline by first class mail and shall assess late filing fees as provided in Section 4256 of Title 74 of the Oklahoma Statutes.

Submitted by

Vice Chair Jo Pettigrew

Explanation: This amendment would allow pre-notices of reports and statements to be sent by either first class or electronic mail and would remove the duty to include paper forms.

Purpose: The purpose of this amendment is to allow sending notices of reports and statements 10 days before due dates either by first class or email and to not include paper forms with the notices.

Person requesting amendment: This amendment was requested by Vice Chair Jo Pettigrew.

ETHICS COMMISSION
STATE OF OKLAHOMA

DISPOSITION BY COMMISSION

RULE AMENDMENT

No. 3

(Date)

Mr. Chairman:

I agree to sponsor Ethics Commission Rule No. 257:27-1-9(i) as follows:

257:20-1-9. Restraints on solicitation or acceptance of anything of value—Disclosure

* * *

Alternative 1: (Opt out)

(i) **No gifts list.** The Oklahoma Ethics Commission shall create and maintain a “ No Gifts List,” whereby legislators who do not want to receive things of value from lobbyists may voluntarily participate and be named on the list. No legislator whose name appears on this list can accept a thing of value from a registered lobbyist.

Alternative 2: (Opt in)

(i) **Gifts list.** The Oklahoma Ethics Commission shall create and maintain a “ Gifts List,” whereby legislators who want to receive things of value from lobbyists may voluntarily participate and be named on the list. Only legislators whose name appears on this list can accept a thing of value from a registered lobbyist.

* * *

Submitted by

Chairman John Raley

Explanation: This amendment would create a gift or no gifts list to inform lobbyists which legislators will or will not accept things of value.

Purpose: The purpose of this amendment would be to prevent legislators who do not wish to receive gifts from lobbyists from having gifts offered and the need to reject or return them.

Person requesting amendment: This amendment was originally requested by Dr. John Wood, Common Cause Oklahoma. It was continued by the Commission on January 30, 2009.

ETHICS COMMISSION
STATE OF OKLAHOMA

DISPOSITION BY COMMISSION

RULE AMENDMENT

No. 4

(Date)

Mr. Chairman:

I agree to sponsor Ethics Commission Rule No. 257:20-1-4(a) as follows:

257:20-1-4. Misuse of office

(a) No state officer or state employee shall use, attempt to use or threaten to use his or her official position to solicit or secure special privileges, exemptions or compensation for himself, herself or others, except in the performance of his or her duties or as may be allowed by law. Such prohibited activity, except as provided by statute, shall not include:

* * *

Submitted by

Chairman John Raley

Explanation: This amendment would add prohibiting a state officer or employee from “ attempting or threatening to use” official position to the prohibition against “ using” official position to solicit or secure for oneself or others special privileges, exemptions or compensation, except as may be allowed by law .

Purpose: The purpose of this amendment would be to prevent attempts or threats to use official position to solicit or secure for oneself or others special privileges, exemptions or compensation, except as may be allowed by law .

Person requesting amendment: This amendment was requested by Chairman John Raley.

ETHICS COMMISSION
STATE OF OKLAHOMA

DISPOSITION BY COMMISSION

RULE AMENDMENT

No. 5

(Date)

Mr. Chairman:

I agree to sponsor Ethics Commission Rule No. 257:1-1-5(c), 257:1-1-6(h), 257:30-1-3(f) and (g), and 257:30-1-6 as follows:

257:1-1-5. Conflicts of interest

~~(c) — **Replacement.** The Chief Justice of the Supreme Court shall appoint a member of the Court on the Judiciary to replace any member of the Commission who disqualifies himself or who is disqualified pursuant to the provisions of this section to serve with respect to that particular proceeding only. The Executive Director of the Commission shall notify the Chief Justice in writing of any such disqualification. Such notice shall be confidential and not open for public inspection.~~

257:30-1-3. Investigations

* * *

~~(f) Prior to a determination to initiate a complaint under Section 4 of this chapter, no person who has provided information to the Commission or has knowledge that the Commission is undertaking an investigation shall disclose:~~

- ~~(1) — his knowledge that an investigation has been undertaken;~~
- ~~(2) — any information he obtains as a result of having submitted information or interacted with the Commission in connection with a particular investigation;~~
~~or~~
- ~~(3) — the fact that he testified to or filed information with the Commission, or otherwise participated in the Commission investigation.~~

~~If a person, who has provided or intends to provide or file with the Commission any information alleging a violation of this Title, publicly discloses such intent or action, the Respondent shall be notified, in writing by certified mail, that the Respondent may either keep the matter confidential pursuant to Section 6 of this Chapter or waive confidentiality with respect to the final action of the Commission in the matter; provided, such waiver shall be made in writing to the Commission within twenty (20) days of the receipt of notice described in this subsection. The Respondent's waiver, once received by the Commission, may not be amended or rescinded.~~

~~(g) If the Respondent discloses the contents of an information or the fact that an information has been filed against him or her, any provisions of this Chapter prohibiting disclosure of the information by the Commission may be waived and the information~~

and written correspondence between the Respondent and the Commission's staff or independent contractors may, in the discretion of the Commission, be open for public inspection.

* * *

257:30-1-5. ~~Settlement agreements~~ Resolution of investigations other than by complaints

(a) The Commission may resolve any possible violation of this chapter by the following:

- (1) after prior notice and an opportunity to be heard, issuing a private reprimand to the Respondent for an inadvertent violation;
- (2) after prior notice and an opportunity to be heard, issuing a public reprimand to the Respondent;
- (3) electing to enter into a settlement agreement.

~~A public reprimand and a settlement agreement shall be a matter of public record.~~

* * *

257:30-1-6. Public inspection or confidentiality of actions and records relating to alleged violations

(a) **Confidential Commission actions and records.** The following Commission actions and records are confidential and not open for public inspection:

- (1) information received from any source alleging violations of this title, except as may be filed in district court. The Commission may refer to such matters on the public agenda by the internal matter number assigned by the Commission or its employees or independent contractors rather than by the name of the individual accused of an ethics violation;
- (2) deliberations which shall include discussion of ethics interpretations, investigations, complaints, settlement ranges or settlement offers, decisions, ~~and~~ recommendations, and discussions on pending litigation, all of which shall be held in executive sessions of the Commission; ~~and~~
- (3) ~~records and materials obtained or work products prepared by the Commission, its employees or independent contractors in connection with an investigation or complaint~~ confidential communications between the Commission and its attorney or attorneys concerning a pending investigation, claim, or action if the Commission, with the advice of its attorney or attorneys, determines that disclosure will seriously impair the ability of the Commission to process the claim or conduct a pending investigation or litigation in the public interest; and
- (4) ~~communications between the Executive Director of the Commission and the Chief Justice in writing pertaining to the disqualification of a member of the Commission pursuant to Section 5 of Chapter 1 of this title; and~~

~~(5)~~ private reprimands for inadvertent violations. The Commission shall within 10 days of issuance, publish private reprimands without the name of the subject or subjects of the private reprimands.

(b) **Commission actions and records open for public inspection.** The following Commission actions and records are open for public inspection:

(1) Public reprimands;

(2) Settlement agreements;

(3) Names of respondents and allegations contained in any complaint initiated by the Commission and any other information as may be filed in district court; and

(4) Names of respondents and allegations contained in any record transmitted by the Commission to a law enforcement agency, officer, or prosecuting authority.

(c) **Disclosure to a respondent or law enforcement authority.** Notwithstanding Subsection (a) of this section, the record of a matter that is the subject of an investigation shall be disclosed upon written request to:

(1) a Respondent or the subject of an investigation, or the attorney for a Respondent or subject of an investigation; provided that disclosure of the record to the Respondent or the subject of an investigation or to an attorney for a Respondent or subject of an investigation record shall be limited to a copy of the complaint, a copy of all statements made by the Respondent, a copy of all sworn statements by persons other than the Respondent, and any and all exculpatory evidence; or

(2) a law enforcement ~~commission~~ agency, officer, or prosecuting authority to fulfill the purposes of this title.

~~(e)~~ (d) **Disclosure when necessary in investigation.** Notwithstanding Subsection (a) and (b) of this section, a record or any part of a record may, in the discretion of the Commission, be disclosed ~~upon written request~~ when necessary in the course of an investigation to such persons as are material to the investigation.

~~(d)~~ (e) **Disclosure by staff or independent contractor in investigation.** Notwithstanding anything in this section, an employee or independent contractor of the Commission may, when necessary in the course of an investigation, disclose a record or any part of a record to such persons as are material to the investigation.

~~(e)~~ (f) **Disclosure upon referral for prosecution.** Notwithstanding anything in this chapter, a record or any part of a record containing information indicating that a violation of ~~criminal~~ law, whether state or federal, has occurred or may have occurred, may be transmitted to a law enforcement ~~commission~~ agency, officer, or prosecuting authority.

Submitted by

Commissioner

Explanation: This amendment in 257:1-1-5(c) removes replacement of a commissioner by the Chief Justice of the Supreme Court as unconstitutional; in 257:30-1-3(f) & (g) removes restrictions on informants and witnesses speaking of informations or names of respondents; in 257:30-1-5(a), removes language making public reprimands and settlement agreements public records; and in 257:30-1-6 retains restrictions on Commissioners and Commission staff to keep informations confidential until filed as complaints in district court or referred to a law enforcement agency, officer, or prosecuting authority; repeals restrictions on communications between the Executive Director and the Chief Justice on disqualification of Commissioners; and makes open record public reprimands, settlement agreements, complaints, and referrals.

Purpose: The purpose of this amendment is to conform the Rules to current case law regarding the constitutionality of rules on confidentiality of Commission actions and records.

Person requesting amendment: This amendment was requested by Chairman Raley.

ETHICS COMMISSION
STATE OF OKLAHOMA

DISPOSITION BY COMMISSION

RULE AMENDMENT

No. 6

(Date)

Mr. Chairman:

I agree to sponsor Ethics Commission Rule Nos. 257:15-1-5, 257:15-1-7(a)(1) and (b)(1) and 257:23-1-2(d) as follows:

257:15-1-5. Liaison to Commission

Every governmental entity created by the Oklahoma Constitution or by state statute, except those exempted in the definition of "public member" in Section 2 of Chapter 1 of this title, shall designate an employee or member who shall be responsible for filing in any manner specified by the ~~agency~~ Commission on or before December 31 of each year, a list of employees and/or members of governing boards or commissions, their mailing and electronic mailing addresses, who are required under Section 3 of this chapter to file statements of financial interests. The employee or member so designated shall notify each person identified on the list in writing of his or her obligation to file a statement of financial interests. Only those persons identified on the list shall be required to file a statement of financial interests. The intentional or inadvertent omission by another of a person from the list shall not subject such person to any liability resulting from the omission. The employee or member so designated shall notify the Commission of newly employed or appointed employees or members of governing boards or commissions, their mailing and electronic mailing addresses, who are required under Section 3 of this chapter to file statements of financial interests as soon as practicable after such employees or members assume the duties of office.

257:15-1-7. Information required

(a) **From compensated filers, candidates and commissioners.** A statement of financial interests of candidates, members of the Commission, and filers who receive compensation from the state, excluding public members who are members of boards of regents within the Oklahoma State System of Higher Education, must contain full and complete information concerning the following:

(1) the name, birth date, mailing address, electronic mailing address, and work place telephone number of the filer;

* * *

(b) **From uncompensated filers.** A statement of financial interests of a filer who does not receive compensation from the state and from public members who are members of boards of regents within the Oklahoma State System of Higher Education must contain full and complete information concerning the following:

- (1) the name, birth date, mailing address, electronic mailing address, and work place telephone number of the filer;

* * *

257:23-1-2. Anything of value reporting by lobbyists--Preservation of accounts, books, etc.

* * *

(d) **Contents of reports.** The information to be reported pursuant to the provisions of Subsection (b) of this section shall be as follows:

- (1) The full name and electronic mailing address of the lobbyist or other person filing the report;
- (2) The name and position of the state officer or state employee to whom the thing of value was given;
- ~~(2)~~ (3) The date the thing of value was given;
- ~~(3)~~ (4) The nature of the thing of value given;
- ~~(4)~~ (5) The amount of the expenditure made by the lobbyist or lobbyist principal for the thing of value; and
- ~~(5)~~ (6) The name of the lobbyist principal or lobbyist principals on whose behalf the thing of value was given, if any.

* * *

Submitted by

Commissioner

Explanation: This amendment would require email addresses from agency ethics liaisons, filers of statements of financial interests, both compensated and uncompensated, and lobbyists or other persons filing expenditures reports.

Purpose: The purpose of this amendment would be to provide reminder notices by email as opposed to first class mail.

Person requesting amendment: This amendment was requested by Staff.

ETHICS COMMISSION
STATE OF OKLAHOMA

DISPOSITION BY COMMISSION

RULE AMENDMENT

No. 7

(Date)

Mr. Chairman:

I agree to sponsor Ethics Commission Rule Nos. 257:10-1-14(a)(20) and 257:10-1-15 as follows:

257:10-1-14. Report contents

(a) **Basic reporting form.** The campaign contributions and expenditures report shall include:

* * *

(20) the signature, or typed signature on electronically filed forms of the treasurer or, in the treasurer's absence, the deputy treasurer, who shall certify that ~~prior to~~ within 10 business days of accepting any contribution requiring a contributor statement during this campaign-to-date for candidate committees or calendar year-to-date for other committees, the treasurer, or deputy treasurer in the treasurer's absence, received a contributor statement therefor, ~~and who shall each attest to the report's accuracy and veracity. Within five (5) business days of the treasurer or deputy treasurer of a candidate committee filing a required report, the candidate, or the treasurer of a candidate committee for a candidate seeking judicial office,~~ The filer's signature, or typed signature on electronically filed forms, shall confirm in writing certify that the report filed was a true and correct record of the committee's contribution and expenditure transactions and that the filer is appointed to file the report on behalf of the committee. ~~The signature shall be verified.~~

257:10-1-15. Report of last minute contributions/receipts

A contribution or contributions of five hundred dollars (\$500) or more in the aggregate accepted from one (1) person or family or loan proceeds received in the amount of five hundred dollars (\$500) or more after the closing date for the pre-election reporting period, but before the election, except for prior reported contributions or loan proceeds, shall be reported by the name and address, occupation and employer, or principal interest or principal business activity of the contributor, the date accepted, the amount of the contribution or contributions, and the total of contributions accepted from the contributor for the campaign-to-date or calendar year-to-date or the name and address, occupation and employer, or principal interest or principal business activity of the lender and the date of the loan, promissory note, or security agreement resulting in the loan proceeds. Reports shall not be required by a candidate committee which does not have its candidate on the following ballot or a ballot measure committee

which is not supporting or opposing a ballot measure on the following ballot nor by committees which are not supporting or opposing candidates in that election cycle or ballot measures on the following ballot. Reports shall be made on the appropriate form by United States mail, hand delivery, facsimile transmission, telegram, or express delivery service to the Commission or electronically transmitted to the Commission office within twenty-four (24) hours of acceptance. The report shall include the signature or typed signature on electronically filed forms of the treasurer or, in the treasurer's absence, the deputy treasurer of said committee. Within five (5) business days of the treasurer or deputy treasurer of a candidate committee filing a required last minute contributions or receipts report, the candidate, or the treasurer of a candidate committee for a candidate seeking judicial office, shall confirm in writing that the report filed was true and correct. The signature shall ~~be verified~~ certify that the report is a true and correct record of the committee's contributions or other receipts transactions and that the filer is appointed to file last minute contributions or receipts reports on behalf of the committee. This contribution shall also be included on the next report filed or electronically transmitted by the committee.

Submitted by

Vice Chair Jo Pettigrew

Explanation: This amendment changes the requirement for filers to certify that contributor statements were obtained within 10 days of —instead of before —contributions being accepted; eliminates the need for a notarized verification of campaign contributions and expenditures reports [Form C-1R or C-3R] and reports of last minute contributions/receipts [Form C-4R]. Instead of filing a Form C-VR — verification of C-1R, C-3R or C-4R —filers would, by filing online or by paper, certify that the report is true and correct, and that they are appointed to file reports on behalf of the committee.

Purpose: The purpose of this amendment is to eliminate use of Form C-VR.

Person requesting amendment: This amendment was requested by Vice Chair Jo Pettigrew.