



Annotated Ethics Rules

Prepared by the Oklahoma Ethics Commission
Effective July 1, 2019.

Operational as indicated in the History of each Rule.

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Oklahoma Constitution Article XXIX

Ethics Commission

§ 1. Ethics Commission - Appointments - Qualifications - Terms
 - Vacancies - Quorum

(A) There is hereby created the Ethics Commission which shall consist of five members. The Governor, Attorney General, President Pro Tempore of the Senate, Speaker of the House of Representatives, and Chief Justice of the Supreme Court shall each appoint a person who is a registered voter of this State to the Commission. The initial terms of the Governor's and Attorney General's appointees shall be one year; the initial terms of the President Pro Tempore's and Speaker's appointees shall be three years, and the initial term of the Chief Justice's appointee shall be five years.

(B) No congressional district shall be represented by more than one Commissioner, and no more than three persons of the same political registration shall serve on the Ethics Commission at the same time.

(C) After the initial terms, members of the Ethics Commission shall serve terms of five years. No person shall be appointed to the Commission more than two times in succession, except the initial members who serve less than five-year terms may be appointed three times in succession. A vacancy on the Commission shall be filled for the remainder of the unexpired term by the appointing author.

(D) The members of the Commission shall choose a chair from among themselves.

(E) The term of office for a Commissioner shall commence at noon on the second Monday in July.

(F) No member of the Ethics Commission shall be eligible for elected office for two years after completing his or her term.

(G) A majority of the members serving shall constitute a quorum.

History

Added by State Question No. 627, Initiative Petition No. 341, adopted at election held September 18, 1990.

§ 2. Appropriation - Compensation - Staff

(A) The Ethics Commission shall receive an annual appropriation by the Legislature sufficient to enable it to perform its duties as set forth in this Constitutional Amendment. Any funds appropriated to the Ethics Commission, which remain unspent at the end of the fiscal year shall be returned to the general revenue fund. The Commission shall present its proposed budget to the Governor and the Legislature on the second day of each legislative session.

(B) The Commissioners shall receive reimbursement for travel, lodging, and meals while on official business as provided for other officers of the State, but they shall not be otherwise compensated.

(C) The Commission may employ an executive director and other staff, including attorneys, necessary to fulfill its duties.

History

Added by State Question No. 627, Initiative Petition No. 341, adopted at election held September 18, 1990.

§ 3. Ethics Rules

(A) After public hearing, the Ethics Commission shall promulgate rules of ethical conduct for campaigns for elective state office and for campaigns for initiatives and referenda, including civil penalties for violation of these rules.

(B) After public hearing, the Ethics Commission shall promulgate rules of ethical conduct for state officers and employees, including civil penalties for violation of these rules.

(C) Newly promulgated rules shall be presented to each House of the Legislature and to the Governor on the second day of each session of the Legislature. If these rules are not disapproved by joint resolution, subject to veto by the Governor, during the same legislative session, they shall be effective. In the event the Governor vetoes a joint resolution disapproving any Ethics Commission's rules, the procedure shall be the same as for the veto of any other bill or joint resolution. Effective Ethics Commission rules shall be published in the official statutes of the State.

(D) Effective Ethics Commission rules may be repealed or modified by the Commission, and the repeal or modification shall be submitted to the Legislature and the Governor in the same manner as newly promulgated rules. Effective Ethics Commission rules may also be repealed or modified by law passed by a majority vote of each House of the Legislature. If the Governor vetoes such a law, the procedure shall be the same as for the veto of any other bill or joint resolution.

History

Added by State Question No. 627, Initiative Petition No. 341, adopted at election held September 18, 1990.

§ 4. Investigation - Decision - Subpoena Power

(A) The Ethics Commission shall investigate and, when it deems appropriate, prosecute in the District Court of the County where the violation occurred, violations of its rules governing ethical conduct of campaigns, state officers, and state employees. Where uncertainty exists as to the County in which the violation occurred, the Commission may prosecute in any County in which the evidence indicates the violation might have been committed. The Court may assess penalties for violation of ethical standards established by the Commission as provided in the Commission's rules. The Commission may settle investigations and accept payment of fines without Court order. Fines paid shall be deposited in the general revenue fund of the State.

(B) The Commission shall also enforce other ethics laws as prescribed by law.

(C) For purposes of its investigations, the Ethics Commission shall have subpoena power.

History

Added by State Question No. 627, Initiative Petition No. 341, adopted at election held September 18, 1990.

§ 5. Ethics Interpretations

The Ethics Commission may respond, pursuant to its rules, to questions of specific individuals seeking an interpretation of the Commission's rules governing ethical conduct for campaigns, state officers, or state employees. Any such official interpretation of ethics rules shall be binding on the Commission.

History

Added by State Question No. 627, Initiative Petition No. 341, adopted at election held September 18, 1990.

§ 6. Criminal Penalties

This Article shall not prevent enactment of laws prohibiting certain conduct by political candidates, government officers, government employees, or other persons and providing criminal penalties for such conduct. It also shall not prevent enactment of laws governing ethical conduct of local political subdivision officers and employees, nor shall it prevent enactment of law governing conditions of state government employment.

History

Added by State Question No. 627, Initiative Petition No. 341, adopted at election held September 18, 1990.

§ 7. Removal

A Commissioner shall only be removed from office pursuant to the provisions of Article VIII of this Constitution.

History

Added by State Question No. 627, Initiative Petition No. 341, adopted at election held September 18, 1990.

Rule 1

Administration

Rule 1.1. Purpose of Ethics Rules.

The purpose of these Rules is to fulfill the duties of the Oklahoma Ethics Commission as provided by Article XXIX, Sections 3, 4 and 5 of the Constitution of the State of Oklahoma.

History

Promulgated by Ethics Commission January 10, 2014; effective upon Legislature's sine die adjournment May 23, 2014; operative January 1, 2015.

Commission Comment

Pursuant to Okla. Const. art. XXIX, § 3, the Commission has authority to promulgate Rules of ethical conduct for campaigns for elective state office, for campaigns for initiatives and referenda, and Rules of ethical conduct for state officers and employees. These Rules are distinguishable from administrative rules promulgated under the Administrative Procedures Act ("APA"), 75 O.S. §§ 250 et seq. The procedure for promulgation of Commission Rules is specified at Okla. Const. art. XXIX, § 3, not by the APA. Moreover, the grant of the Commission's rulemaking authority is in the Constitution, id., not in the statutes.

Rule 1.2. Purpose of Rule 1.

The purpose of Rule 1 is to set forth the administrative operations necessary to implement these Rules.

History

Promulgated by Ethics Commission January 10, 2014; effective upon Legislature's sine die adjournment May 23, 2014; operative January 1, 2015.

Commission Comment

This provision is to acknowledge the necessity for procedures required to effectively administer the Rules.

Rule 1.3. Definition.

As used in Rule 1, "Commission" shall mean the Oklahoma Ethics Commission.

History

Promulgated by Ethics Commission January 10, 2014; effective upon Legislature's sine die adjournment May 23, 2014; operative January 1, 2015.

Commission Comment

In the absence of other definitions, words used in this Rule should be given their ordinary definitions within the context of their use.

Rule 1.4. Determination of Timely Filing.

(A) Documents required to be filed electronically with the Commission under these Rules shall be timely filed if filed at any time on the day specified, including weekends, holidays, or when the Commission offices are closed.

(B) All other documents filed with the Commission under these Rules shall be timely filed if filed no later than 4:30 p.m. on the day specified. When the day that a document is required to be filed falls on a day other than a business day, that document shall be timely filed if filed on the next succeeding business day. As used in this section, "business day" shall mean any day on which the Commission is open to conduct business, and "filed" means actually received by the Commission.

History

Promulgated by Ethics Commission January 10, 2014; effective upon Legislature's sine die adjournment May 23, 2014; operative January 1, 2015.

Amendment promulgated by Ethics Commission February 5, 2018; effective upon Legislature's sine die adjournment May 3, 2018; operative May 3, 2018.

The 2018 amendment separated the provision into subsections "(A)" and "(B)." The 2018 amendment also added ", including weekends, and holidays, or when the Commission offices are closed" after "any time on the day specified" in the first sentence of the provision.

Commission Comment

This provision ensures that documents filed with the Commission shall be available to the public as soon as possible following their filing. For that reason, electronically filed documents must be filed during the specified filing period, regardless of whether the Commission's office is open. Documents filed electronically shortly before midnight on the day specified that would be available on the Internet, for example, would be viewable no later than the following calendar day.

Other documents, i.e., those filed on paper, would be filed no later than 4:30 p.m. on the day specified so that those documents would be available for public access at the Commission office no later than the following business day.

This Rule does not provide a "next business day" reporting requirement for documents required to be filed electronically with the Commission. Documents required to be filed electronically are due on the day specified regardless of weekends or holidays. The Commission's electronic reporting system, "The Guardian System," is available 24 hours a day, 7 days a week.

Rule 1.5. Political Activity of Ethics Commissioners.

(A) No member of the Commission, while serving as a member of the Commission, shall:

- (1) be a candidate for elected office or hold any other public office;
- (2) be employed by any state agency; or
- (3) engage in any political activity, except to register and vote, to privately express opinions on political subjects or candidates, to participate in activities of a civic, community, social, labor, religious or professional organization and to engage in activities that further purposes of the Commission.

(B) As used in this section, "political activity" shall mean any activity to support or oppose (1) the election of a candidate for office; (2) a particular political party; or (3) initiative, referenda or state question.

History

Promulgated by Ethics Commission January 10, 2014; effective upon Legislature's sine die adjournment May 23, 2014; operative January 1, 2015.

Commission Comment

The provisions of Subsection A are designed to ensure that a member of the Commission is not part of the class subject to Commission regulation, other than as a member of the Commission. Subsection (A) (1) precludes a Commissioner from being subject to campaign finance Rules or to Rules affecting other state officers. Subsection (A) (2) prevents Commissioners from being subject to Rules governing the conduct of state officers and employees (other than as a member of the Commission). Subsection (A) (3) is designed to permit Commissioners to participate in normal activities that do not conflict with their duties as members of the Commission. Subsection (B), when combined with Subsection (A)(3), prohibits political activity by a Commissioner on behalf of any candidate for office, regardless of whether that office is at the federal, state or political subdivision level. The same is true of political party activity at any level. The final prohibition relates only to initiative, referenda or state questions at the state level.

Rule 1.6. Ethics Commissioner's Disqualification.

A member of the Commission shall disqualify or shall be disqualified by a majority vote of the other members of the Commission, in any matter in which the member's impartiality might reasonably be questioned.

History

Promulgated by Ethics Commission January 10, 2014; effective upon Legislature's sine die adjournment May 23, 2014; operative January 1, 2015.

Commission Comment

This provision requires a member of the Commission to disqualify in any matter in which the Commissioner's impartiality might be reasonably questioned. In addition, it permits a Commissioner to be disqualified upon a majority vote of the other Commissioners for the same reason, thus allowing the Commission to maintain its impartiality even in a case where a Commissioner declines to disqualify himself or herself.

Rule 1.7. Advisory Opinions.

The Commission may issue official advisory opinions interpreting these Rules as provided by Article XXIX, Section 5 of the Constitution of the State of Oklahoma and as requested by specific individuals. The Commission shall provide notice of at least thirty (30) days of a hearing on an advisory opinion. At least five (5) days before the hearing, comments and/or draft advisory opinions by Commission employees shall be made available to the public for comment. The Commission shall accept both written and oral comments about the draft advisory opinions and/or comments. Official advisory opinions shall be binding on the Commission. Failure of an individual to request an advisory opinion shall have no relevance in any subsequent proceeding involving that individual. The Commission shall not consider an advisory opinion on an issue that is pending before a court of law or before another agency of the State of Oklahoma. Any person with knowledge of such pending matter shall disclose such pending matter to the Commission.

History

Promulgated by Ethics Commission January 10, 2014; effective upon Legislature's sine die adjournment May 23, 2014; operative January 1, 2015.

Commission Comment

This provision complies with Okla. Const. art XXIX, § 5, which gives the Commission discretion to "respond, pursuant to its rules, to questions of specific individuals seeking an interpretation of the Commission's rules." Such official interpretations are binding on the Commission. The Commission acknowledges that application of its Rules may not be easily discerned for every fact situation. Provision for written and oral comments by the public is designed to ensure that the Commission adopts its advisory opinions only following an opportunity for affected parties to be heard. The statement that an individual's failure to request an advisory opinion shall have no relevance in any subsequent proceeding involving the individual is designed to prevent chilling of good faith efforts to comply with the Rules without obtaining an advisory opinion. Under ordinary circumstances, individuals should be able to read the Rules and understand what behavior is permitted, required or prohibited. The failure to request an advisory opinion should provide no basis for determining an individual's motives in complying with or violating the Rules. The Commission does not wish to inject itself into matters that are pending before a court of law or that are pending before another state agency, both to preclude improperly influencing resolution of the matter and to prevent "opinion shopping," i.e., the practice of asking more than one source in hopes of obtaining a favorable response from one. The requirement for disclosure of such pending matters is a further precaution against "opinion shopping." Ordinarily, the Commission will consider advisory opinions as they apply to the person requesting the opinion, not to third parties. In other words, the Commission would not consider a request as to how the Rules applied to

someone other than the person asking the question. Finally, the statement that advisory opinions are binding on the Commission applies only to official advisory opinions and not to general, routine advice and guidance provided by staff.

Rule 1.8. Ethics Commission Publications and Continuing Education.

The Executive Director of the Commission shall prescribe forms, including software or other electronic forms, as required by these Rules and shall prescribe such other publications, including publications in an electronic format, as the Executive Director deems appropriate to facilitate implementation of and compliance with these Rules. The Executive Director is authorized to establish and collect fees to be charged to participants for training and educational seminars, classes and similar programs and for related materials. In establishing such registration fees, the Executive Director shall endeavor to recover costs to the Commission incurred in development and presentation of programs to assist in the implementation of and compliance with these Rules.

History

Promulgated by Ethics Commission January 10, 2014; effective upon Legislature's sine die adjournment May 23, 2014; operative January 1, 2015.

Amendment promulgated by Ethics Commission January 9, 2015; effective upon sine die adjournment of the Legislature May 22, 2015; operative May 22, 2015.

The 2015 amendment added the following sentences: "The Executive Director is authorized to establish and collect fees to be charged to participants for training and educational seminars, classes and similar programs and for related materials. In establishing such registration fees, the Executive Director shall endeavor to recover costs to the Commission incurred in development and presentation of programs to assist in the implementation of and compliance with these Rules."

Commission Comment

The purpose of this provision is to allow administrative design of forms to be used by the Commission without requiring consideration by the full Commission. It also is designed to give the Executive Director discretion in determining forms that meet the continuing needs of the Commission and its regulated community.

The Executive Director also is authorized to establish and collect fees to fund continuing education programs and other training and educational materials provided by the Commission.

Rule 1.9. Section Headings.

Section headings in these Rules are intended only for convenience; they are not part of the Rules and shall not be interpreted as modifying or changing the meaning of the Rules themselves.

History

Promulgated by Ethics Commission January 10, 2014; effective upon Legislature's sine die adjournment May 23, 2014; operative January 1, 2015.

Commission Comment

This provision makes clear that it is the language of the Rules themselves that control application of those Rules. Section headings are merely for the convenience of the user.

Rule 2

Campaign Finance

Rule 2.1. Purpose of Rule 2.

The purpose of Rule 2 is to establish rules of ethical conduct for campaigns for elective state office and for campaigns for state initiatives and referenda.

History

Promulgated by Ethics Commission January 10, 2014; effective upon Legislature's sine die adjournment May 23, 2014; operative January 1, 2015.

Commission Comment

Pursuant to Okla. Const. art. XXIX, § 3, the Commission has authority to promulgate Rules of ethical conduct for campaigns for elective state office, and for campaigns for initiatives and referenda. The purpose of Rule 2 is to carry out that Constitutional responsibility.

Rule 2.2. Definitions.

As used in Rule 2:

1. "Campaign" means all activities for or against the election of a candidate for elective state office or for or against a state question;

2. "Candidate" means an individual who has filed or should have filed a statement of organization for a candidate committee for state office with the Commission as required by these Rules. A candidate committee shall include committees for candidates for partisan elective offices, for nonpartisan judicial offices and for judicial retention offices;

3. "Candidate committee" means the only committee authorized by a candidate to accept contributions or make expenditures on behalf of the candidate's campaign, including the campaign of a judicial retention candidate;

4. "Clearly identified candidate" means a candidate whose name, nickname, photograph or drawing appears, or whose identity is otherwise apparent by unambiguous reference;

5. "Commission" means the Oklahoma Ethics Commission;

6. "Contribution" means any gift, subscription, loan, guarantee or forgiveness of a loan, conveyance, advance, payment, distribution or deposit of money made to, or anything of value given to, or an expenditure other than an independent expenditure made on behalf of, a political party, political action committee or candidate committee, but shall not include the value of services provided without compensation by an individual who volunteers those services;

7. "Electioneering communication" means any communication or series of communications that is sent by Internet advertising, direct mail, broadcast by radio, television, cable or satellite, or appears in a newspaper or magazine that (a) refers to a clearly identified candidate for state office, (b) is made within sixty (60) days before a general election (including a special general election) or thirty (30) days before a primary or runoff primary election (including a special primary or runoff primary election) for the office sought by the candidate, (c) that is targeted to the relevant electorate and (d) does not explicitly advocate the election or defeat of any candidate. "Relevant electorate" shall mean twenty-five thousand (25,000) or more persons in the State of Oklahoma in the case of a candidate for statewide elective office, two thousand five hundred (2,500) or more persons in the district the candidate seeks to represent in the case of a candidate for the Oklahoma State House of Representatives or judge of the District Court, and five thousand (5,000) or more persons in the district the candidate seeks to represent in the case of all other elective state offices;

8. "Expenditure" means a purchase, payment, distribution, loan, advance, compensation, reimbursement, fee, deposit or gift made by a political party, political action committee, candidate committee or other individual or entity that is used to expressly advocate the election, retention or defeat of one or more clearly identified candidates or for or against one or more state questions;

9. "Family member" shall include spouse, children (including stepchildren), mother, father, sister or brother;

10. "Independent expenditure" means an expenditure made by a person for a communication expressly advocating the election or defeat of a clearly identified candidate or a vote for or against the retention of a judicial retention candidate that is not made in coordination with, cooperation with, consultation with, or concert with, or at the request or suggestion of, a candidate, a candidate committee, or their agents, or a political party committee or its agents. An independent expenditure shall not include the display of a noncommercial yard sign, lapel pin, button, bumper sticker or similar de minimis display of support or opposition to a political party or a candidate;

11. "Independent judicial retention committee" means a political action committee organized exclusively for the purpose of making independent expenditures or electioneering communications supporting or opposing the retention of a candidate for judicial retention;

12. "Labor union" means an organization of workers formed for the purpose of advancing its members' interests in respect to wages, benefits and working conditions;

13. "Limited committee" means a political action committee organized to make contributions to candidates. A limited committee may make independent expenditures or electioneering communications, but may not accept contributions in excess of the limits prescribed for limited committees;

14. "Officeholder expenses" means ordinary and necessary expenses incurred in connection with a candidate's duties as the holder of a state elective office, provided that the expenses are not otherwise reimbursed or paid for by the state. "Ordinary and necessary expenses" are those that would not exist but for the fact that the candidate was elected to and holds a state elective office;

15. "Political action committee" means a limited or unlimited committee that has filed or should have filed a statement of organization with the Commission as required by these Rules;

16. "Political party" means a political party recognized under laws of this state;

17. "Political party committee" means a committee authorized by the political party to accept contributions or make expenditures

on behalf of the political party. A political party committee may include a state committee, a Congressional District committee, a county committee, a precinct committee or any other committee or entity of the party officially recognized in the party's bylaws or similar governing document;

18. "State question communication" means an expenditure made by a person for a communication or series of communications that is sent by internet advertising, direct mail, broadcast by radio, television, cable or satellite, or appears in a newspaper, magazine, or other printed medium supporting or opposing a state question that is made within sixty (60) days before the election deciding the state question. A state question communication shall not include the display of a noncommercial yard sign, lapel pin, button, bumper sticker or similar de minimis display of support or opposition to a state question;

19. "State question" means an initiative or referendum petition for which the Governor has issued a proclamation setting the date on which an election shall be held or a legislative referendum referred by the Legislature for a vote of the people; and

20. "Unlimited committee" means an independent judicial retention committee, a political action committee organized exclusively for the purpose of making independent expenditures or electioneering communications or a political action committee organized exclusively for the purpose of advocating the approval or defeat of a state question.

History

Promulgated by Ethics Commission January 10, 2014; effective upon Legislature's sine die adjournment May 23, 2014; operative January 1, 2015.

Amendment promulgated by Ethics Commission January 27, 2017; effective upon sine die adjournment of the Legislature May 26, 2017; operative May 26, 2017.

The 2017 amendment added subsection number (19), and it moved the language under subsection "18" to subsection number (19). The 2017 amendment added the following language under subsection number 18: "'State question communication' means an expenditure made by a person for a communication or series of communications that is sent by internet advertising, direct mail, broadcast by radio, television, cable or satellite, or appears in a newspaper, magazine, or other printed medium supporting or opposing a state question that is made within sixty (60) days before the election deciding the state question. A state question communication shall not include the display of a noncommercial yard sign, lapel pin, button, bumper sticker or similar de minimis display of support or opposition to a state question;" The 2017 amendment replaced subsection number (19) with subsection number (20).

Commission Comment

Individuals who meet the definition of "candidate" are distinguishable from those who have filed a Declaration of Candidacy under the Election Code in that those required to file a Statement of Organization with the Commission may be required to do so before formalizing their candidacy by filing a Declaration of Candidacy. The definition is inclusive not just of those seeking elective office, but those whose names appear on retention ballots.

"Candidate committee" limits each candidate to a single authorized committee. It makes clear that this committee is the only one that has the candidate's approval for campaign activities.

The definition of "clearly identified candidate" is intended to emphasize that a candidate's name is not required when an independent expenditure, for example, is made.

The definition of "contribution" is intended to be all-inclusive except for independent expenditures, volunteer services and other items specifically excluded by these Rules. Volunteer services cannot be provided through a third party. For example, an employer who "volunteers" the services of an employee would be making a contribution to a campaign for the value of the employee's services. A corporation would be prohibited from providing an employee as a volunteer. A mere indication of support for or endorsement of a candidate is considered a volunteer service and thus not a contribution.

"Corporation" includes "all associations and joint stock companies having any power or privileges, not possessed by individuals." Okla. Const. art. 9, § 1.

"Electioneering communications" are distinguishable from "independent expenditures" in that the mere reference to a clearly identified candidate for state office may trigger the application, even though the communication advocates neither the election nor defeat of the candidate. Because the requirement is for a "clearly identified candidate" it is not necessary that the candidate's name appear. A communication that does not meet the time criterion to be considered as an electioneering communication may be issue advocacy, which is unregulated. However, a communication that would otherwise be considered issue advocacy may become an electioneering communication by operation of law if it meets the criteria in this definition.

An "independent expenditure" is distinguishable from an electioneering communication in that an independent expenditure is used to explicitly advocate the election or defeat of a clearly identified candidate or a vote for or against the retention of a judicial retention candidate. The last sentence in the definition is intended to emphasize that citizens who indicate their support for or opposition to candidates by posting campaign signs on their private property are not making independent expenditures.

An "independent judicial retention committee" is a special purpose unlimited political action committee created specifically to support or oppose candidates for judicial office.

A "limited committee" is a traditional political action committee organized for the purpose of making contributions to candidates for state office. Because it is making direct contributions to candidates, a limited committee is subject to limitations as to the amounts and sources of contributions that it may receive and the amounts of contributions that it can make to candidates and others. Limited committees also may make contributions to candidates for county, municipal and school district offices, subject to statutory law.

The definition of "officeholder expenses" is intended to provide clarity and guidance for the lawful expenditure of a candidate's campaign contributions for their duties as an officeholder. Officeholders are those who are elected to, and holding, elective state office. A legal test to be applied is the "but for" test in the second sentence of the definition.

The definition of "political action committee" includes both limited and unlimited committees and is intended to make unambiguous the fact that a political action committee is subject to the Rules whether or not it has registered with the Commission.

The definition of "political party" defers to the statutory process for recognition of political parties as prescribed in the Constitution and the Election Code.

The definition of "political party committee" makes clear that the term includes not just a state committee, but sub-units such as a county committee. It also includes organizations within the political party's official structure provided those organizations are "officially recognized" in the party's governing document.

The definition of "state question" makes certain the date on which the Rules affecting campaigns for initiative and referenda take effect.

A "state question communication" is distinct from either an independent expenditure or electioneering communication in that it does not involve communications concerning candidates but instead supports or opposes state questions.

An "unlimited committee," often referred to as a "Super PAC" is one that is virtually unlimited as to the sources and amounts of contributions it may receive and the amounts of expenditures it may make. An "unlimited committee" may not make direct contributions to or receive contributions from candidates, political parties or limited political action committees. It may engage only in independent expenditures or electioneering communications in campaigns involving candidates or in advocating the passage or defeat of a state question. Unlimited committees must disclose expenditures and contributions to the Ethics Commission.

Advisory Opinion 2015-01: "The Ethics Commission recognizes what is commonly known as the "press exemption" for contributions and expenditures. Generally, a contribution or expenditure does not include any news story, commentary, or editorial distributed through the facilities of any broadcasting station, newspaper, magazine, or other periodical publication, unless such facilities are owned or controlled by any political party, political action committee, candidate, candidate committee or ballot measure committee. This exemption acknowledges the

Freedom of the Press encompassed in the First Amendment to the United States Constitution to gather and report on news; however, this exemption is not without narrow limitations. The press exemption calls for a two-step process to determine its application. The first step is to determine whether the press entity is owned or controlled by a political party, political action committee, candidate, candidate committee or ballot measure committee. The second step is to determine whether the press entity is acting as a press entity in making the broadcast or distribution." 2015 OK Ethics 01.

Use of Public Funds, Property, Time

Rule 2.3. Prohibited Uses of Public Funds for Political Fund-Raising.

No state officer or employee shall use or authorize the use of public funds, property or time to solicit, receive or accept funds for a political party, a political action committee, a candidate or a state question campaign, except as permitted by law or these Rules. Any unsolicited funds tendered in violation of this section shall not be accepted by the intended recipient and shall be returned to the sender as soon as possible. This prohibition shall apply to federal, state and political subdivision committees.

History

Promulgated by Ethics Commission January 10, 2014; effective upon Legislature's sine die adjournment May 23, 2014; operative January 1, 2015.

Amendment promulgated by Ethics Commission January 9, 2015; effective upon sine die adjournment of the Legislature May 22, 2015; operative May 22, 2015.

The 2015 amendment added the following sentence: "This prohibition shall apply to political fund-raising activities for federal, state and political subdivision committees."

Amendment promulgated by Ethics Commission December 11, 2015; effective upon sine die adjournment of the Legislature May 27, 2016; operative May 27, 2016.

The 2016 amendment deleted "political fund raising activities for" from the last sentence of the provision. The sentence read as follows: "This prohibition shall apply to political fund raising activities for federal, state and political subdivision committees."

Commission Comment

This provision adds instructions to recipients of unsolicited funds to previous prohibitions against the use of public funds, property or time for solicitation, receipt or acceptance of funds for a political party, political action committee, candidate or state question campaign. Those individuals are directed to return any funds tendered in violation of this section immediately. Individuals returning such funds may advise the sender of the reason the funds are being returned and may provide information limited to instructions as to how the lawful way funds may be contributed.

The prohibition against use of public funds, property or time is not just for state committees, but for federal and state political subdivision committees as well.

State officials who direct or authorize the expenditure of any public funds, except as authorized by law, to be used to support or oppose any measure that is being referred to or citizens are attempting to have referred to a vote of the people by means of initiative or referendum, shall be guilty of a misdemeanor and removed from office as prescribed by law. Quinn v. City of Tulsa, 1989 OK 112 ¶38, 777 P.2d 1331, 1338-39; 26 O.S. § 16-119.

Rule 2.4. Prohibited Uses of Public Funds to Influence Elections.

No person shall use or authorize the use of public funds, property or time to engage in activities designed to influence the results of an election for state office or a state question, except as permitted by law or these Rules. This section shall not prohibit an elected state officer from expressing his or her opinion or position on any issue.

History

Promulgated by Ethics Commission January 10, 2014; effective upon Legislature's sine die adjournment May 23, 2014; operative January 1, 2015.

Commission Comment

This section prohibits campaigning for state office or on a state question by use of public funds, property or time. It also provides that elected officials do not violate this prohibition by stating positions or opinions on political issues. An employee of an elected official would not violate this Rule by providing information concerning the elected official's previously stated position on a political issue.

Staff Memorandum 2017-01: Rule 2.4 does not prohibit use of state resources in advocacy for or against legislation. However, such advocacy may require registration and reporting as a lobbyist or legislative liaison under Rule 5. Further, an officer or employee whose agency has more restrictive policies than the Ethics Commission must comply with those more restrictive policies. The Ethics Commission will not enforce an agency's policies that are more restrictive than the Ethics Rules.

*State officials who direct or authorize the expenditure of any public funds, except as authorized by law, to be used to support or oppose any measure that is being referred to or citizens are attempting to have referred to a vote of the people by means of initiative or referendum, shall be guilty of a misdemeanor and removed from office as prescribed by law. *Quinn v. City of Tulsa*, 1989 OK 112 ¶38, 777 P.2d 1331, 1338-39; 26 O.S. § 16-119.*

Rule 2.5. Elective Officer Prohibited From Soliciting Contributions from Employees.

No elected state officer shall knowingly solicit, directly or indirectly, a contribution to his or her campaign from any state officer or employee employed by the elected state officer's agency or any person who works for the elected state officer's agency through a third-party contract.

History

Promulgated by Ethics Commission January 10, 2014; effective upon Legislature's sine die adjournment May 23, 2014; operative January 1, 2015.

Commission Comment

An elected state officer is prohibited from soliciting campaign contributions from state officers and employees who are employed by the officer's agency, and the prohibition extends to other parties who perform work for the agency through a third-party contract. This latter prohibition is not intended to prohibit solicitation of owners, officers or employees who may provide services or goods for the agency through central purchasing services, but for those who actually work for the agency directly, such as outside legal counsel. An indirect violation of this section may occur if a deputy, assistant or other state employee who reports to the elected state officer makes a prohibited solicitation with the elected state officer's knowledge.

Rule 2.6. Political Fund-Raising Prohibited on State Property.

No person shall solicit or accept a contribution for a political party, a political action committee, a candidate or a state question campaign in any area of the state capitol building under any circumstances. No person shall solicit or accept a contribution for a political party, a political action committee, a candidate or a state question campaign in any office or other space owned, leased, or occupied by the State of Oklahoma that ordinarily is used for the conduct of official state business. This does not include college campuses and public meeting rooms, auditoriums, or similar meeting areas that are available for use by the public at large.

History

Promulgated by Ethics Commission January 10, 2014; effective upon Legislature's sine die adjournment May 23, 2014; operative January 1, 2015.

Amendment promulgated by Ethics Commission December 11, 2015; effective upon sine die adjournment of the Legislature May 27, 2016; operative May 27, 2016.

The 2016 amendment added "or accept" after "solicit" in the first sentence of the provision. The 2016 amendment added the following language after "campaign in" in the first sentence: "any area of the state capitol building under any circumstances. No person shall solicit or accept a contribution for a political party, a political action committee, a candidate or a state question campaign in." The 2016 amendment deleted the following phrase after "any" in the first sentence: "building or other property owned, leased or occupied by the State of Oklahoma." The 2016 amendment added the following language after "any" in the first sentence: "office or other space owned, leased, or occupied by the State of Oklahoma that ordinarily is used for the conduct of official state business. This does not include college campuses and public meeting rooms, auditoriums, or similar meeting areas that are available for use by the public at large." The sentence read: "No person shall solicit a contribution for a political party, a political action committee, a candidate or a state question campaign in any building or other property owned, leased or occupied by the State of Oklahoma."

Commission Comment

This Rule prohibits soliciting or accepting contributions in areas that are used for the conduct of state business. This prohibition extends not just to buildings or other property owned by the State of Oklahoma, but also to property leased or occupied by the State.

Entities soliciting funds should check mailing and email lists to ensure no solicitations are mailed to persons at state government addresses.

Rule 2.7. Prohibition on Distribution of Campaign Materials on State Property.

No materials designed to influence the results of an election for state office or a state question shall be posted in the state capitol building or in any office or other space owned, leased or occupied by the State of Oklahoma that ordinarily is used for the conduct of official state business, except as permitted by law or these Rules. Provided, however, such materials may be posted for a reasonable period of time when state facilities are being used for political purposes as provided in these Rules.

History

Promulgated by Ethics Commission January 10, 2014; effective upon Legislature's sine die adjournment May 23, 2014; operative January 1, 2015.

Amendment promulgated by Ethics Commission December 11, 2015; effective upon sine die adjournment of the Legislature May 27, 2016; operative May 27, 2016.

The 2016 amendment deleted "or distributed" and added "in the state capitol building or" after "posted" in the first sentence. The 2016 amendment deleted "building or other property" and added "office or other space" after "in any" in the first sentence. The 2016 amendment added "that ordinarily is used for the conduct of official state business," after "Oklahoma" in the first sentence. The sentence read as follows: "No materials designed to influence the results of an election for state office or a state question shall be posted or distributed in any building or other property owned, leased or occupied by the State of Oklahoma, except as permitted by law or these Rules."

The 2016 amendment added the following sentence after the first sentence in the provision: "Provided, however, such materials may be posted for a reasonable period of time when state facilities are being used for political purposes as provided in these Rules."

Commission Comment

This prohibition applies only to buildings and property owned by the State of Oklahoma, not by other governmental entities.

Rule 2.8. Use of Public Property for Political Purposes.

Public meeting rooms, auditoriums, parks, colleges and other educational campuses or similar spaces may be used for political purposes provided (1) if a fee is customarily charged for use of the facility, that fee will be charged for use of the facility for political activities and (2) the facility will be made available upon request to all political parties, to all political action committees, to all candidates for the same state office or to all supporters or opponents of a state question, respectively, all in the order in which the requests were received. Nothing herein shall require that any public facility be made available for political purposes. Nothing herein shall prohibit the use for political purposes of a traditional public forum or other forum required by the United States Constitution or Oklahoma Constitution to be used for such purposes.

History

Promulgated by Ethics Commission January 10, 2014; effective upon Legislature's sine die adjournment May 23, 2014; operative January 1, 2015.

Amendment promulgated by Ethics Commission December 11, 2015; effective upon sine die adjournment of the Legislature May 27, 2016; operative May 27, 2016.

The 2016 amendment added ", parks, colleges and other educational campuses" after "auditoriums" in the first sentence. The 2016 amendment deleted "other than fund-raising" in the first sentence. The sentence read as follows: "Public meeting rooms, auditoriums or similar spaces may be used for political purposes other than fund-raising provided (1) if a fee is customarily charged for use of the facility, that fee will be charged for use of the facility for political activities and (2) the facility will be made available upon request to all political parties, to all political action committees, to all candidates for the same state office or to all supporters or opponents of a state question, respectively, all in the order in which the requests were received."

Commission Comment

This rule allows state property that is available for rent or use by the public to be used for political purposes, provided the property is available to all candidates on equal terms without preference or favoritism.

Rule 2.9. Prohibitions on Activities of State Officers and Employees Designed to Influence Elections.

No state officer or employee shall engage in activities designed to influence the results of an election for state office or a state question during hours in which the state officer or employee is in official work status or at any time while wearing a uniform or wearing identification that identifies that person as a state officer or employee. This prohibition shall not apply to elected state officers.

History

Promulgated by Ethics Commission January 10, 2014; effective upon Legislature's sine die adjournment May 23, 2014; operative January 1, 2015.

Commission Comment

Generally, state officers or employees who engage in political activities must do so on their own time. However, there is recognition of the fact that elected state officers do not adhere to the same working hours as other state officers and employees, and thus the prohibition does not apply to them.

Rule 2.10. Use of Public Facilities for Voter Registration.

Voter registration activities may be conducted in public facilities, provided those activities are not used in any way to encourage registration in or support of the candidates of a particular political party or to encourage voting for or against any particular candidate or for or against any state question.

History

Promulgated by Ethics Commission January 10, 2014; effective upon Legislature's sine die adjournment May 23, 2014; operative January 1, 2015.

Commission Comment

The Commission recognizes that nonpartisan voter registration activities should be encouraged and not prohibited and thus permits such activities to take place in public facilities.

Rule 2.11. Newsletters and Informational Materials by Elected State Officers.

If otherwise permitted by law, elected state officers may use public funds, property or time to electronically or otherwise produce and distribute newsletters or similar informational materials to constituents and others, provided those materials do not advocate the election or defeat of a clearly identified candidate or candidates for any elective office or offices or a vote for or against a state question or other question to be voted upon at an election. Permitted uses shall not include recognition of holidays, birthdays, births or similar greetings in the absence of substantial informational materials related to public issues.

History

Promulgated by Ethics Commission January 10, 2014; effective upon Legislature's sine die adjournment May 23, 2014; operative January 1, 2015.

Commission Comment

The Commission acknowledges that part of an elected official's duties may include communications that inform the electorate with regard to public activities and issues; such activity is permissible as long as these communications do not include overt campaign communications. This Rule implies that some communications with the electorate, such as those exclusively for the purpose of noting some matters (holidays, birthdays, etc.) are political in nature and thus not within the information exception to otherwise prohibited use of public funds, property or time.

**Rule 2.12. Posting of Material by Elected State Officers
Indicating Positions on Issues.**

If otherwise permitted by law, elected state officers, other than judicial officers, may use public funds, property or time to post materials in their offices to indicate their opinions or positions on issues, provided these materials do not advocate the election or defeat of a clearly identified candidate for any elective office or a vote for or against a state question or any other question to be voted upon at an election. Mere display of a photograph or similar depiction of a current or former elected federal or state officer, including autographed photographs or similar depictions, shall not be a violation of this section.

History

Promulgated by Ethics Commission January 10, 2014; effective upon Legislature's sine die adjournment May 23, 2014; operative January 1, 2015.

Commission Comment

There are two distinct subjects covered by this exception to the use of public funds, property or time. The first allows an elected state officer to indicate a position on an issue, e.g., "Support Senate Bill 2000. Good for Oklahoma's Children." On the other hand, a message that reads, "Support Education. Support Senator Smith" may not be within the exception. The second exception permits the display of photographs or similar depictions of current or former federal or state officers that have little political value. Depending on the facts, the display of a photograph of a former President together with a message to "Re-Elect Representative Jones" may violate this section, since it would be more than the "mere display" of a photograph.

This Rule also allows an elected state officer's staff to restate the official's position on an issue provided the position is not engaged in advocacy for or against a candidate for elective office, a state question, or other issue to be voted on at an election.

Rule 2.13. State Employees Maintaining Schedule for Elected Officers.

State employees whose regular duties include scheduling meetings, activities and events for elected state officers shall not be considered to have violated these Rules if, while on duty, they engage in scheduling political activities or events for an elected state officer.

History

Promulgated by Ethics Commission January 10, 2014; effective upon Legislature's sine die adjournment May 23, 2014; operative January 1, 2015.

Commission Comment

This section is designed to allow elected state officers to avoid an inconvenient system of maintaining two calendars. The Commission acknowledges that multiple communications may be required before a state employee involved in scheduling activities for elected state officers is able to schedule meetings. This Rule should not be used as justification for using a state employee to engage in campaign activities beyond scheduling events.

Rule 2.14. Prohibition on Use of State Owned Equipment and Resources for Campaigns.

No state officer or employee shall use a state-owned telephone, state electronic mail or other state equipment, property or services to advocate the election or defeat of a clearly identified candidate for any elective office or a vote for or against a state question or any other question to be voted upon at an election.

History

Promulgated by Ethics Commission January 10, 2014; effective upon Legislature's sine die adjournment May 23, 2014; operative January 1, 2015.

Commission Comment

This section clarifies that the general prohibition against using state funds, property or time for campaign purposes includes the use of state-owned electronic and telecommunications equipment for campaign purposes.

Rule 2.15. Prohibition on Use of State Owned Equipment to Make a Campaign Contribution.

No state officer or employee shall use a state-owned telephone, state electronic mail or other state equipment, property or services to make a contribution to a political party, a political action committee, a candidate or a state question campaign.

History

Promulgated by Ethics Commission January 10, 2014; effective upon Legislature's sine die adjournment May 23, 2014; operative January 1, 2015.

Commission Comment

As the use of automated telecommunications services and electronic mail becomes more prevalent for various purposes, including raising funds, the Commission felt this explicit prohibition was necessary to prevent state resources from being used to facilitate campaign fundraising.

Rule 2.16. Use of Social Media Account by State Officer.

No Internet social-media account maintained in the name of a state officer as a state officer or state agency may be (1) used to solicit, receive or accept funds for a political party, a political action committee, a candidate or a state question campaign; (2) used to advocate the election or defeat of a clearly identified candidate for any elective office or a vote for or against a state question or any other question to be voted upon at an election or (3) converted to use by a political party, a political action committee, a candidate or a state question campaign.

History

Promulgated by Ethics Commission January 10, 2014; effective upon Legislature's sine die adjournment May 23, 2014; operative January 1, 2015.

Commission Comment

As state officers expand the use of Internet social-media for state purposes, the Commission promulgated this Rule to prevent the use of such media for campaign purposes. In many instances, this may result in an elected official having two similar social-media accounts, one for the state office and one for the campaign. In such cases, the state account should not be used to direct users to the campaign account.

Contributions

Rule 2.17. General Rule for Contributions.

(A) Unless otherwise prohibited or limited by law or these Rules, a contribution to a political party, a political action committee or a candidate committee may be made by any individual or other person or entity. A child under the age of eighteen (18) may make a contribution only if the contribution is attributed to his or her parent (or equally between two parents) or guardian.

(B) The name, address, occupation and employer shall be required for any individual contributor regardless of amount or value of contribution unless the contribution is an anonymous contribution of less than Fifty Dollars (\$50.00) as provided for in Rule 2.20.

History

Promulgated by Ethics Commission January 10, 2014; effective upon Legislature's sine die adjournment May 23, 2014; operative January 1, 2015.

Amendment promulgated by Ethics Commission February 5, 2018; effective upon Legislature's sine die adjournment May 3, 2018; operative May 3, 2018.

The 2018 amendment separated the provision into subsections "(A)" and "(B)". The 2018 amendment also added the following language under subsection (B): "The name, address, occupation and employer shall be required for any individual contributor regardless of amount or value of contribution unless the contribution is an anonymous contribution of less than Fifty Dollars (\$50.00) as provided for in Rule 2.20."

Commission Comment

This Rule states the general principle that any individual or other person or entity may make a campaign contribution. This general principle then is subject to exceptions made in other law or Rules. For example, this general principle does not permit a corporation to make a direct contribution to a candidate's campaign, since to do so is prohibited by Constitution, statute and Rule. Moreover, foreign nationals are prohibited from contributing to campaigns by federal law.

Advisory Opinion 2015-01: *Discussion regarding corporate contributions from a candidate's employer, "Therefore, you may not accept a contribution from the radio station itself. You may, however, accept voluntary contributions from the station owner and other station employees as individuals. Ethics Rule 2.17. Individuals may give contributions to a candidate committee in an amount not to exceed the limitations set forth in Ethics Rule 2.37." 2015 OK Ethics 01.*

Rule 2.18. Contribution in Name of Another.

No contribution shall be made in the name of another.

History

Promulgated by Ethics Commission January 10, 2014; effective upon Legislature's sine die adjournment May 23, 2014; operative January 1, 2015.

Commission Comment

This Rule prohibits money laundering to evade reporting requirements, campaign contribution limits or other prohibitions in the law. One individual or entity may not, directly or indirectly, provide another individual or entity with funds for the purpose of making a campaign contribution so that the contribution would be reported by the recipient as received from the second individual or entity. This prohibition applies to reimbursements for contributions that have previously been made.

Rule 2.19. Cash Contributions.

No contribution of more than Fifty Dollars (\$50.00) in cash in the aggregate may be made to or accepted by a political party committee, a political action committee or a candidate committee.

History

Promulgated by Ethics Commission January 10, 2014; effective upon Legislature's sine die adjournment May 23, 2014; operative January 1, 2015.

Amendment promulgated by Ethics Commission February 5, 2018; effective upon Legislature's sine die adjournment May 3, 2018; operative May 3, 2018.

The 2018 amendment added "to" between "may be made" and "or accepted" in the provision.

Commission Comment

Because cash cannot be traced as easily as a check or credit card, the Commission limits the amount of funds that can be contributed in cash. Cash contributions are not prohibited entirely in the interests of providing opportunities for small (e.g., \$1 or \$5) contributions, for example, and of preserving traditional small fundraising activities such as "passing the hat" at campaign events. Candidates and their agents should monitor such events closely to ensure that contributors understand and comply with the limits on cash contributions. For instance, half of a One Hundred Dollar (\$100.00) cash contribution placed in a "hat" at a fundraising event would have to be forfeited if the recipient could not identify the donor, reject the cash and have it replaced by written instrument. See Rule 2.20 regarding forfeitures to the state general revenue fund.

The cash contribution limit applies to all committees, including unlimited committees. The cash contribution limit applies to political action committees on a per calendar year basis.

Example: *Sue gave \$50 in cash to PAC X, an unlimited committee, in 2018. Sue is prohibited from giving any more cash to PAC X in 2018, but she can still contribute to PAC X in 2018 via other types of monetary contributions or in-kind contributions. Additional contributions will be aggregated with the \$50 cash contributions for contribution limit purposes.*

Rule 2.20. Anonymous Contributions.

No anonymous contribution of more than Fifty Dollars (\$50.00) may be made to or accepted by a political party committee, a political action committee or a candidate committee. Any anonymous contribution of more than Fifty Dollars (\$50.00) received by a committee shall be deposited in the general revenue fund of the state to the extent that the contribution exceeds Fifty Dollars (\$50.00).

History

Promulgated by Ethics Commission January 10, 2014; effective upon Legislature's sine die adjournment May 23, 2014; operative January 1, 2015.

Amendment promulgated by Ethics Commission February 5, 2018; effective upon Legislature's sine die adjournment May 3, 2018; operative May 3, 2018.

The 2018 amendment added "to" between "may be made" and "or accepted" in the first sentence of the provision.

Commission Comment

The anonymous contribution limit applies to all committees, including unlimited committees.

One purpose of the disclosure requirements in the Rules is to identify contributors of more than fifty dollars (\$50.00). The fifty dollar (\$50.00) provision for anonymous contributions is consistent with the disclosure provisions and the Rule permitting cash contributions of up to fifty dollars (\$50.00). See Rule 2.19. The basis for forfeiture to the state general revenue fund is that it is impossible to identify the contributor of an anonymous contribution so that the contribution could be returned.

A committee must use its best efforts to identify an anonymous contributor, even if the contribution is less than fifty dollars (\$50.00). The committee is required to maintain contributor information including the name, address, occupation and employer of the contributor if the contributor is known or capable of identification. A contributor that does not want to be identified but is known to the committee is not an anonymous contributor.

Rule 2.21. Contribution Deemed Accepted if Not Returned.

A contribution shall be deemed to have been accepted by a political party committee, a political action committee or a candidate committee if it is not returned within ten (10) business days after it has been received by the committee.

History

Promulgated by Ethics Commission January 10, 2014; effective upon Legislature's sine die adjournment May 23, 2014; operative January 1, 2015.

Commission Comment

If a contribution is not returned within ten (10) business days, the recipient must report the contribution on the next required Report of Contributions and Expenditures. If the recipient wishes to refund the contribution after the ten (10) day period has expired, it may be shown as a refund on that report or a subsequent report, depending upon when the refund is actually made. The recipient may not, however, simply refund an accepted contribution (after the expiration of the acceptance period) and show neither the receipt nor the refund. See, also, Rule 2.22.

Rule 2.22. Deposit of Contributions.

A contribution shall be deposited in the account of a political party committee, a political action committee or a candidate committee within ten (10) business days after it has been received by the committee. If a contribution has not been deposited within ten (10) business days after it has been received by the committee, the contribution shall be returned to the contributor and shall be reported as having been accepted and refunded.

History

Promulgated by Ethics Commission January 10, 2014; effective upon Legislature's sine die adjournment May 23, 2014; operative January 1, 2015.

Commission Comment

Recipients of tendered contributions are deemed to have accepted a contribution if it is not returned within ten (10) business days. See Rule 2.21. In addition, this Rule requires the deposit of accepted contributions within the same time period. Contributions that have not been returned or deposited within ten (10) business days must (1) be deposited immediately, (2) be refunded and (3) be reported as received and refunded on the next required Report of Contributions and Expenditures. This procedure is required by this Rule and Rule 2.95.

Rule 2.23. Corporate and Labor Union Contributions Prohibited.

No corporation or labor union may make a contribution to a political party, a political action committee or a candidate committee, and no political party, political action committee or candidate committee may accept a contribution from a corporation or labor union, except as permitted by law or these Rules.

History

Promulgated by Ethics Commission January 10, 2014; effective upon Legislature's sine die adjournment May 23, 2014; operative January 1, 2015.

Commission Comment

This Rule, with respect to corporations, is consistent with Okla. Const. art. IX, § 40. Corporations and labor unions may exercise political speech in the form of financial support or otherwise through political action committees sponsored by the corporation or labor union. The prohibition against corporate contributions applies regardless of whether the corporation is a for-profit, non-profit, professional or other type of corporation.

Out-of-state political action committees that accept contributions from corporations or labor unions are prohibited from contributing to limited PACs, political party committees, and Oklahoma candidates.

This Rule does not apply to unlimited committees, which are permitted to receive corporate or labor union contributions.

Advisory Opinion 2015-01: *For a candidate that is also an employee of a radio station, "If the discussion of your candidacy is in the context of the distribution of a news story through the radio station's facilities, then the press exemption applies and it is not an in-kind contribution to your campaign. If the discussion of your candidacy is unrelated to the radio station's publishing and broadcasting function, then the press exemption is not applicable and the station has made an unlawful contribution to your campaign." 2015 OK Ethics 01.*

Rule 2.24. Contributions by Limited Liability Companies.

No limited liability company that has one or more incorporated members may make a contribution to a political party committee, a political action committee, or a candidate committee, except as permitted by law or these Rules.

(1) A political party committee, a limited committee, or a candidate committee, which receives a contribution from a limited liability company is required to report the contribution by attributing the contribution to the individual members of the limited liability company in proportions equal to the individual member's ownership interest in the limited liability company. This includes, but is not limited to, the individual member's name, address, occupation and employer.

(2) An unlimited committee which receives a contribution from a limited liability company is required to report the contribution by attributing the contribution to each member of the limited liability company in proportion to the member's interest in the limited liability company. For individual members, this includes, but is not limited to, the individual's name, address, occupation and employer. For corporate members, this includes the name, address, and principal business activity of the corporation.

History

Promulgated by Ethics Commission January 10, 2014; effective upon Legislature's sine die adjournment May 23, 2014; operative January 1, 2015.

Amendment promulgated by Ethics Commission February 5, 2018; effective upon Legislature's sine die adjournment May 3, 2018; operative May 3, 2018.

The 2018 amendment added "committee" after "political party" and "," after "political action committee" in the first sentence of the provision. The 2018 amendment also added the following language: "(1) A political party committee, a limited committee, or a candidate committee, which receives a contribution from a limited liability company is required to report the contribution by attributing the contribution to the individual members of the limited liability company in proportions equal to the individual member's ownership interest in the limited liability company. This includes, but is not limited to, the individual member's name, address, occupation and employer. (2) An unlimited committee which receives a contribution from a limited liability company is required to report the contribution by attributing the contribution to each member of the limited liability company in proportion to the member's interest in the limited liability company. For individual members, this includes, but is not limited to, the individual's name, address, occupation and employer. For corporate members, this includes the name, address, and principal business activity of the corporation."

Commission Comment

Contributions received from a limited liability company shall be reported as contributions from the individual members of the Limited Liability Company in proportions equal to their ownership interests.

Example: Ajax Limited Liability Company is owned in equal shares by three individuals: Johnson, Carson and Larson. The committee receives a contribution of Three Thousand Dollars (\$3,000.00) written on an Ajax LLC check. The committee does not report a contribution from Ajax LLC; instead, it reports contributions of One Thousand Dollars (\$1,000.00) each from Johnson, Carson and Larson.

Limited liability companies are prohibited from making contributions to a political party committee, limited committee, or candidate committee if any member of the LLC is a corporation. See Rule 2.23. This provision prevents a corporation from indirectly making a political contribution that is directly prohibited. Since money is fungible, any limited liability company ("LLC") funds are deemed to include some corporate funds if a corporation is a member of the LLC. This is true whether or not the corporation is a for-profit, non-profit, professional or other type of corporation.

Rule 2.25. Contributions by Partnerships.

No partnership that has one or more incorporated partners may make a contribution to a political party committee, a political action committee, or a candidate committee, except as permitted by law or these Rules.

(1) A political party committee, a limited committee, or a candidate committee, which receives a contribution from a partnership is required to report the contribution by attributing the contribution to the individual partners of the partnership in proportions equal to the individual partner's ownership interest in the partnership. This includes, but is not limited to, the individual partner's name, address, occupation and employer.

(2) An unlimited committee which receives a contribution from a partnership is required to report the contribution by attributing the contribution to each partner of the partnership in proportion to the partner's interest in the partnership. For individual partners, this includes, but is not limited to, the individual's name, address, occupation and employer. For corporate partners, this includes the name, address, and principal business activity of the corporation.

History

Promulgated by Ethics Commission January 10, 2014; effective upon Legislature's sine die adjournment May 23, 2014; operative January 1, 2015.

Amendment promulgated by Ethics Commission February 5, 2018; effective upon Legislature's sine die adjournment May 3, 2018; operative May 3, 2018.

The 2018 amendment added "committee" after "political party" and "," after "political action committee" in the first sentence of the provision. The 2018 amendment also added the following language: "(1) A political party committee, a limited committee, or a candidate committee, which receives a contribution from a partnership is required to report the contribution by attributing the contribution to the individual partners of the partnership in proportions equal to the individual partner's ownership interest in the partnership. This includes, but is not limited to, the individual partner's name, address, occupation and employer. (2) An unlimited committee which receives a contribution from a partnership is required to report the contribution by attributing the contribution to each partner of the partnership in proportion to the partner's interest in the partnership. For individual partners, this includes, but is not limited to, the individual's name, address, occupation and employer. For corporate partners, this includes the name, address, and principal business activity of the corporation."

Commission Comment

Contributions received from a partnership shall be reported as contributions from the individual partners of a partnership in proportions equal to their ownership interests.

Example: Ajax LP is owned in equal shares by three individuals: Johnson, Carson and Larson. The committee receives a contribution of Three Thousand Dollars (\$3,000.00) written on an Ajax LP check. The committee does not report a contribution from Ajax LP; instead, it reports contributions of One Thousand Dollars (\$1,000.00) each from Johnson, Carson and Larson.

Partnerships are prohibited from making contributions to a political party committee, limited committee or candidate committee if any partner of the partnership is a corporation. See Rules 2.23. This provision prevents a corporation from indirectly making a political contribution that is directly prohibited. Since money is fungible any partnership funds are deemed to include some corporate funds if a corporation is a member of the partnership. This is true whether or not the corporation is a for-profit, non-profit, professional or other type of corporation.

Rule 2.26. Use of Corporate Funds for Political Action Committees.

A corporation may use its funds to pay for the establishment of, administration of and solicitation of contributions to, one (1) political action committee affiliated with the corporation. For purposes of this section, "corporation" shall mean a corporation, its parent, subsidiary, branch, division, department or local unit of such corporation.

History

Promulgated by Ethics Commission January 10, 2014; effective upon Legislature's sine die adjournment May 23, 2014; operative January 1, 2015.

Commission Comment

This provision allows corporations to exercise political speech through political action committees ("PACs") affiliated with the corporation. Because corporations are limited in terms of solicitation of contributions, the limit of one state PAC is designed to prevent abuse through the formation of multiple PACs. This limitation applies only to state PACs. A corporation may sponsor both a state PAC and a federal PAC. Corporate funds used to pay for the establishment of, administration of, and solicitation of contributions to a corporation's PAC are paid out of the affiliated corporation's depository, and shall not be deposited in the PAC's depository. The expenditures that are made by the affiliated entity are reported on the PAC's Report of Contributions and Expenditures on the filing page summary as costs paid by the affiliated corporation, not as a contribution. See Rule 2.97.

Rule 2.27. Use of Labor Union Funds for Political Action Committees.

A labor union may use its funds to pay for the establishment of, administration of and solicitation of contributions to, one (1) political action committee affiliated with the labor union.

History

Promulgated by Ethics Commission January 10, 2014; effective upon Legislature's sine die adjournment May 23, 2014; operative January 1, 2015.

Commission Comment

This provision allows labor unions to exercise political speech through political action committees ("PACs") affiliated with the labor union. Because labor unions are limited in terms of solicitation of contributions, the limit of one PAC is designed to prevent abuse through the formation of multiple PACs. This limitation applies only to state PACs. A labor union may sponsor both a state PAC and a federal PAC. Labor union funds used to pay for the establishment of, administration of and solicitation of contributions to a labor union's PAC are paid out of the labor union's depository, and shall not be deposited in the PAC's depository. The expenditures that are made by an affiliated entity are reported on the PAC's Report of Contributions and Expenditures on the filing page summary as costs paid by the affiliated corporation, not as a contribution. See Rule 2.97.

Rule 2.28. Payroll Deduction.

If a corporation or labor union uses payroll deduction or similar method to obtain contributions from its employees or members, funds equal to the amount of those contributions but drawn on the corporation or labor union's account shall not be considered contributions by the corporation or labor union but shall be considered as contributions by the individuals from whose compensation the funds were withheld and shall be reported accordingly. When such funds are drawn on a corporation or labor union account, the payment shall be accompanied by all the information required for contributions to be reported as required by these Rules.

History

Promulgated by Ethics Commission January 10, 2014; effective upon Legislature's sine die adjournment May 23, 2014; operative January 1, 2015.

Commission Comment

This provision clarifies that the use of political contributions through the use of payroll deductions or similar methods is permitted notwithstanding the prohibition of corporate or labor union contributions. Even though the account used to make the contributions is from an entity (corporation or labor union) otherwise prohibited from making such contributions, such contributions are "pass through" funds provided they are accurately documented and attributed to the actual contributor in the applicable Report of Contributions and Expenditures.

Rule 2.29. Corporate and Labor Union Communications Not Considered as Contributions.

A communication by a corporation intended to be received only by its stockholders, directors, officers or employees and their spouses, or a communication by a labor union intended to be received only by its members and their spouses shall not be considered a contribution.

History

Promulgated by Ethics Commission January 10, 2014; effective upon Legislature's sine die adjournment May 23, 2014; operative January 1, 2015.

Commission Comment

This provision simply permits political communications between corporations and their shareholders, directors, officers and employees and their spouses, and between a labor union and its members and their spouses to be made without the communications being considered contributions.

If a labor union's members vote to endorse a candidate, and the candidate refers to the endorsement in campaign literature, the endorsement is not considered a contribution from the labor union.

Rule 2.30. Candidate Committee Prohibited from Receiving Federal Candidate Committee Contributions.

A candidate committee shall not accept a contribution from the authorized committee of a candidate for federal office.

History

Promulgated by Ethics Commission January 10, 2014; effective upon Legislature's sine die adjournment May 23, 2014; operative January 1, 2015.

Commission Comment

Federal law permits contributions by the authorized committee of a candidate for federal office to candidates for state office. This provision makes clear that such contributions cannot be accepted by candidates for state office.

Political Party Contribution Limits

Rule 2.31. Contributions to Political Party.

No person shall make, and no political party shall accept, a contribution to any political party committee in excess of Ten Thousand Dollars (\$10,000.00) in any calendar year, except as otherwise permitted by law or these Rules. For purposes of this limitation, "contribution" shall include multiple contributions, the amounts of which shall be aggregated. For purposes of this limitation, contributions to a state committee, a Congressional District committee, a county committee, a precinct committee or any other committee or entity of the party officially recognized in the party's bylaws or similar governing document shall be aggregated. Funds to be used for federal election activity, as defined in 2 U.S.C. Section 431(20) and subject to requirements of 2 U.S.C. Section 441i, commonly referred to as "Levin Funds", shall not be aggregated with other contributions to a political party committee. A contribution to a political party committee that is designated directly or indirectly to be used for the benefit of a particular candidate or candidates shall be considered a contribution by the contributor to the candidate or candidates. If a political party committee sells goods or services to a candidate committee for ordinary and necessary campaign expenses as defined in Rule 2.43, the expenditure by the candidate committee shall not be considered as a contribution to the political party committee; provided further, that to the extent that it is practicable, the amount charged to a candidate committee for such goods or services shall not exceed the cost to the political party committee.

History

Promulgated by Ethics Commission January 10, 2014; effective upon Legislature's sine die adjournment May 23, 2014; operative January 1, 2015.

Amendment promulgated by Ethics Commission January 27, 2017; effective upon sine die adjournment of the Legislature May 26, 2017; operative May 26, 2017.

The 2017 amendment added the following language to the end of the provision: "If a political party committee sells goods or services to a candidate committee for ordinary and necessary campaign expenses as defined in Rule 2.43, the expenditure by the candidate committee shall not be considered as a contribution to the political party committee; provided further, that to the extent that it is practicable, the amount charged to a candidate committee for such goods or services shall not exceed the cost to the political party committee."

Commission Comment

This Rule establishes the maximum contribution that may be made to or accepted by a political party committee at Ten Thousand Dollars (\$10,000.00) in any calendar year. For a married couple, each of whom makes a maximum contribution, the aggregate total maximum would be Twenty Thousand Dollars (\$20,000.00) per calendar year. This section also establishes the Commission policy that state, Congressional District, county, precinct and other committees of political parties are considered as a single entity for purposes of maximum contributions; thus, a contribution to one is considered as a contribution to all. This section exempts from the maximum limit "Levin Funds" authorized and limited by federal law. The provision regarding earmarking of contributions for candidates, either directly or indirectly, is intended to prevent the laundering of funds through the political parties to candidates in violation of other Rules.

Rule 2.32. Contributions by Political Party Committee.

No political party committee shall make, and no candidate shall accept, a contribution in excess of Twenty-five Thousand Dollars (\$25,000.00) to any candidate for statewide office or in excess of Ten Thousand Dollars (\$10,000.00) to any candidate for other state elective office prior to any general election for that office. No political party shall make, and no candidate shall accept, a contribution to any candidate for judicial office. For purposes of this limitation, "contribution" shall include multiple contributions, the amounts of which shall be aggregated. For purposes of this limitation, contributions by a state committee, a Congressional District committee, a county committee, a precinct committee or any other committee or entity of the party officially recognized in the party's bylaws or similar governing document shall be aggregated.

History

Promulgated by Ethics Commission January 10, 2014; effective upon Legislature's sine die adjournment May 23, 2014; operative January 1, 2015.

Commission Comment

This section sets maximum contributions that political party committees may make to candidates and differentiates between candidates for statewide office and candidates for other state elective offices. The different maximum amounts—Twenty-five Thousand Dollars (\$25,000.00) vs. Ten Thousand Dollars (\$10,000.00—distinguish the difference between the costs of more expensive statewide campaigns and less expensive districtwide campaigns. This section also emphasizes the Commission policy that state, Congressional District, county, precinct and other committees of political parties are considered as a single entity for purposes of maximum contributions; thus, a contribution by one is considered as a contribution by all.

Political Action Committee Contribution Limits

Rule 2.33. Contributions to and by Limited Committee.

(A) No person shall make, and no limited committee shall accept, a contribution to any limited committee in excess of Five Thousand Dollars (\$5,000.00) in any calendar year, except as otherwise permitted by law or these Rules. A contribution to a limited committee that is designated directly or indirectly to be used for the benefit of a particular candidate or candidates shall be considered a contribution by the contributor to the candidate or candidates.

(B) No limited committee shall make, and no political party committee shall accept, a contribution to the political party committee in excess of Ten Thousand Dollars (\$10,000.00) in any calendar year.

(C) No limited committee shall make, and no other limited committee shall accept, a contribution to another limited committee in excess of Five Thousand Dollars (\$5,000.00) in any calendar year.

(D) No limited committee shall make, and no candidate committee shall accept, a contribution to any candidate committee in excess of Five Thousand Dollars (\$5,000.00) prior to a primary election.

(E) No limited committee shall make, and no candidate committee shall accept, a contribution to any candidate committee of a candidate whose name will appear on the ballot for a runoff primary election in excess of Five Thousand Dollars (\$5,000.00) prior to a runoff primary election. Provided, however, after the primary election a limited committee that has made a contribution of Five Thousand Dollars (\$5,000.00) or less to the candidate committee prior to the primary election may make an additional contribution of no more than Five Thousand Dollars (\$5,000.00) to the candidate committee prior to the runoff primary election.

(F) No limited committee shall make, and no candidate committee shall accept, a contribution to any candidate committee prior to a general election in excess of Five Thousand Dollars (\$5,000.00). Provided, however, after the primary election or runoff primary election, whichever is the last for determining a political party's nominee, a limited committee that has made a contribution of Five Thousand Dollars (\$5,000.00) or less to the candidate committee prior to the primary election or runoff primary election, or both, may make an additional contribution of no more than Five Thousand Dollars (\$5,000.00) to the candidate committee prior to the general election.

(G) After the general election, a limited committee that has made no contribution to a candidate or a contribution of less than Five Thousand Dollars (\$5,000.00) in the aggregate under the

provisions of subsections (D), (E) or (F) may make an additional contribution or contributions in an amount or amounts that, aggregated with any prior contributions, do not exceed Five Thousand Dollars (\$5,000.00) to that candidate committee.

(H) No limited committee shall make a total contribution to a candidate in excess of the aggregate contribution limits of subsections (D), (E) and (F) or in excess of Five Thousand Dollars (\$5,000.00) to the candidate committee of a candidate who is unopposed for election.

(I) For purposes of this section, "contribution" shall include multiple contributions, the amounts of which shall be aggregated.

(J) A limited committee may make contributions to candidates for county, municipal or school district office as permitted by law.

History

Promulgated by Ethics Commission January 10, 2014; effective upon Legislature's sine die adjournment May 23, 2014; operative January 1, 2015.

Amendment promulgated by Ethics Commission February 5, 2018; effective upon Legislature's sine die adjournment May 3, 2018; operative May 3, 2018.

The 2018 amendment added "or a contribution of less than Five Thousand Dollars (\$5,000.00) in the aggregate" between "no contribution to a candidate" and "under the provisions of subsections" in subsection G. The 2018 amendment also added "n additional" between "may make a" and "contribution," and it replaced "of no more than" with "or contributions in an amount or amounts that, aggregated with any prior contributions, do not exceed" in subsection G.

The provision read as follows: "(G) After the general election, a limited committee that has made no contribution to a candidate under the provisions of subsections (D), (E) or (F) may make a contribution of no more than Five Thousand Dollars (\$5,000.00) to that candidate committee."

Commission Comment

Limited committees are the only political action committees that may make contributions directly to candidates. For that reason, it is limited both in the amounts and sources of contributions that it may receive and the amounts of contributions that it may make to political parties, other limited committees sharing the same purpose and candidate committees. No person may contribute more than Five Thousand Dollars (\$5,000.00) in any calendar year to a limited committee. For a married couple, each of whom makes a maximum contribution, the aggregate total maximum would be Ten Thousand Dollars (\$10,000.00) per calendar year. The provision regarding earmarking of contributions for candidates, either directly or indirectly, is intended to prevent the laundering of funds through the limited committees to candidates in violation of other Rules. Limited committees may make contributions of no more than Five Thousand Dollars

(\$5,000.00) to another limited committee in any calendar year. The maximum that a limited committee may contribute to a candidate is Fifteen Thousand Dollars (\$15,000.00), and that amount is applicable only if the candidate's name is on the ballot in the primary, runoff primary and general elections. Otherwise, the limit is Five Thousand Dollars (\$5,000.00) for an unopposed candidate or Five Thousand Dollars (\$5,000.00) per election for any election in which the candidate's name appears on the ballot. In all cases, the maximum limits apply to the making and receiving of contributions. Limited committees also may make contributions to candidates for county, municipal and school district offices, subject to statutory law. Limited committees may not receive corporate contributions.

Effective May 3, 2018, limited committees may contribute to candidate committees after the general election in an amount or amounts that when added with prior contributions does not exceed \$5,000. If a limited committee cumulatively contributes \$5,000 any time prior to the general election date, that committee is prohibited from contributing to that candidate committee after the general election.

Example for Unopposed Candidate: Jane is running for a seat in the Oklahoma House of Representatives. ABC limited political action committee ("ABCPAC") wants to contribute the maximum amount to Jane's candidacy. Jane is the only candidate who has filed for the office. ABCPAC may contribute up to \$5,000 to Jane's candidate committee regardless of timing of elections. For example, ABCPAC could contribute \$2,500 prior to the general election and \$2,500 after the general election.

Example 1 for Opposed Candidate: Tom is running for a seat in the Oklahoma State Senate and will participate in both a primary election and general election. ABCPAC wants to contribute the maximum amount for each of Tom's elections. Tom wins his primary without the necessity of a runoff, and he is opposed in the general election. ABCPAC contributed \$5,000 prior to Tom's primary election and \$5,000 prior to Tom's general election. Tom lost the general election and has campaign debt following the general election. ABCPAC wants to assist Tom with his campaign debt. ABCPAC cannot contribute to Tom's candidate committee after the general election because ABCPAC met the \$5,000 contribution limit for Tom's campaign prior to the general election.

Example 2 for Opposed Candidate: John is running for a seat in the State Legislature and will participate in both a primary election and general election. ABCPAC gave \$1,000 to John's campaign prior to the primary election and another \$2,000 prior to John's campaign prior to the general election. John lost in the general election and has campaign debt following the general election. Here, because ABCPAC has contributed \$3,000 prior to the general election, it may contribute up to \$2,000 to Tom's campaign after the general election for a total of \$5,000.

The limits set forth in this Rule for contributions by limited committees do not apply to limited committees that are either registered for less than one year prior to the primary election or have fewer than 25 contributors (unofficially called a 1/25 committee). Limits for contributions by 1/25 committees are set forth in Rule 2.34.

Contributions limits to candidate committees by out-of-state and federal political action committees are the same as those for Oklahoma limited committees.

2.33(C) allows for contributions from a limited committee (excluding a Rule 2.34 limited committee) to another limited committee. However, the purpose(s) of the contributing limited committee would need to be similar to the purpose(s) of the receiving committee because limited committee expenditures are limited to those expenditures that further the purpose of a limited committee. See Rule 2.41.

Example of Improper Limited Committee to Limited Committee Contribution: ABC limited committee is formed for the purpose of contributing to candidates who support yellow shirts. XYZ limited committee is formed for the purpose of contributing to candidates who support blue pants. ABC limited committee is prohibited from contributing to XYZ committee and vice versa because the committees do not share the same or similar purposes; consequently, such a contribution would be outside the purpose of both limited committees.

Rule 2.34. Contributions by Limited Committees Registered for Less than One Year or Fewer than Twenty-Five Contributors.

(A) No limited committee that has been registered with the Commission for less than a year prior to a primary election or that has fewer than twenty-five (25) contributors shall make, and no political party committee shall accept, a contribution to the political party committee in excess of Five Thousand Dollars (\$5,000.00) in any calendar year.

(B) No limited committee that has been registered with the Commission for less than a year prior to a primary election or that has fewer than twenty-five (25) contributors shall make a contribution to another limited committee.

(C) No limited committee that has been registered with the Commission for less than a year prior to a primary election or that has fewer than twenty-five (25) contributors shall make, and no candidate committee shall accept, a contribution to any candidate committee in excess of Two Thousand Five Hundred Dollars (\$2,500.00) prior to a primary election.

(D) No limited committee that has been registered with the Commission for less than a year prior to a primary election or that has fewer than twenty-five (25) contributors shall make, and no candidate committee shall accept, a contribution to any candidate committee of a candidate whose name will appear on the ballot for a runoff primary election in excess of Two Thousand Five Hundred Dollars (\$2,500.00) prior to a runoff primary election. Provided, however, after the primary election a limited committee that has been registered with the Commission for less than a year prior to a primary election or that has fewer than twenty-five (25) contributors that has made a contribution of Two Thousand Five Hundred Dollars (\$2,500.00) or less to the candidate committee prior to the primary election may make an additional contribution of no more than Two Thousand Five Hundred Dollars (\$2,500.00) to the candidate committee prior to the runoff primary election.

(E) No limited committee that has been registered with the Commission for less than a year prior to a primary election or that has fewer than twenty-five (25) contributors shall make, and no candidate committee shall accept, a contribution to any candidate committee prior to a general election in excess of Two Thousand Five Hundred Dollars (\$2,500.00). Provided, however, after the primary election or runoff primary election, whichever is the last for determining a political party's nominee, a limited committee that has been registered with the Commission for less than a year prior to a primary election or that has fewer than twenty-five (25) contributors that has made a contribution of Two Thousand Five Hundred Dollars (\$2,500.00) or less to the candidate committee prior to the primary election or runoff primary election,

or both, may make an additional contribution of no more than Two Thousand Five Hundred Dollars (\$2,500.00) to the candidate committee prior to the general election.

(F) After the general election, a limited committee that has been registered with the Commission for less than a year prior to a primary election or that has fewer than twenty-five (25) contributors that has made no contribution to a candidate committee or a contribution of less than Two Thousand Five Hundred Dollars (\$2,500.00) in the aggregate under the provisions of subsections (C), (D) or (E) may make an additional contribution or contributions in an amount or amounts that, aggregated with any prior contributions, do not exceed Two Thousand Five Hundred Dollars (\$2,500.00) to that candidate committee.

(G) No limited committee that has been registered with the Commission for less than a year prior to a primary election or that has fewer than twenty-five (25) contributors shall make a total contribution to a candidate in excess of the aggregate contribution limits of subsections (C), (D) and (E) or in excess of Two Thousand Five Hundred Dollars (\$2,500.00) to the candidate committee of a candidate who is unopposed for election.

(H) For purposes of this section, "contribution" shall include multiple contributions, the amounts of which shall be aggregated.

History

Promulgated by Ethics Commission January 10, 2014; effective upon Legislature's sine die adjournment May 23, 2014; operative January 1, 2015.

Amendment promulgated by Ethics Commission February 5, 2018; effective upon Legislature's sine die adjournment May 3, 2018; operative May 3, 2018.

The 2018 amendment added "or a contribution of less than Two Thousand Five Hundred Dollars (\$2,500.00) in the aggregate" between "no contribution to a candidate" and "under the provisions of subsections" in subsection (F). The 2018 amendment also added "n additional" between "may make a" and "contribution," and it replaced "of no more than" with "or contributions in an amount or amounts that, aggregated with any prior contributions, do not exceed" in subsection F.

The provision read as follows: "(F) After the general election, a limited committee that has been registered with the Commission for less than a year prior to a primary election or that has fewer than twenty-five (25) contributors that has made no contribution to a candidate committee under the provisions of subsections (C), (D) or (E) may make a contribution of no more than Two Thousand Five Hundred Dollars (\$2,500.00) to that candidate committee."

Commission Comment

This Rule is intended to prevent the ad hoc creation of limited committees whose purpose is to allow a small group of individuals to fund the campaigns of candidates late in the election calendar, permitting contributors to leverage their contributions above the amounts contemplated for other limited committees. The intention is two-pronged: (1) The requirement that a limited committee must have been registered for at least a year prior to the primary election is designed to address the ad hoc nature of the practice and (2) the requirement for a minimum of twenty-five (25) contributors is designed to address the "small group" issue. Generally, this section restricts limited committees that fall within either of these criteria to half of the maximum contributions that other limited committees may make, i.e., Five Thousand Dollars (\$5,000.00) to political party committees in any calendar year, Two Thousand Five Hundred Dollars (\$2,500.00) to any candidate committee for any primary, runoff primary or general election at which the candidate's name appears on the ballot, or the same amount for unopposed candidates. The limited committees subject to this Rule may not make any contribution to another limited committee, thus preventing the "stacking" of limited committees for the purpose of circumventing the Rules.

These limited committees are prohibited from contributing to other limited committees.

Effective May 3, 2018, limited committees created less than a year before the primary election or that have fewer than 25 contributors may contribute to candidate committees after the general election in an amount or amounts that when added with prior contributions does not exceed \$2,500. If a limited committee cumulatively contributes \$2,500 any time prior to the general election date, that committee is prohibited from contributing to that candidate committee after the general election.

Rule 2.35. Contributions to and by Unlimited Independent Expenditure or Electioneering Communication Committee.

Any person not otherwise prohibited by law, including but not limited to individuals, partnerships, limited liability companies, corporations and labor unions, may make contributions in any amount to an unlimited committee organized exclusively for the purpose of making independent expenditures or electioneering communications. An unlimited committee organized exclusively for the purpose of making independent expenditures or electioneering communications may make contributions in any amount to another unlimited committee organized exclusively for the purpose of making independent expenditures or electioneering communications.

History

Promulgated by Ethics Commission January 10, 2014; effective upon Legislature's sine die adjournment May 23, 2014; operative January 1, 2015.

Commission Comment

Unlimited committees that make only independent expenditures or electioneering communications are virtually not subject to limitations in types of entities that may contribute or the amount that may be contributed to the committees. These committees are limited in the amount of cash contributions and anonymous contributions it may receive. See Rules 2.19 and 2.20. These unlimited committees also may contribute to other similar unlimited committees in unlimited amounts. Federal law prohibits contributions by foreign nationals.

Rule 2.36. Contributions to State Question Committee.

Any person not otherwise prohibited by law, including but not limited to individuals, partnerships, limited liability companies, corporations and labor unions, may make contributions in any amount to an unlimited committee organized exclusively for the purpose of advocating the approval or defeat of a state question.

History

Promulgated by Ethics Commission January 10, 2014; effective upon Legislature's sine die adjournment May 23, 2014; operative January 1, 2015.

Commission Comment

Unlimited committees that are organized exclusively for the purpose of advocating the approval or defeat of a state question are virtually not subject to limitations in types of entities that may contribute or the amount that may be contributed to the committees. These committees are limited in the amount of cash contributions and anonymous contributions it may receive. See Rules 2.19 and 2.20. Federal law prohibits contributions by foreign nationals.

Candidate Committee Contribution Limits

Rule 2.37. Individual Contributions to Candidate Committees.

(A) No person shall make a contribution in excess of Two Thousand Six Hundred Dollars (\$2,600.00) [increased to Two Thousand Seven Hundred Dollars (\$2,700.00) for elections in 2015, 2016 and 2018*, and increased to Two Thousand Eight Hundred Dollars (\$2,800) for elections in 2020] to any candidate committee prior to a primary election.**

(B) No person shall make a contribution in excess of Two Thousand Six Hundred Dollars (\$2,600.00) [increased to Two Thousand Seven Hundred Dollars (\$2,700.00) for elections in 2015, 2016 and 2018*, and increased to Two Thousand Eight Hundred Dollars (\$2,800) for elections in 2020] prior to a runoff primary election to any candidate committee of a candidate whose name will appear on the ballot for a runoff primary election. Provided, however, after the primary election a person who has made a contribution of Two Thousand Six Hundred Dollars (\$2,600.00) [increased to Two Thousand Seven Hundred Dollars (\$2,700.00) for elections in 2015, 2016 and 2018*, and increased to Two Thousand Eight Hundred Dollars (\$2,800) for elections in 2020**] or less to the candidate committee prior to the primary election may make an additional contribution of no more than Two Thousand Six Hundred Dollars (\$2,600.00) [increased to Two Thousand Seven Hundred Dollars (\$2,700.00) for elections in 2015, 2016 and 2018*, and increased to Two Thousand Eight Hundred Dollars (\$2,800) for elections in 2020**] to the candidate committee prior to the runoff primary election.**

(C) No person shall make a contribution in excess of Two Thousand Six Hundred Dollars (\$2,600.00) [increased to Two Thousand Seven Hundred Dollars (\$2,700.00) for elections in 2015, 2016 and 2018*, and increased to Two Thousand Eight Hundred Dollars (\$2,800) for elections in 2020] to any candidate committee prior to a general election. Provided, however, after the primary election or runoff primary election, whichever is the last for determining a political party's nominee, a person who has made a contribution of Two Thousand Six Hundred Dollars (\$2,600.00) [increased to Two Thousand Seven Hundred Dollars (\$2,700.00) for elections in 2015, 2016 and 2018*, and increased to Two Thousand Eight Hundred Dollars (\$2,800) for elections in 2020**] or less prior to the primary election or runoff primary election, or both, may make an additional contribution of no more than Two Thousand Six Hundred Dollars (\$2,600.00) [increased to Two Thousand Seven Hundred Dollars (\$2,700.00) for elections in 2015, 2016 and 2018*, and increased to Two Thousand Eight Hundred Dollars (\$2,800) for elections in 2020**] to a candidate**

committee of a candidate whose name will appear on the general election ballot.

(D) After the general election, a person who has made no contribution or a contribution of less than Two Thousand Six Hundred Dollars (\$2,600.00) [increased to Two Thousand Seven Hundred Dollars (\$2,700.00) for elections in 2015, 2016 and 2018*, and increased to Two Thousand Eight Hundred Dollars (\$2,800) for elections in 2020**] in the aggregate under the provisions of subsections (A), (B) or (C) may make an additional contribution or contributions to a candidate committee in an amount or amounts that, aggregated with any prior contributions, do not exceed Two Thousand Six Hundred Dollars (\$2,600.00) [increased to Two Thousand Seven Hundred Dollars (\$2,700.00) for elections in 2015, 2016 and 2018*, and increased to Two Thousand Eight Hundred Dollars (\$2,800) for elections in 2020**].

(E) No person shall make a total contribution to a candidate committee in excess of the aggregate contribution limits of subsections (A), (B) and (C) or in excess of Two Thousand Six Hundred Dollars (\$2,600.00) [increased to Two Thousand Seven Hundred Dollars (\$2,700.00) for elections in 2015, 2016 and 2018*, and increased to Two Thousand Eight Hundred Dollars (\$2,800) for elections in 2020**] to the candidate committee of a candidate who is unopposed for election.

(F) No candidate committee shall make to another candidate committee, and the receiving candidate committee shall not accept, a total contribution in excess of Two Thousand Six Hundred Dollars (\$2,600.00) [increased to Two Thousand Seven Hundred Dollars (\$2,700.00) for elections in 2015, 2016 and 2018*, and increased to Two Thousand Eight Hundred Dollars (\$2,800) for elections in 2020**] in the aggregate for all three elections or for the benefit of a candidate who is unopposed for election.

(G) For purposes of this section, "contribution" shall include multiple contributions, the amounts of which shall be aggregated.

(H) Beginning no earlier than January 1, 2015, and no later than July 1, 2015, and every two years thereafter, the limitations in subsections (A), (B), (C), (D), (E) and (F) of this section shall be increased by the percent difference between the price index for the twelve (12) months preceding the beginning of the calendar year during which the adjustment is made and the price index for 2014. If the adjusted limitation amount is not a multiple of One Hundred Dollars (\$100.00), the limitation shall be rounded to the nearest multiple of One Hundred Dollars (\$100.00). For purposes of this section, "price index" shall mean the average over a calendar year of the Consumer Price Index (all items - United States city average) published

monthly by the Bureau of Labor Statistics. The adjusted limitations shall be published on the Commission's Internet website and shall be otherwise communicated as the Commission determines appropriate. The adjusted limitations shall apply to the primary, runoff primary and general elections in 2016 and every two (2) years thereafter as well as to any special primary, runoff primary or general elections that occur after the limitations are adjusted but before the regular primary, runoff primary or general elections.

(I) If a candidate files a statement of organization for a candidate committee with the Commission for one state office and accepts one or more contributions for that candidate committee, then files a statement of organization for a candidate committee for a different state office prior to the filing period for that office, contributions to the two committees shall be aggregated for purposes of maximum contribution amounts for the second candidate committee.

*The Commission increased the amount in its meeting on April 10, 2015, pursuant to Subsection (H) of Section 2.37.

** The Commission increased the amount in its meeting on March 08, 2019, pursuant to Subsection (H) of Section 2.37.

History

Promulgated by Ethics Commission January 10, 2014; effective upon Legislature's sine die adjournment May 23, 2014; operative January 1, 2015.

Amendment promulgated by Ethics Commission January 9, 2015; effective upon sine die adjournment of the Legislature May 22, 2015; operative May 22, 2015.

The 2015 amendment deleted the last sentence in Subsection (D). The sentence read: "If a candidate committee, following the general election for which it was organized, accepts one or more contributions and the candidate thereafter files a statement of organization for the same office or another state office in a subsequent general election, any contributions accepted by the first candidate committee after the general election and within six (6) months prior to the filing of the second statement of organization shall be aggregated with contributions to the second candidate committee for purposes of maximum contribution limits for the second primary election."

Commission Comment

This section establishes individual contributions to candidates on a per-person, per-election basis. The maximum amount that an individual may contribute to a candidate in the 2020 election is Eight Thousand Four Hundred Dollars (\$8,400.00), and that amount is applicable only if the candidate's name is on the ballot in the primary, runoff primary and general elections. Otherwise, the contribution limit for 2020 campaigns is Two Thousand Eight Hundred (\$2,800.00) for an unopposed candidate or Two Thousand Eight Hundred Dollars (\$2,800.00) per election

for any election in which the candidate's name appears on the ballot. For a married couple, each of whom makes a maximum contribution, the aggregate total maximum would be Five Thousand Six Hundred Dollars (\$5,600.00) for an unopposed candidate or per candidate per election; or a maximum of Sixteen Thousand Eight Hundred (\$16,800.00) for a candidate whose name appeared on the ballot in the primary, runoff primary and general elections.

Example for Candidate receiving check drawn on joint account: Jane is running for a State Senate seat and receives a \$4,000 check from Tom Smith drawn on the joint checking account of Tom and Tammy Smith. Because contributions are based on individual limits and there is not enough information to determine if both spouses are contributing, and if so, how much, the committee must contact Tom Smith and Tammy Smith to ask the couple how they want the contribution to be reported. Tom and Tammy Smith explain \$2,500 of the contribution is from Tom and \$1,500 is from Tammy. Jane's treasurer then reports the contributions accordingly.

Example for Unopposed Candidate: Jane is running for a seat in the Oklahoma House of Representatives. Joe wants to contribute the maximum amount to Jane's candidacy. Jane is the only candidate who has filed for the office. Because Jane is unopposed for the office, Joe may contribute up to \$2,800 to Jane's campaign regardless of timing of elections.

Example for Opposed Candidate: Tom is running for a seat in the Oklahoma State Senate. Tammy wants to contribute \$2,000 for each of Tom's elections. Tom wins his primary without the necessity of a runoff, and he is opposed in the general election. Tammy contributed \$2,000 prior to Tom's primary election and \$2,000 prior to Tom's general election. Tom lost the general election and he has campaign debt following the general election. Tammy wants to assist Tom with his campaign debt. Tammy is unable to contribute to Tom's candidate committee because Tammy has exceeded \$2,800 in the aggregate for Tom's campaign committee.

Under subsection (F), a candidate committee can make a contribution to another candidate committee so long as the contributing committee and receiving committee participate at elections at the same level: both committees are for state office candidates; both committees are for county office candidates; both committees are for municipal office candidates; or both committees are for school district candidates. For example, a candidate committee of a candidate running for the State Senate could make a contribution to the candidate committee of a candidate running for Governor; however, a candidate committee of a candidate running for the State Senate could not make a contribution to the candidate committee of a candidate running for a municipal office.

Subsection (H) is intended by the Commission to allow maximum contribution limits for individuals to candidates to rise automatically to keep pace with increases in the cost of living.

Subsection (I) is intended to prevent candidates from organizing multiple sham committees for the purposes of circumventing the maximum contributions amounts from individual contributors.

Candidates may accept contributions through online and electronic services that allow the use of credit card or debit card transactions, provided the online or electronic services allows the candidate to obtain the required information for reporting. This includes the ability to obtain the name, address, occupation, and employer. Many of these online and electronic services charge a service fee. In this instance, the entire amount paid by the contributor is reported as a contribution, and the service fees are reported as an expenditure. Candidates are not required to report each individual service fee. Rather, a candidate may report a monthly, quarterly, or reporting period total of service fees as a single expenditure.

If a candidate is selling an item for the purpose of raising funds such as t-shirts, hats, or bumper stickers, then the entire amount paid for the item is treated as a contribution to the candidate committee and must be reported with the required information. In addition, candidates wishing to sell items for the purpose of raising funds should contact the Oklahoma Tax Commission to verify any requirements for collecting and remitting sales tax.

Contributions from Indian tribes fall within the individual contribution limits set out in this Rule and are reported by the candidate committee. Contributions to a candidate committee from a tribe's political action committee, however, follow the political action committee contribution limits under Rule 2.33. Further, tribes that are incorporated are prohibited from contributing to candidate committees.

Rule 2.38. Candidate Contributions to Own Committee.

No candidate or candidate committee shall receive contributions from a political party, political action committee or other person in excess of the limits provided in this Rule. Provided, however, a candidate may contribute an unlimited amount to his or her candidate committee from his or her personal funds or from joint funds of the candidate and the candidate's spouse. A gift or gifts to a candidate or a candidate's spouse that are nontaxable under the United States Internal Revenue Code shall be considered contributions to the candidate's candidate committee to the extent that the gift or gifts exceeds gifts from the same donor in three (3) of the preceding five (5) calendar years. No candidate or candidate committee shall refund contributions of the candidate unless the contribution is a properly executed loan under Rule 2.67 between the candidate, and the candidate committee.

History

Promulgated by Ethics Commission January 10, 2014; effective upon Legislature's sine die adjournment May 23, 2014; operative January 1, 2015.

Amendment promulgated by Ethics Commission February 5, 2018; effective upon Legislature's sine die adjournment May 3, 2018; operative May 3, 2018.

The 2018 amendment added the following language to the end of the provision: "No candidate or candidate committee shall refund contributions of the candidate unless the contribution is a properly executed loan under Rule 2.67 between the candidate, and the candidate committee.

Commission Comment

This Rule permits candidates to make unlimited contributions to their own campaigns and acknowledges that those funds may originate in a joint account with the candidate's spouse. The last sentence precludes the circumvention of the Rule through means of a "gift" to the candidate or the candidate's spouse that is in fact intended to be used as a contribution to the candidate's campaign.

Example: *Candidate Smith's father has given Candidate Smith gifts of Five Thousand Dollars (\$5,000) each year for the last 10 years. These gifts were not taxable to Smith under the Internal Revenue Code. The year that Smith became a candidate, Smith's father increased the "gift" to Seven Thousand Five Hundred Dollars (\$7,500.00). Of that amount, Two Thousand Five Hundred (\$2,500.00) would be treated as a contribution to Smith's committee if Smith put at least that amount of his own funds into his campaign committee because that is the amount that the gift exceeds the average of Five Thousand Dollars (\$5,000.00) for three of the five preceding years. (If Smith made no contributions to his own campaign, this provision would not be triggered.)*

Expenditures

Rule 2.39. Personal Use of Contributions Prohibited.

No contributions accepted by a political party committee, a political action committee or a candidate committee may be converted by any person to personal use. "Personal use" includes any use of funds to fulfill a commitment, obligation or expense of any person that would exist irrespective of a political party's activities, a political action committee's activities or a candidate's campaign or responsibilities as holder of a state elective office, as the case may be. "Personal use" by a candidate includes, but is not limited to, food purchased for daily consumption in the candidate's home or supplies needed to maintain the household; clothing (excluding campaign clothing of low monetary value such as T-shirts or caps); mortgage, rent or utility payments for the candidate's personal residence, even if part of the residence is being used for the campaign; use of a motor vehicle for noncampaign purposes or non-officeholder expenses; interest on a loan made by the candidate or the candidate's spouse to the campaign; costs of a vacation or other trip not related to the campaign or officeholder expenses; admission to athletic events, concerts, theater or other forms of entertainment (except for events that are part of the campaign); dues in country clubs, health clubs, recreational facilities or other nonpolitical organizations and earnings from investment of contributions other than as permitted by these Rules.

History

Promulgated by Ethics Commission January 10, 2014; effective upon Legislature's sine die adjournment May 23, 2014; operative January 1, 2015.

Commission Comment

The list of proscribed uses of campaign funds for "personal use" is not intended to be exhaustive. On the contrary, each use of campaign funds must be evaluated on its own facts, measured against the standard for "personal use" articulated in the second sentence of the Rule. See, also, Rule 2.2(14), defining "officeholder expenses" and comments thereto. Campaign funds are given by contributors with the expectation that those funds will be used for bona fide campaign purposes or, should the candidate be elected, for legitimate officeholder expenses. Campaign contributions should not be used for the personal enrichment of any individual.

Example: *Candidate Johnson may not use contributions to her campaign to provide an evening meal for her family. However, if Candidate Johnson's campaign sponsored a barbecue dinner open to her supporters and funded by campaign contributions, members of her*

family could participate. The former is a personal use; the latter is a campaign use.

Gasoline purchased for a vehicle that is not wholly owned or leased by the candidate committee and used exclusively for campaign or officeholder purposes is a personal use of campaign funds.

Rule 2.40. Political Party Expenditures.

Contributions to a political party committee may be used to make expenditures for ordinary and necessary campaign expenses, for operating expenses of the political party and for other purposes not otherwise prohibited by law or these Rules that further purposes of the committee.

History

Promulgated by Ethics Commission January 10, 2014; effective upon Legislature's sine die adjournment May 23, 2014; operative January 1, 2015.

Commission Comment

Expenditures that further "other purposes of the committee" may be ascertained by reviewing a political party's rules, bylaws, charter or other organic document.

Rule 2.41. Limited Committee Expenditures.

Contributions to a limited political action committee may be used to make expenditures for contributions to candidate committees, for independent expenditures or electioneering communications, for operating expenses of the limited committee and for other purposes not otherwise prohibited by law or these Rules that further purposes of the committee. "Purposes of the committee" shall mean purposes expressed in the committee's bylaws, articles of organization or similar document or, if there is no such document, in the committee's statement of organization as those purposes are stated prior to the making of an expenditure.

History

Promulgated by Ethics Commission January 10, 2014; effective upon Legislature's sine die adjournment May 23, 2014; operative January 1, 2015.

Commission Comment

Limited committees that operate without organic documents such as bylaws or articles of organization should note that the controlling document for determining "purposes of the committee" will be the statement of organization filed with the Commission.

This provision allows a limited committee (excluding a Rule 2.34 limited committee) to make expenditures to contribute to another limited committee. However, the purpose(s) of the contributing limited committee need to be similar to the purpose(s) of the receiving committee because limited committee expenditures are limited to those expenditures that further the purpose of a limited committee.

Example of Improper Limited Committee to Limited Committee Contribution: *ABC limited committee is formed for the purpose of contributing to candidates who support yellow shirts. XYZ limited committee is formed for the purpose of contributing to candidates who support blue pants. ABC limited committee is prohibited from contributing to XYZ committee and vice versa because the committees do not share the same or similar purposes; consequently, such a contribution would be outside the purpose of both limited committees.*

Rule 2.42. Unlimited Committee Expenditures.

Contributions to an unlimited political action committee may be used to make expenditures for independent expenditures or electioneering communications, for contributions to another unlimited political action committee organized exclusively for the purpose of making independent expenditures or electioneering communications, for operating expenses of the unlimited committee or for other purposes not otherwise prohibited by law or these Rules that further purposes of the committee. "Purposes of the committee" shall mean purposes expressed in the committee's bylaws, articles of organization or similar document or, if there is no such document, in the committee's statement of organization as those purposes are stated prior to the making of an expenditure.

History

Promulgated by Ethics Commission January 10, 2014; effective upon Legislature's sine die adjournment May 23, 2014; operative January 1, 2015.

Commission Comment

Unlimited committees may not make direct contributions to political party committees, limited committees or candidate committees. Unlimited committees that operate without organic documents such as bylaws or articles of organization should note that the controlling document for determining "purposes of the committee" will be the statement of organization filed with the Commission.

This provision allows an unlimited committee to make expenditures to contribute to another unlimited committee. However, the purpose(s) of the contributing unlimited committee need to be similar to the purpose(s) of the receiving committee because unlimited committee expenditures are limited to those expenditures that further the purpose of an unlimited committee.

Example of Improper Unlimited Committee to Unlimited Committee Contribution: ABC limited committee is formed for the purpose of contributing to candidates who support yellow shirts. XYZ limited committee is formed for the purpose of contributing to candidates who support blue pants. ABC limited committee is prohibited from contributing to XYZ committee and vice versa because the committees do not share the same or similar purposes; consequently, such a contribution would be outside the purpose of both limited committees.

Rule 2.43. Candidate Committee Expenditures.

Contributions to a candidate committee may be used to make expenditures for ordinary and necessary campaign expenses, for contributions to another candidate committee, for operating expenses of the committee or for other purposes not otherwise prohibited by law or these Rules. "Ordinary and necessary campaign expenses" as used in this section are those that would not exist but for the candidate's campaign, including but not limited to staff salaries, campaign consulting fees, rent (other than for the candidate's residence or part of a residence), travel, advertising, telephones, office supplies and equipment, fundraising, individual memberships in political organizations, individual memberships in civic or charitable organizations, legal fees for the campaign, payment for campaign accounting or bookkeeping services or campaign finance reporting services and repayment of the principal and interest on a loan as permitted by these Rules. Expenditures made to a family member of the candidate for services provided to the campaign shall be no more than customary compensation for those services. Expenditures made to reimburse a candidate for personal expenditures made on behalf of the candidate committee must be made within ninety (90) days of the original expenditure and must be reported in detail as required by Rule 2.106.

History

Promulgated by Ethics Commission January 10, 2014; effective upon Legislature's sine die adjournment May 23, 2014; operative January 1, 2015.

Amendment promulgated by Ethics Commission January 27, 2017; effective upon sine die adjournment of the Legislature May 26, 2017; operative May 26, 2017.

The 2017 amendment added the following language to the end of the provision: "Expenditures made to reimburse a candidate for personal expenditures made on behalf of the candidate committee must be made within ninety (90) days of the original expenditure and must be reported in detail as required by Rule 2.106."

Commission Comment

The list of permitted uses of campaign funds is not intended to be exhaustive. On the contrary, each use of campaign funds must be evaluated on its own facts, measured against the standard for "ordinary and necessary campaign expenses" articulated in the second sentence of the Rule. The provision requiring expenditures made to a family member to be no more than customary compensation is intended to prevent abuse of campaign funds for personal gain by the candidate or the candidate's family members.

All expenditures to reimburse a candidate for personal expenditures made on behalf of the candidate committee must be made within 90 days of the original expenditure, including reimbursement for mileage allowed under Rule 2.45, and must be reported in detail, as required by Rule 2.106.

Candidates who make expenditures on behalf of their candidate committee and intend to be reimbursed from campaign funds must ensure the Treasurer of the committee has the information for the expenditure in order to include it on the proper report. These expenditures are reported as "in kind" expenditures because committee funds are not leaving the depository. Once the candidate has been reimbursed, the committee will report an expenditure for "candidate reimbursement."

Rule 2.44. Officeholder Expenses.

Contributions to a candidate committee of a candidate who is elected to the office for which the contributions were accepted may be used to make expenditures for officeholder expenses until the expiration of the term, resignation or other vacation of the office. When an officeholder dissolves one (1) candidate committee as provided in these Rules and contemporaneously files a Statement of Organization for a different candidate committee prior to the expiration of the term for which he or she has been elected and transfers funds from the first committee to the second committee, the officeholder may pay officeholder expenses until the expiration of the term not to exceed the amount transferred.

History

Promulgated by Ethics Commission January 10, 2014; effective upon Legislature's sine die adjournment May 23, 2014; operative January 1, 2015.

Commission Comment

This section limits the use of campaign contributions for the purpose of paying officeholder expenses to expenses incurred as a result of the candidate's election to the office for which the contributions were made. Once the candidate no longer holds the office for which the contributions were made, there are no longer officeholder expenses that can be incurred. The last sentence permits a candidate seeking election to the same or another state office to continue paying officeholder expenses from his authorized committee, provided the total amount that can be used for that purpose is limited to the amount transferred from the first committee to the second committee.

Example: *Candidate Smith is elected to state office. He uses campaign contributions to pay for officeholder expenses. A year after being elected, and a year before his term expires, he forms a new committee to raise money for his reelection campaign. When he forms the second committee, Smith transfers Ten Thousand Dollars (\$10,000.00) from his first committee to his reelection committee. Smith can pay up to Ten Thousand Dollars (\$10,000.00) in officeholder expenses from his reelection committee until his term expires.*

Example: *Candidate Johnson is elected to the Legislature and is paid mileage reimbursement for her trips to and from her home to the Capitol. Candidate Johnson may not use campaign contributions to pay for gasoline and other travel expenses for which she is receiving mileage reimbursement from the State.*

Example: Smith, a legislator, hosts a lunch for a group from his district who want to discuss pending legislation. Smith may pay for the cost of the lunch by using campaign contributions to meet officeholder expenses. Smith's personal friend, Doe, spends the week with Smith in Oklahoma City while Smith is performing his legislative duties. Smith may not use campaign contributions to pay for Doe's meals.

Advisory Opinion 2019-01: A candidate committee without funds remaining in its campaign depository must dissolve by the specified mandatory dissolution date as established in Rule 2.116.

Whereas, a candidate committee with funds remaining in its campaign depository on the specified mandatory dissolution date as established in Rule 2.116 are, from the mandatory dissolution date and on, no longer permitted to (1) receive contributions, (2) contribute to other candidate committees, (3) make campaign expenditures, or (4) make operating expenditures. However, such committees may make the following expenditures:

- a. Candidate committees of **elected officers** may make expenditures (1) for officeholder expenses until his/her term expires or the office is vacated and (2) of surplus funds as provided for in Rule 2.48 for ninety (90) days after the officeholder's term is completed or vacated.

After the ninety (90) day period has ended, any remaining funds must be deposited in the state's general revenue fund.

Rule 2.45. Calculation of Travel Expenditures.

Expenditures for travel shall be calculated as provided in this section.

(A) Expenditures may be made for all expenses associated with the purchase or lease and operation of a motor vehicle only if the motor vehicle is used exclusively for purposes of the campaign or for ordinary and necessary expenses incurred in connection with the candidate's duties as the holder of a state elective office and for no other purpose at any time. If campaign contributions are used for the purchase or lease of a motor vehicle, the motor vehicle must be purchased or leased from a dealer licensed by the Oklahoma Motor Vehicle Commission or the Oklahoma Used Motor Vehicle and Parts Commission, or their successor agencies, on commercially reasonable terms and cannot be purchased from the committee by the candidate or a family member of the candidate.

(B) If a motor vehicle is used both for the purposes identified in subsection (A) and for any other purpose, expenditures may be made only for mileage reimbursement at the rate authorized for use of privately owned motor vehicles by the State Travel Reimbursement Act or its successor statutes, or less.

(C) Expenditures for the rental of a motor vehicle or for the fares of taxicabs, buses or similar modes of transportation shall be permitted for the actual cost of the rental or fare, provided that the rental or fare is at the rate normally charged for others.

(D) Expenditures for air travel on an air carrier shall be permitted for the actual cost of the fare; provided, if air travel is first class, business class or equivalent class, the expenditure shall be permitted only for any lower fare available on the same flight.

(E) Expenditures for air travel on an aircraft operated by a commercial carrier shall be permitted for the usual charter fare or rental charge.

(F) Expenditures for air travel on an aircraft operated by a private individual shall be permitted for the usual charter fare or rental charge of a commercial carrier.

(G) Expenditures for air travel on an aircraft operated by the candidate or a family member of the candidate shall be contributions by the candidate to the campaign and shall be calculated on the same basis as the usual charter fare or rental charge of a commercial carrier, unless the aircraft is rented, in which case the contribution shall be the cost of the rental.

History

Promulgated by Ethics Commission January 10, 2014; effective upon Legislature's sine die adjournment May 23, 2014; operative January 1, 2015.

Commission Comment

The purpose of this Rule is to ensure that transportation costs paid for with campaign contributions are for legitimate campaign purposes.

The Rule applies equally to political party committees and political action committees, as well as candidate committees.

The requirement in Subsection (A) that the purchase or lease of a motor vehicle must be from a licensed dealer is intended to prevent the possibility of a candidate diverting campaign funds to himself, herself, a family member or friend through the purchase and/or resale of a motor vehicle. Under the provisions of Subsection (A), gasoline or repairs could be paid with campaign contributions for operation of a vehicle purchased or leased exclusively for the campaign or officeholder duties.

When there is a mixed use, such as that contemplated in Subsection (B) between personal use and campaign use, the mileage reimbursement includes all operating costs, including gasoline and repairs. Thus, campaign funds could not be used for repairs to a motor vehicle (except as the repairs are included in the mileage reimbursement). Gasoline should never be purchased with a campaign debit card, campaign credit card, or any other campaign funds when there is mixed use of a vehicle. A mileage log or other documentation must be kept showing the reimbursement is for campaign or office holder expense. Mileage reimbursement to a candidate using candidate committee funds must be made within 90 days of the travel, as required by Rule 2.43, and must be reported in detail, as required by Rule 2.106.

A 2016 statutory change to the Travel Reimbursement Act unlinked the reimbursement rate for the Travel Reimbursement Act from the rate used by the Internal Revenue Service. As of January 1, 2017, the rate for the Travel Reimbursement Act is \$0.47/mile; this rate did not change in 2018.

Fares for taxicabs, buses or similar modes of transportation as provided in Subsection (C) include only fares themselves and do not include gratuities.

If first class, business class or equivalent classes are used for air travel on an air carrier, as provided in Subsection (D), the difference between that fare and the referenced lower fare on the same flight must be paid with personal funds. If not, the person paying the difference is making an in-kind contribution.

If the cost of charter fare or rental, as contemplated in Subsections (E) and (F) are donated by the provider of the air travel, those costs are in-kind contributions.

Surplus Funds

Rule 2.46. Political Party Committee Surplus Funds.

Surplus funds of a political party committee are funds not otherwise obligated when a political party ceases to be recognized under the laws of the state. Such surplus funds may (1) be returned to any contributor, as long as the amount returned does not exceed the contributor's contribution during the last calendar year in which the contributor made a contribution or (2) be contributed to a charitable organization as described in Section 501(c) (3) of Title 26 of the United States Code as it currently exists or as it may be amended. Surplus funds remaining under the political party committee's control ninety (90) days after the political party ceases to be recognized shall be deposited in the general revenue fund of the state.

History

Promulgated by Ethics Commission January 10, 2014; effective upon Legislature's sine die adjournment May 23, 2014; operative January 1, 2015.

Commission Comment

Ordinarily, political party committees are continuing entities that will never accrue surplus funds. However, there are statutory provisions for the termination of a political party's recognition under state law. When that happens, this Rule permits a ninety (90) day period during which the political party committee must dispose of its funds.

Rule 2.47. Political Action Committee Surplus Funds.

Surplus funds of a political action committee are funds not otherwise obligated when a political action committee is dissolved. Such surplus funds shall be deposited in the general revenue fund of the state.

History

Promulgated by Ethics Commission January 10, 2014; effective upon Legislature's sine die adjournment May 23, 2014; operative January 1, 2015.

Commission Comment

Ordinarily, political action committees ("PACs") are continuing entities that will never accrue surplus funds. Even when PACs dissolve, those PACs ordinarily will expend remaining funds by making contributions to candidates if the PAC's purpose allows for such activity or other permitted uses before dissolution. This Rule provides for the exceptional case when a PAC has surplus funds at the time of dissolution.

Rule 2.48. Candidate Committee Surplus Funds.

Surplus funds of a candidate committee are those funds not otherwise obligated following the election at which the office for which the candidate committee was formed has been determined which, in the candidate's discretion, are not required to be used for campaign expenses or officeholder expenses. Such surplus funds may be:

(A) Retained in any amount for use in a future campaign for the next succeeding term for the same office;

(B) Retained for a future campaign for a different state elective office, excluding a judicial office;

(C) Donated to a charitable organization as described in Section 501(c) (3) of Title 26 of the United States Code as it currently exists or as it may be amended;

(D) Returned to any contributor, as long as the amount returned does not exceed the contributor's aggregate contribution during the immediately preceding primary, runoff primary and general elections;

(E) Contributed to a political party committee in any amount not to exceed Twenty-five Thousand Dollars (\$25,000.00) in the aggregate;

(F) Used to purchase item(s) for donation to a charitable organization as described in Section 501(c)(3) of Title 26 of the United States Code as it currently exists or as it may be amended; provided:

- 1) the donated item(s) are sold by the charitable organization for fundraising purposes;
- 2) the purchase of the item(s) for donation is reported on a Contributions and Expenditures Report which includes a description and cost of the item(s) purchased;
- 3) the donation of the item(s) is reported on a Contributions and Expenditures Report as an in-kind expenditure to the charitable organization which includes a description and the value of the item(s) donated; and
- 4) the donated item(s) may not be purchased or used by the candidate whose committee is donating the item, any other candidate, a committee, or officer, board member or employee of the charitable organization; or

(G) Donated in accordance with the provisions of Title 60 O.S. § 381, et seq., to the State of Oklahoma, or, to any county, city, town or school district within the State of Oklahoma.

Any surplus funds remaining in the candidate committee's possession within ninety (90) days after the expiration of the term to which the candidate was elected or, for candidates who were not elected, within ninety (90) days after the second year

following the general election, shall be deposited in the general revenue fund of the state.

History

Promulgated by Ethics Commission January 10, 2014; effective upon Legislature's sine die adjournment May 23, 2014; operative January 1, 2015.

Amendment promulgated by Ethics Commission on January 27, 2017; effective upon sine die adjournment of the Legislature May 26, 2017; operative May 26, 2017.

The 2017 amendment added subsections (F) and (G) in their entirety.

Commission Comment

A candidate cannot determine the existence of surplus funds until after the election for which the funds were received. For that reason, this Rule cannot be applied until after the election.

A candidate may continue to use campaign funds for campaign purposes and officeholder expenses and still determine that some funds are "surplus funds" and thus available for use as provided in this Rule.

The rule allows for surplus funds to be returned to a contributor up to the amount contributed, but this does not include contributions from the candidate. Contributions cannot be returned to the candidate unless the candidate executed a written loan document with the committee at the time of the loan, and deposited the funds from the loan into the committee's depository at the time of the loan. See also Rule 2.67, prohibiting repayment to a candidate except in the case of a properly documented loan to the candidate committee.

This Rule also provides that surplus funds remaining in the candidate committee's possession ninety (90) days after the expiration of the term to which the candidate was elected are forfeited to the State. For candidates who are not elected, the ninety (90) day period begins two years after the general election.

Advisory Opinion 2019-01: *A candidate committee without funds remaining in its campaign depository must dissolve by the specified mandatory dissolution date as established in Rule 2.116.*

Whereas, a candidate committee with funds remaining in its campaign depository on the specified mandatory dissolution date as established in Rule 2.116 are, from the mandatory dissolution date and on, no longer permitted to (1) receive contributions, (2) contribute to other candidate committees, (3) make campaign expenditures, or (4) make operating expenditures. However, such committees may make the following expenditures:

- a. Candidate committees of **elected officers** may make expenditures (1) for officeholder expenses until his/her term expires or the office is vacated and (2) of surplus funds as provided for in Rule 2.48 for ninety (90) days after the officeholder's term is*

completed or vacated; or

- b. Candidate committees of **unelected candidates** may make expenditures of surplus funds as provided for in Rule 2.48 for ninety (90) days after the second year following the general election for which the committee was formed.

After the ninety (90) day period has ended, any remaining funds must be deposited in the state's general revenue fund.

Independent Expenditures

Rule 2.49. Candidate Committee Prohibition on Independent Expenditures.

A candidate committee shall not make an independent expenditure.

History

Promulgated by Ethics Commission January 10, 2014; effective upon Legislature's sine die adjournment May 23, 2014; operative January 1, 2015.

Commission Comment

Candidates obviously cannot make independent expenditures in their own campaigns, since such expenditures could only be coordinated with the candidate's campaign. This Rule prohibits candidate committees from making independent expenditures in other campaigns. It does not prohibit a candidate from using personal funds to make an independent expenditure in another campaign.

Rule 2.50. Unlimited Independent Expenditures.

An independent expenditure may be made in any amount by a political party committee, by a political action committee or by any other entity not otherwise prohibited by law or these Rules from making an independent expenditure.

History

Promulgated by Ethics Commission January 10, 2014; effective upon Legislature's sine die adjournment May 23, 2014; operative January 1, 2015.

Commission Comment

This Rule articulates the Constitutional mandate that there can be no limits on the amounts of independent expenditures made by an entity that may lawfully do so.

Electioneering Communications

Rule 2.51. Electioneering Communications by Candidate Committees.

A candidate committee shall not make an electioneering communication for a campaign other than the candidate's own campaign. If an electioneering communication is made by a candidate committee in the candidate's own campaign, it shall be reported as an expenditure or expenditures.

History

Promulgated by Ethics Commission January 10, 2014; effective upon Legislature's sine die adjournment May 23, 2014; operative January 1, 2015.

Commission Comment

A candidate may choose to make communications in his or her campaign that do not explicitly advocate the candidate's election or the defeat of an opponent. These communications may meet the literal definition of electioneering communications, but because they are made by the candidate's own committee, they are not reported as electioneering communications but rather as expenditures, just as are communications by the committee that expressly advocate the election or defeat of the candidate.

Rule 2.52. Unlimited Electioneering Communications.

An electioneering communication may be made in any amount by a political party committee, by a political action committee or by any other entity not otherwise prohibited by law or these Rules from making an electioneering communication.

History

Promulgated by Ethics Commission January 10, 2014; effective upon Legislature's sine die adjournment May 23, 2014; operative January 1, 2015.

Commission Comment

This Rule articulates the Constitutional mandate that there can be no limits on the amounts of electioneering communications made by an entity that may lawfully do so.

Identification of Funding and Authorizing Sources

Rule 2.53. Political Party Electronic Advertisement Disclosure Requirements.

Whenever a political party committee makes an expenditure for the purpose of a communication through any Internet advertising, or video, radio, television, cable or satellite broadcast, the communication shall state, either orally or in writing of sufficient size and contrast to be clearly readable by the recipient of the communication: "Authorized and paid for by NAME OF POLITICAL PARTY COMMITTEE".

History

Promulgated by Ethics Commission January 10, 2014; effective upon Legislature's sine die adjournment May 23, 2014; operative January 1, 2015.

Commission Comment

This requirement is intended to inform viewers of and listeners to political advertising of the sponsors of the advertising. Because there is a formal structure within political parties, it is unnecessary to identify officers. Because the communication can be either in visual or audio form, or both, the disclosure requirement may be made either orally or in writing.

Rule 2.54. Political Party Printed Advertisement Disclosure Requirements.

Whenever a political party committee makes an expenditure for the purpose of a communication through Internet advertising, direct mail, magazine advertisement, newspaper advertisement or any other printed medium, the communication shall state in writing of sufficient size and contrast to be clearly readable by the recipient of the communication: "Authorized and paid for by NAME OF POLITICAL PARTY COMMITTEE". This provision shall not apply to bumper stickers, campaign buttons, t-shirts, aerial advertising or similar advertisements of such a nature that inclusion of a disclaimer would be impractical.

History

Promulgated by Ethics Commission January 10, 2014; effective upon Legislature's sine die adjournment May 23, 2014; operative January 1, 2015.

Commission Comment

This requirement is intended to inform readers of written political advertising of the sponsors of the advertising. Because there is a formal structure within political parties, it is unnecessary to identify officers. The exception for "impractical" disclosure must be evaluated and applied on a case-by-case basis.

Rule 2.55. Candidate Committee Electronic Advertisement Disclosure Requirements.

Whenever a candidate committee makes an expenditure for the purpose of a communication through any Internet advertising, or video, radio, television, cable or satellite broadcast, the communication shall state, either orally or in writing of sufficient size and contrast to be clearly readable by the recipient of the communication: "Authorized and paid for by NAME OF COMMITTEE".

History

Promulgated by Ethics Commission January 10, 2014; effective upon Legislature's sine die adjournment May 23, 2014; operative January 1, 2015.

Commission Comment

This requirement is designed to advise the audience of a candidate's political advertising that the candidate's committee authorized and paid for the advertising, to distinguish it from independent expenditures or electioneering communications. Because the communication can be either in visual or audio form, or both, the disclosure requirement may be made either orally or in writing. Because the candidate's committee can be easily identified from Commission records, it is unnecessary to list officers or contact information.

An individual making an in-kind contribution of advertising to a candidate committee must include the disclosure required by this Rule identifying the advertisement was authorized and paid for by the candidate committee and not the individual making the purchase.

Rule 2.56. Candidate Committee Printed Advertisements Disclosure Requirements.

Whenever a candidate committee makes an expenditure for the purpose of a communication through Internet advertising, or direct mail, magazine advertisement, newspaper advertisement or any other printed medium, the communication shall state in writing of sufficient size and contrast to be clearly readable by the recipient of the communication: "Authorized and paid for by NAME OF COMMITTEE". Provided that for campaign signs, banners and other campaign materials capable of re-use, the name of the committee for purposes of this Rule is the name of the committee as registered with the Ethics Commission but is not required to include the year of the election for which the committee is formed. This provision shall not apply to bumper stickers, campaign buttons, t-shirts, aerial advertising or similar advertisements of such a nature that inclusion of a disclaimer would be impractical.

History

Promulgated by Ethics Commission January 10, 2014; effective upon Legislature's sine die adjournment May 23, 2014; operative January 1, 2015.

Amendment promulgated by Ethics Commission February 5, 2018; effective upon Legislature's sine die adjournment May 3, 2018; operative May 3, 2018.

The 2018 amendment added the following provision after 'Authorized and paid for by NAME OF COMMITTEE': "Provided that for campaign signs, banners and other campaign materials capable of re-use, the name of the committee for purposes of this Rule is the name of the committee as registered with the Ethics Commission but is not required to include the year of the election for which the committee is formed."

Commission Comment

This requirement is designed to advise the readers of a candidate's written political advertising that the candidate's committee authorized and paid for the advertising, to distinguish it from independent expenditures or electioneering communications. The exception for "impractical" disclosure must be evaluated and applied on a case-by-case basis. Because the candidate's committee can be easily identified from Commission records, it is unnecessary to list officers or contact information.

Standard small campaign yard signs (18" x 24" or less) are not required to have a disclosure. Larger signs, banners, and billboards are required to contain the disclosure required by this Rule.

Flyers, handbills, push cards, letterhead, post cards, business cards, and other similar printed materials designed to be read while held must contain the disclosure required by this rule.

An individual making an in-kind contribution of advertising to a candidate committee must include the disclosure required by this Rule identifying the advertisement was authorized and paid for by the candidate committee and not the individual making the purchase.

Rule 2.57. Independent Expenditure, Electioneering Communication, and State Question Communication Electronic Advertisement Disclosure Requirements.

A. Whenever an independent expenditure or electioneering communication is made for the purpose of communication through any Internet advertising, or video, radio, television, cable or satellite broadcast, the communication shall state, either orally or in writing of sufficient size and contrast to be clearly readable by the recipient of the communication: "Not authorized by any candidate or candidate committee. Authorized and paid for by" to be followed by the name of the person who paid for the communication, the person's permanent street address and telephone number.

B. Whenever a state question communication is made for the purpose of communication through any Internet advertising, or video, radio, television, cable or satellite broadcast, the communication shall state, either orally or in writing of sufficient size and contrast to be clearly readable by the recipient of the communication: "Authorized and paid for by" to be followed by the name of the person who paid for the communication, the person's permanent street address and telephone number.

History

Promulgated by Ethics Commission January 10, 2014; effective upon Legislature's sine die adjournment May 23, 2014; operative January 1, 2015.

Amendment promulgated by Ethics Commission January 27, 2017; effective upon sine die adjournment of the Legislature May 26, 2017; operative May 26, 2017.

The 2017 amendment added subsection (A) before "Whenever an independent..." in the first sentence. The 2017 amendment added subsection (B) in its entirety.

Commission Comment

This section is aimed at educating those viewing or listening to electronic communications containing independent expenditures or electioneering communications that no candidate authorized the communications. Because independent expenditures and electioneering communications may be made by a variety of entities, e.g., political action committees, associations, nonprofit or for-profit corporations, the disclosure provides for additional identification information, including the street address and telephone number of the person that authorized and paid for the communication.

Rule 2.58. Independent Expenditure, Electioneering Communication, and State Question Communication Printed Advertisement Disclosure Requirements.

A. Whenever an independent expenditure or electioneering communication is made for the purpose of a communication through Internet advertising, direct mail, magazine advertisement, newspaper advertisement or any other printed medium, the communication shall state in writing of sufficient size and contrast to be clearly readable by the recipient of the communication: "Not authorized by any candidate or candidate committee. Authorized and paid for by" to be followed by the name of the person who paid for the communication, the person's permanent street address and telephone number. This provision shall not apply to bumper stickers, campaign buttons, t-shirts, aerial advertising or similar advertisements of such a nature that inclusion of a disclaimer would be impractical.

B. Whenever a state question communication is made for the purpose of a communication through Internet advertising, direct mail, magazine advertisement, newspaper advertisement or any other printed medium, the communication shall state in writing of sufficient size and contrast to be clearly readable by the recipient of the communication: "Authorized and paid for by" to be followed by the name of the person who paid for the communication, the person's permanent street address and telephone number. This provision shall not apply to bumper stickers, campaign buttons, t-shirts, aerial advertising or similar advertisements of such a nature that inclusion of a disclaimer would be impractical.

History

Promulgated by Ethics Commission January 10, 2014; effective upon Legislature's sine die adjournment May 23, 2014; operative January 1, 2015.

Amendment promulgated by Ethics Commission January 27, 2017; effective upon sine die adjournment of the Legislature May 26, 2017; operative May 26, 2017.

The 2017 amendment added subsection (A) before "Whenever an independent..." in the first sentence. The 2017 amendment added subsection (B) in its entirety to the end of the provision.

Commission Comment

This section is aimed at educating those reading written communications containing independent expenditures or electioneering communications that no candidate authorized the communications. Because independent expenditures and electioneering communications may be made by a variety of entities, e.g., political action committees, associations, nonprofit or for-profit corporations, the disclosure provides for additional identification information, including the street address and telephone number of the person that authorized and paid for the communication. The

exception for "impractical" disclosure must be evaluated and applied on a case-by-case basis.

Standard small campaign yard signs (18" x 24" or less) are not required to have a disclosure. Larger signs, banners, and billboards are required to contain the disclosure required by this Rule.

Flyers, handbills, push cards, letterhead, post cards, business cards, and other similar printed materials designed to be read while held must contain the disclosure required by this rule.

Fund-Raising Events

Rule 2.59. Joint Candidate Fund-Raising.

Two or more candidates for state office, except judicial office, may participate in a joint fund-raising event, provided each candidate is given approximately equal status in any formal solicitation for contributions and each candidate committee pays an equal share of the costs. Contributions to candidates or candidate committees may not be commingled under any circumstances. Each contribution must be made to an individual candidate or candidate committee.

History

Promulgated by Ethics Commission January 10, 2014; effective upon Legislature's sine die adjournment May 23, 2014; operative January 1, 2015.

Commission Comment

This section sets forth guidelines for joint fundraising events. Judicial candidates are excluded from participating in joint fundraising events. Other candidates for state elective offices may join in a fundraising event, provided other provisions of this section are followed. The provision requiring "equal status" in the solicitation applies only to those who are actually soliciting contributions at the event. It would not apply to another candidate or an elected official whose participation in the event was to encourage contributions to the recipients, but who would not be soliciting contributions for his or her own campaign. Contributions must be made individually to a participating candidate who is soliciting contributions. A single contribution cannot be divided among the participants in any way. The costs of the event, however, must be divided equally among the participating candidates who are soliciting contributions.

Example: *Candidates Smith and Jones wish to have a joint fundraiser in their respective campaigns for State Senate and have asked Governor Johnson to be present for the event, but not for the purpose of soliciting funds for her campaign. Governor Johnson may receive "star billing" on the invitations to the event, but Candidates Smith and Jones must receive approximately "equal status" in the invitations, although Smith is much better known and likely to attract more contributors than Jones. One contributor writes a check to the "Smith and Jones Campaigns." The check cannot be accepted by either Smith or Jones, but must be returned to the contributor. Although Smith has substantially more funds in his campaign account than Jones and received many more contributions at the event, Smith and Jones each must pay an equal share of the costs of the fundraising event.*

Rule 2.60. Hosting Fund-Raising Events in Residence.

An individual who holds a fund-raising event for a political party committee, political action committee or candidate committee in his or her home may expend personal funds for costs related to the fund-raising event. This expenditure shall be considered an in-kind contribution to the political party committee, political action committee or candidate committee to the extent that costs exceed One Thousand Dollars (\$1,000.00). The exclusion of One Thousand Dollars (\$1,000.00) shall apply no more than once per year for a political party committee or a political action committee and no more than once per campaign for a candidate committee.

History

Promulgated by Ethics Commission January 10, 2014; effective upon Legislature's sine die adjournment May 23, 2014; operative January 1, 2015.

Commission Comment

This provision acknowledges the use of ordinary hospitality, e.g., the provision of hors d'oeuvres, snacks and beverages, by hosts for campaign events held in the host's home. Costs for those items associated with a fundraising event represent in-kind contributions to the recipient of the campaign contributions, but the first One Thousand Dollars (\$1,000.00) is excluded and is not considered an in-kind contribution. An individual may host these types of fundraising events in his or her home for an unlimited number of candidates, but the host may only apply the exclusion to one such event for each candidate's campaign. The exclusion for such fundraising events for political action committees and political parties is one per year per contributor.

Example: *Albert hosts a fundraiser in his home for Candidate Smith, who is seeking a legislative office. Albert spends One Thousand Five Hundred Dollars (\$1,500.00) on food and beverage for the event. Albert must provide Candidate Smith with receipts or similar documentation to show the expenditure of One Thousand Five Hundred Dollars (\$1,500.00). Candidate Smith then must report an in-kind contribution of Five Hundred Dollars (\$500.00) from Albert. Candidate Smith does not report the One Thousand Dollar (\$1,000.00) exclusion, but must maintain the receipts to show that it is justified.*

Example: *Albert hosts a fundraiser in his home for Candidate Jones, who is seeking a legislative office. Albert spends One Thousand Five Hundred Dollars (\$1,500.00) on food and beverage for the event and provides Candidate Jones with the appropriate documentation. Candidate Jones properly reports an in-kind contribution of Five Hundred Dollars (\$500.00) from Albert. Later in the same campaign, Albert hosts a similar fundraiser for Candidate Jones, inviting a different group of donors. Albert spends One Thousand Five Hundred Dollars (\$1,500.00) for food and beverage on the second fundraiser and provides Candidate Jones with the documentation. This time*

Candidate Jones must report an in-kind contribution from Albert of One Thousand Five Hundred Dollars (\$1,500.00) or a total for the campaign of Two Thousand Dollars (\$2,000.00) in in-kind contributions from Albert.

Example: Beasley is a regular contributor to Beeswax Political Action Committee, an unaffiliated PAC. Each year, he hosts a fish fry at his home, spending Five Hundred Dollars (\$500.00) on fish and other food and beverage that he prepares for guests he invites and asks to contribute to the PAC. Beasley must provide documentation of his costs to the PAC, which is not required to report an in-kind contribution from Beasley. Beasley also writes a check for One Thousand Dollars (\$1,000.00) to the PAC. The PAC is required to report the receipt of a One Thousand Dollar (\$1,000.00) monetary contribution from Beasley. This can be repeated each calendar year.

Example: Donald hosts a fund-raising event before the primary election for Debbie, a candidate for legislative office, in his residence and spends \$500 on food, beverages and entertainment. The \$500 spent falls within the \$1,000 exemption: it is not reportable and does not come out of Donald's contribution limits. Before the general election, Donald hosts another fund-raising event in his residence for Debbie and spends another \$600 on food, beverages and entertainment. The residence exclusion has already been applied to Donald for Debbie's campaign even though Donald did not spend close to \$1,000; consequently, Debbie will report the second fund-raiser as a \$600 in-kind contribution to her campaign from Donald.

If a husband and wife each spend personal funds (even if those are combined personal funds of the two), then each individual has a \$1,000 exemption. This rule states "an individual" may spend personal funds, and the Ethics Rules apply contribution limits to individuals rather than to families. Thus, an exemption under this Rule for an individual would be granted for each individual that participates in the fund-raiser. The rule requires the fund-raiser to take place in the residence of the host, and the funds expended must be personal funds. If those conditions are met, then a husband and wife could each spend up to \$1,000 on a fund-raiser in their residence. This exemption will apply for one fund-raiser for the husband and one fund-raiser for the wife. That exemption can be applied to the same fund-raiser or to two separate fund-raisers; however, if both the husband and wife are identified as hosts of the fund-raiser and joint funds are used to pay for the fund-raiser, then they have each used their single event exemption.

Rule 2.61. Hosting Fund-Raising Events in Non-Residential Buildings.

An individual who holds a fund-raising event for a political party committee, political action committee or candidate committee in an office or other nonresidential building may expend personal funds for costs related to the fund-raising event, provided the office or other building is owned or exclusively leased or rented by the individual. This expenditure shall be considered an in-kind contribution to the political party committee, political action committee or candidate committee to the extent that costs exceed One Thousand Dollars (\$1,000.00). The exclusion of One Thousand Dollars (\$1,000.00) shall apply no more than once per year for a political party committee or a political action committee and no more than once per campaign for a candidate committee. If the office or other nonresidential building is owned by any person other than the individual, use of the space and any other costs associated with the fund-raising event shall be considered an in-kind contribution unless the political party committee, political action committee or candidate committee pays the costs associated with the fund-raising event, including fair market value for use of the space. This section shall not be construed to permit a corporation to make an in-kind contribution to a political party committee, political action committee or candidate committee.

History

Promulgated by Ethics Commission January 10, 2014; effective upon Legislature's sine die adjournment May 23, 2014; operative January 1, 2015.

Commission Comment

This section applies to fundraising events held in an office or other nonresidential building rather than a home. Costs for items associated with a fundraising event represent in-kind contributions to the recipient of the campaign contributions, but the first One Thousand Dollars (\$1,000.00) is excluded and is not considered an in-kind contribution. The individual who hosts the event must either own or exclusively lease or rent the space being used to qualify for the exemption. An individual may host these types of fundraising events for an unlimited number of candidates, but may host only one for each candidate's campaign where the exclusion applies. The limit for such fundraising events for contributors to political action committees and political parties is one exclusion per year per political action committee or political party committee.

If an individual hosts a fundraising event in office space or other nonresidential facilities not owned or exclusively leased or rented by the individual, then the costs of the event include the cost for use of the space. The total costs, including the cost of the space, represent an in-kind contribution from the host, subject to the One Thousand Dollar (\$1,000.00) exclusion.

Nothing in this provision permits a corporation to donate its space or otherwise make an in-kind contribution to a candidate.

The \$1,000 exclusion under this Rule applies only if the space in a non-residential building is owned or exclusively leased by an individual. The \$1,000 exclusion does not apply to space owned or exclusively leased by a partnership or limited liability company.

Example: Albert rents office space for his sole proprietorship, a professional consulting business, from Corporation A. No other renter shares the space, which ordinarily is occupied by Albert and his three employees. Albert hosts a fundraiser for Candidate Smith and spends Two Thousand Dollars (\$2,000.00) on food and beverage. Albert documents the expenditures for Candidate Smith, who reports an in-kind contribution of One Thousand Dollars (\$1,000.00) from Albert.

Example: Beasley is the exclusive owner of a professional corporation that rents space from Corporation A. No other renter shares the space, which ordinarily is occupied by Albert and his three employees. Beasley hosts a fundraiser for Candidate Jones and spends Two Thousand Dollars (\$2,000.00) of his personal funds on food and beverage. Albert documents the expenditures for Candidate Jones, who reports an in-kind contribution from Beasley of the full amount. Candidate Jones must make an expenditure to Beasley's professional corporation in the amount of the fair market value for use of the space for the fundraising event.

Rule 2.62. Golf Fund-Raising Events.

Any goods or services donated to a golfing fund-raising event by a political party committee, political action committee or candidate committee shall be considered as contributions based on the fair market value of the goods or services, regardless of how the goods or services are used. Any fee paid to participate in such a golfing fund-raising event shall be considered as a contribution, regardless of whether the person paying the fee receives value in exchange for the fee. No goods or services may be donated, nor a fee paid, by any corporation to a political party committee, limited committee, or candidate committee.

History

Promulgated by Ethics Commission January 10, 2014; effective upon Legislature's sine die adjournment May 23, 2014; operative January 1, 2015.

Amendment promulgated by Ethics Commission February 5, 2018; effective upon Legislature's sine die adjournment May 3, 2018; operative May 3, 2018.

The 2018 amendment added the following language to the end of the provision: "to a political party committee, limited committee, or a candidate committee."

Commission Comment

Candidate committees, political action committees and political party committees historically have used golf events for fundraising. This Rule provides guidance for attribution of contributions to such events for compliance purposes. Basically, any goods, services or fees that flow into the event are considered contributions, regardless of how those goods, services or fees are used. Because they are considered as contributions, no corporation may provide goods, services or fees for such an event (excluding unlimited committee events). All goods or services provided must be reported as in-kind contributions by the recipient, based upon fair market value, unless subject to an exception found elsewhere in the Rules. Fees are reported as monetary contributions. The fact that a contributor may play a round of golf in exchange for paying the "fee" does not alter the amount of the fee as a contribution. Expenses associated with the golf event are reported as expenditures.

Example: *Candidate Smith sponsors a fundraising golf event at the Sunshine Golf and Country Club, a corporation. The Club's manager is a personal friend of Candidate Smith and offers a twenty percent (20%) discount on green fees, cart rental and other costs associated with the event. Candidate Smith cannot accept this offer, as the amount of the discount would constitute a corporate contribution. Good Government Political Action Committee, a limited committee, provides Candidate Smith with a sleeve of golf balls (a modestly priced item which can be given away by the committee under Rule 2.64), which Smith plans to award as prizes during the event. Good*

Government PAC has made an in-kind contribution to Candidate Smith in the amount of the fair market value of the golf balls. Another limited committee, Blue Sky PAC, provides refreshments for participants, including service by a bartender. Blue Sky PAC has made an in-kind contribution to Candidate Smith in the amount of the fair market value of the refreshments and the bartender's compensation. Corporation A, which has an affiliated limited committee, pays a fee of One Thousand Dollars (\$1,000.00) to allow its two lobbyists to play in the golf event. Candidate Smith must return the fee, as it would be a corporate contribution to his campaign. Corporation A's limited committee pays a fee of One Thousand Dollars (\$1,000.00) to allow its two lobbyists to play in the golf event. Corporation A's limited committee has made a monetary contribution of One Thousand Dollars (\$1,000.00) to Candidate Smith's campaign. Corporation B, which is owned by a supporter of Candidate Smith, and Corporation C, which is managed by a supporter of Candidate Smith, both want to use corporate funds to "sponsor a hole" for the golf event. In exchange for a contribution of One Thousand Dollars (\$1,000.00), Corporation B and Corporation C will be entitled to signs advertising their businesses at these holes. Candidate Smith must return the contributions, as they would be corporate contributions to his campaign.

Rule 2.63. Fund-Raising Auctions or Sales Events.

Any goods or services donated to an auction or other sales event held by a political party committee, political action committee or candidate committee shall be considered as contributions based on the fair market value of the goods or services. Any money paid for goods or services at such an event shall be considered as contributions. No goods or services may be donated or purchased for such an event by a corporation.

History

Promulgated by Ethics Commission January 10, 2014; effective upon Legislature's sine die adjournment May 23, 2014; operative January 1, 2015.

Commission Comment

This Rule provides straightforward treatment of goods or services donated for fundraising events by political party committees, political action committees or candidate committees. The donations of goods and services are considered in-kind contributions in the amount of their fair market value and must be reported as such by the recipient committee. Likewise, the purchase prices paid to the committees for such goods or services are monetary contributions and must be reported as such by the recipient committees. Because donated goods and services and the prices paid for such donated goods and services all are considered contributions, corporations may neither donate nor purchase such goods or services. To do so would be to make a corporate contribution.

A raffle is not an auction as discussed in this Rule. Committees wishing to engage in a raffle should independently verify that state criminal law does not prohibit conducting a raffle prior to engaging in such activity.

Rule 2.64. Free Campaign Related Goods or Services and Sale of Campaign Related Goods or Services.

Campaign-related goods of modest value such as coffee mugs, t-shirts, caps and similar items may be provided free by a political party, political action committee or candidate committee to volunteers and contributors and shall be considered as expenditures by the committee. If a political party, political action committee or candidate committee sells goods or services, the price paid for the goods or services shall be a contribution to the committee and the cost of the goods or services shall be an expenditure by the committee. The sale of such goods or services shall be subject to all applicable licenses and taxes required by law.

History

Promulgated by Ethics Commission January 10, 2014; effective upon Legislature's sine die adjournment May 23, 2014; operative January 1, 2015.

Commission Comment

This Rule draws a distinction between campaign-related goods of modest value, e.g., a coffee mug or t-shirt, that are provided free as incentives to campaign volunteers and contributors from sales of campaign-related items that are used to raise funds for the selling committee. The cost of items given freely to campaign volunteers and contributors is an expenditure by the committee. Goods or services that are purchased and re-sold by the committee are treated differently. The cost of the item is an expenditure by the committee, and the sales price is a contribution to the committee. This Rule reflects the Commission's position that political committees should not be in "business" in the traditional sense and thus should not be engaged in sales activities on a regular basis. Committees that do engage in sales activities may subject themselves to other licensing and tax laws.

Loans

Rule 2.65. Loans to Committees by Commercial Financial Institutions.

A loan made to a political party committee, a political action committee or a candidate committee shall not be considered a contribution if the loan is made by a commercial financial institution normally engaged in the business of making loans and if the loan is made in the regular course of business on the same terms ordinarily available to members of the public.

History

Promulgated by Ethics Commission January 10, 2014; effective upon Legislature's sine die adjournment May 23, 2014; operative January 1, 2015.

Commission Comment

This Rule simply permits political committees to borrow money from commercial lenders in the same way that the committees would engage in other commercial transactions. In this case, the object of the transaction is money for the committee. Just as in the case of other goods and services provided to political committees, the loan must be on the same terms ordinarily available to others; otherwise, any discount would be an in-kind contribution to the committee.

Rule 2.66. Loans to Political Party or Political Action Committees by Non-Financial Entities; Prohibited Loans.

A loan by any person other than a commercial financial institution to a political party committee or a political action committee shall be considered a contribution by the lender, guarantor or endorser in the amount of the balance of the loan that has not been repaid. A political action committee shall not make a loan to a candidate committee or another political action committee. A candidate committee shall not make a loan to a political action committee or another candidate committee.

History

Promulgated by Ethics Commission January 10, 2014; effective upon Legislature's sine die adjournment May 23, 2014; operative January 1, 2015.

Commission Comment

Persons other than commercial financial institutions may make loans to political party committees or political action committees, but those loans are considered contributions and thus are subject to contribution limits and other restrictions in the Rules and law. Therefore, a corporation, for example, could not make a loan to a political party committee or limited committee. Loans by political action committees to candidate committees or other political action committees are prohibited. Candidate committees may not make loans to a political action committee or to another candidate committee.

A contribution in the form of a loan is attributable to the lender in the full amount of the unpaid balance of the loan and is attributable to a guarantor or endorser in the amount of the unpaid balance of the loan for which the guarantor or endorser may be liable. Thus, it is possible that more than one person could be shown as having made a contribution of the same amount on the same loan.

Example: *Albert loans Good Government Political Action Committee One Thousand Dollars (\$1,000.00). Beasley and Crawford are guarantors of the full amount of the loan. Good Government PAC has repaid none of the loan. Good Government PAC must attribute a contribution of One Thousand Dollars (\$1,000.00) each to be applied to the maximum contribution limits for Albert, Beasley and Crawford.*

Rule 2.67. Loans to Candidate Committees by Candidate and Other Non-Financial Entities.

(A) A loan by any person other than a commercial financial institution to a candidate committee shall be considered a contribution from the lender, guarantor or endorser in the amount of the balance of the loan that has not been repaid.

(B) A candidate may make a loan to his or her candidate committee from his or her personal funds or from joint funds of the candidate and the candidate's spouse. If a candidate makes such a loan to his or her candidate committee, the terms of the loan must be in writing in a document executed contemporaneously with the transfer of funds into the candidate committee's account. The document must be signed and dated by all parties involved. Such a loan may be repaid from contributions received by the candidate committee, but the candidate committee shall not be permitted to pay any interest on the loan.

(C) If a candidate transfers his or her personal funds or joint funds of the candidate and the candidate's spouse to the candidate committee without a written loan document, the candidate committee cannot repay the candidate for the transfer.

(D) A candidate who makes expenditures from personal funds or joint funds of the candidate and the candidate's spouse that are not transferred to the candidate committee's account shall not have made a loan to the committee. Such expenditures that are not intended to be reimbursed shall be reported as contributions to and expenditures by the candidate committee, or as in-kind contribution to the candidate committee. Expenditures that are intended to be reimbursed must be reported as in-kind expenditures on the report covering the time period during which the expenditure was made and be reimbursed within ninety (90) days of the expenditure.

History

Promulgated by Ethics Commission January 10, 2014; effective upon Legislature's sine die adjournment May 23, 2014; operative January 1, 2015.

Amendment promulgated by Ethics Commission February 5, 2018; effective upon Legislature's sine die adjournment May 3, 2018; operative May 3, 2018.

The 2018 amendment separated the provisions into subsections "(A)," "(B)," "(C)," and "(D)." The 2018 amendment also removed "Provided, however" before "a candidate" and capitalized "a" in "a candidate" in what is now subsection (B).

The sentence read as follows: "Provided, however, a candidate may make a loan to his or her candidate committee from his or her personal funds or from joint funds of the candidate and the candidate's spouse.

In addition, the 2018 amendment replaced the semi-colon after "shall not have made a loan to the committee" in what is now subsection (D). The 2018 amendment also capitalized "Such" and replaced ", however," with "that are not intended to be reimbursed" in what is now subsection (D).

The sentence read as follows: "A candidate who makes expenditures from personal funds or joint funds of the candidate and candidate's spouse that are not transferred to the candidate committee's account shall have not made a loan to the committee; such expenditures, however, shall be reported as contributions to and expenditures by the candidate committee."

Finally, the 2018 amendment added the following language to the end of the provision: ", or as in-kind contribution to the candidate committee. Expenditures that are intended to be reimbursed must be reported as in-kind expenditures on the report covering the time period during which the expenditure was made and be reimbursed within ninety (90) days of the expenditure.

Commission Comment

Persons other than a commercial financial institution may make loans to candidate committees, but those loans are considered contributions by the lender, guarantor or endorser in the amount of the unpaid balance of the loan. Therefore, such loans are subject to the maximum contribution limits and other restrictions applicable to contributions. Because the contribution is attributed to the lender, guarantor or endorser, it is possible that more than one person could be shown as having made a contribution of the same amount on the same loan.

Candidates often use personal funds (or funds from accounts shared jointly with a spouse) for campaign expenditures, and this Rule establishes standards for the use of those funds.

The Rule recognizes that a candidate often intends for the expenditure of personal funds to be considered as loans to his or her own campaign; however, in order for a proper loan from a candidate to the candidate committee to be established, the personal funds of the candidate must first be placed in the campaign depository prior to the spending of those funds. In those cases, the Rule also requires contemporaneous written documentation of the loan, which must be signed and dated by the candidate lender and the recipient candidate committee. Without this written documentation, the funds are not considered a loan but are considered simple contributions by the candidate to the campaign committee; these funds may be reimbursed via campaign funds as long as the reimbursement takes place within 90 days of the original expenditure under Rule 2.43. If the loan is appropriately documented, the candidate committee can repay the candidate from other contributions to the committee, but the repayment can consist only of the principal. A candidate cannot charge or receive interest on a loan made to his or her candidate committee.

If a loan is made, the funds must be transferred to the committee's account. Expenditures made by a candidate from the candidate's personal account or joint account, with or without written documentation, are not loans but are in-kind contributions to the committee.

Example: Albert loans Candidate Smith One Thousand Dollars (\$1,000.00). Beasley and Crawford are guarantors of the full amount of the loan. Candidate Smith has repaid none of the loan. Candidate Smith must attribute a contribution of One Thousand Dollars (\$1,000.00) each to be applied to the maximum contribution limits for Albert, Beasley and Crawford.

Example: Candidate Smith loans his campaign Ten Thousand Dollars (\$10,000.00). Smith, as lender, and the treasurer of his candidate committee executes a promissory note for the full amount at the same time Candidate Smith transfers Ten Thousand Dollars (\$10,000.00) from his personal bank account to the candidate committee account. The candidate committee may repay the loan in the full amount of Ten Thousand Dollars (\$10,000.00) from other contributions received.

Example: Candidate Jones writes a personal check for Five Hundred Dollars (\$500.00) to pay for some campaign printing. She and her candidate committee execute a note for Five Hundred Dollars (\$500.00). The candidate committee cannot repay Jones as a loan because the funds were never transferred to the candidate committee's account; however, Jones can be reimbursed campaign funds as long as he does so within 90 days of the original expenditure

Example: Candidate Johnson transfers Ten Thousand Dollars (\$10,000.00) from his personal account to his candidate committee account. After the election, he receives contributions sufficient to pay himself back the Ten Thousand Dollars (\$10,000.00) and decides to execute a promissory note, which he failed to do at the time of the transfer. He cannot be repaid by the candidate committee as a loan because the loan procedure was not followed. Likewise, he cannot be reimbursed via the 90 reimbursement rule because the 90 days has expired. The \$10,000 from Johnson is a contribution to his campaign.

Candidate Committees

Rule 2.68. Designation of Candidate Committee.

A candidate for state office shall designate one (1) candidate committee by filing a Statement of Organization with the Commission. If two or more candidates have the same name, use of a candidate's name in the name of a candidate committee that is the same as that of another candidate committee shall not violate these Rules.

History

Promulgated by Ethics Commission January 10, 2014; effective upon Legislature's sine die adjournment May 23, 2014; operative January 1, 2015.

Commission Comment

This Rule provides for designation by the candidate of a single committee that is authorized to accept contributions or make expenditures on behalf of the candidate's campaign. This requirement allows the candidate to maintain control of his or her committee and provides certainty to contributors who wish to make contributions to the candidate's campaign. The Rule also recognizes that two or more candidates may have the same names and does not make use of a candidate's name a violation of the Rules as a result. Implicit is the awareness that some other means of distinguishing otherwise identical committees will be fashioned by the Commission in such situations.

Rule 2.69. One Candidate Committee at Any Time; Exception

A candidate may have no more than one (1) candidate committee for any state office at any time; provided, however, a candidate may maintain two (2) separate candidate committees for state offices for a period of sixty (60) days after filing a Statement of Organization for a second committee. In such case, funds or debt, or both, may be transferred from the first committee to the second committee as permitted by law and these Rules.

History

Promulgated by Ethics Commission January 10, 2014; effective upon Legislature's sine die adjournment May 23, 2014; operative January 1, 2015.

Amendment promulgated by Ethics Commission January 9, 2015; effective upon sine die adjournment of the Legislature May 22, 2015; operative May 22, 2015.

The 2015 amendment deleted the following sentence: "A candidate who dissolves one (1) candidate committee as provided in these Rules may contemporaneously file a Statement of Organization for a different candidate committee." The 2015 amendment added the following language after the word "time" in the first sentence: "; provided, however, a candidate may maintain two (2) separate candidate committees for state offices for a period of sixty (60) days after filing a Statement of Organization for a second committee."

Commission Comment

This Rule that a candidate may have no more than one (1) committee at any given time is designed, among other things, to provide for closure of campaign committees. It also prevents a candidate from seeking multiple offices simultaneously, thus providing certainty to contributors who wish to make contributions to the candidate. The Rule also provides for the transition by a candidate from one candidate committee to another, whether for the same or a different state office, and providing for the transfer of funds or debt. The 2015 amendment is intended to allow for the winding down of the first committee; therefore, no additional contributions to the first committee are permitted during this transition period. This section does not permit the transfer of campaign funds or debt for an office other than a state office, such as elective federal, county, municipal or school district offices.

SM 2017-04: *When a candidate registers a candidate committee with the Ethics Commission and then decides to run for a different office within the same election year there are specific requirements the candidate must follow to close down the committee for the office no longer sought and open the candidate committee for the new office sought: (1) upon filing a Statement of Organization to form a candidate committee for the new office sought, the candidate must ensure the candidate committee name is different from that of the prior committee such that the public can clearly distinguish the two committees; (2) once the Statement of*

Organization for the committee of the new office sought is filed, the candidate has 60 days to dissolve the first committee for the office the candidate is no longer seeking; (3) the candidate can no longer raise funds for the committee of the office no longer sought; (4) a campaign depository must be opened for the committee of the new office sought and made independent from the campaign depository of the committee for the office no longer sought; (5) the committee for the new office sought must send written notice to the contributors of the committee for the office no longer sought, give the contributors reasonable time (i.e., 20 days) to object to the contributions being moved to the new candidate committee, and keep record of the notices and responses; (6) for the contributors who do not object to transferring their contributions to the new committee for the new campaign, the committee for the office no longer sought must report those contributions as refunded, and the committee for the new office sought must report each individual contribution.

Rule 2.70. When to File a Candidate Committee Statement of Organization.

A Statement of Organization for a candidate committee shall be filed with the Commission at any earlier time but no later than ten (10) days after the candidate has accepted or expended more than One Thousand Dollars (\$1,000.00) for his or her campaign.

History

Promulgated by Ethics Commission January 10, 2014; effective upon Legislature's sine die adjournment May 23, 2014; operative January 1, 2015.

Commission Comment

This Rule brings candidates and their candidate committees under the registration and reporting requirements of the Rules within a reasonable period after the campaign begins in earnest to receive contributions or make expenditures. Candidates who never receive contributions or make expenditures of more than One Thousand Dollars (\$1,000.00) are not required to file a Statement of Organization or to make the reports otherwise required by these Rules.

Rule 2.71. Candidate Committee Officers.

A candidate committee shall have a Chair and a Treasurer, who may be the same person and who shall serve at the pleasure of the candidate. The candidate may be either the Chair or Treasurer of his or her candidate committee, or both, but a candidate may not be an officer of any other candidate committee or any political action committee. A candidate committee may designate a Deputy Treasurer, who may perform the duties of the Treasurer in the Treasurer's absence and who also shall serve at the candidate's pleasure. The candidate may be the Deputy Treasurer of his or her committee. The Treasurer and Deputy Treasurer shall be residents of Oklahoma.

History

Promulgated by Ethics Commission January 10, 2014; effective upon Legislature's sine die adjournment May 23, 2014; operative January 1, 2015.

Amendment promulgated by Ethics Commission December 11, 2015; effective upon sine die adjournment of the Legislature May 27, 2016; operative May 27, 2016.

The 2016 amendment added "candidate committee or any political action" after "any other" in the second sentence. The sentence read as follows: "The candidate may be either the Chair or Treasurer of his or her candidate committee, or both, but a candidate may not be an officer of any other committee."

Commission Comment

This Rule permits, but does not require, a candidate to be the Chair or Treasurer of his or her candidate committee. The candidate, or another person, can serve as both Chair and Treasurer. The candidate also may serve as Deputy Treasurer. Designation of a Chair and Treasurer is mandatory; appointment of a Deputy Treasurer is optional. All candidate committee officers serve at the pleasure of the candidate.

A candidate may not be an officer of another candidate committee or political action committee, but a candidate may be an officer of a political party committee.

Rule 2.72. Vacancy in Treasurer Office—Prohibition on Activity.

A candidate committee cannot accept or expend funds at any time there is a vacancy in the offices of both the Treasurer and Deputy Treasurer.

History

Promulgated by Ethics Commission January 10, 2014; effective upon Legislature's sine die adjournment May 23, 2014; operative January 1, 2015.

Commission Comment

Because these Rules make the Treasurer (or Deputy Treasurer, in the Treasurer's stead) responsible for the candidate committee's financial transactions, the committee is prohibited from accepting or expending funds when there is a vacancy in the office of both the Treasurer and Deputy Treasurer. A candidate committee can continue accepting or expending funds while there is a temporary vacancy in the office of Chair, as long as the committee has either a Treasurer or Deputy Treasurer.

Rule 2.73. Candidate Committee Treasurer Responsibilities.

The Treasurer shall be responsible for keeping the candidate committee's financial records and accounts, including but not limited to all contributions accepted; all deposit slips or other evidence of acceptance of contributions; all expenditures made; all receipts, canceled checks or other evidence of payment of expenditures and all other documents necessary to file Reports of Contributions and Expenditures. All such documents shall be maintained for at least four (4) years and shall be made available to the Commission upon request of the Commission. The Treasurer shall be responsible for timely and accurately filing all Reports of Contributions and Expenditures for the committee.

History

Promulgated by Ethics Commission January 10, 2014; effective upon Legislature's sine die adjournment May 23, 2014; operative January 1, 2015.

Commission Comment

This provision places the Treasurer of a candidate committee in a fiduciary relationship with the candidate and/or the candidate committee. If the Treasurer is unable to produce the financial records required by this provision at the request of the Commission, failure to properly preserve those records is itself a violation of the Rules. The Rule also makes clear that the Treasurer has the responsibility for timely and accurately filing all Reports of Contributions and Expenditures for the committee.

Rule 2.74. Filling Candidate Committee Officer Vacancy.

Any vacancy in the office of Chair, Treasurer or Deputy Treasurer shall be filled within thirty (30) days, and an Amended Statement of Organization identifying the new Chair, Treasurer or Deputy Treasurer shall be filed with the Commission within five (5) days after the vacancy is filled.

History

Promulgated by Ethics Commission January 10, 2014; effective upon Legislature's sine die adjournment May 23, 2014; operative January 1, 2015.

Commission Comment

This Rule sets time limits on appointments to fill vacancies in the offices of Chair, Treasurer or Deputy Treasurer. The Rule applies to the office of Deputy Treasurer only if there is a simultaneous vacancy in the office of Treasurer and Deputy Treasurer. If the Deputy Treasurer office becomes vacant, and the vacancy is not filled, an Amended Statement of Organization must be filed within the applicable time limits. The five (5) day period for reporting these changes is shorter than the ten (10) day period for reporting other changes. See Rule 2.75.

Rule 2.75. Candidate Committee Statement of Organization Requirements.

The Statement of Organization for a candidate committee shall include, but shall not be limited to, the following information: (1) The name of the candidate as it will appear on the ballot; (2) the names of the Chair, Treasurer and, if applicable, Deputy Treasurer of the committee; (3) the name of the committee, which shall include at least the full name, first name, middle name or last name of the candidate and the year of the general election or special general election for the office being sought; (4) the official and complete name of the state elective office to which the candidate seeks election; (5) the candidate's party affiliation, if any; (6) the mailing address and, if applicable, residence address, electronic mailing address, telephone numbers and Internet website, if applicable, of the candidate committee, the candidate, the Chair, Treasurer and, if applicable, Deputy Treasurer and (7) the full name and address of each depository in which the committee will maintain an account. The candidate shall be responsible for notifying the Commission of any change in information provided on the Statement of Organization by filing an Amended Statement of Organization within ten (10) days of a change being made. An Amended Statement of Organization shall contain the same information as the Statement of Organization.

History

Promulgated by Ethics Commission January 10, 2014; effective upon Legislature's sine die adjournment May 23, 2014; operative January 1, 2015.

Commission Comment

This Rule describes the information required on a Statement of Organization for a candidate committee. Many of the provisions are mandatory. However, the identification of a Deputy Treasurer is not required if one is not appointed. If the candidate committee, the candidate, Chair, Treasurer and Deputy Treasurer have residence addresses, electronic mailing addresses, telephone numbers and Internet websites, that information also is mandatory.

The candidate is required to list his name as it will appear on the ballot so that there is no difference between the name under which the Statement of Organization is filed and the name which the candidate uses on his or her Declaration of Candidacy filed with the State Election Board.

The name of the committee must include the year of the general election or special general election for which the candidate seeks election. This distinguishes between possible multiple and otherwise identical committees that a candidate may designate over time. The name of the committee, which necessarily includes the year of the election, may be included on all disclaimers required by Rule 2.56. Effective May 3, 2018, campaign signs, banners and other campaign materials capable of re-use do not require the year of the election.

The committee's name also must include the candidate's name, although the candidate is permitted the flexibility of having that name appear as his or her full name, surname or first or middle name.

When any information changes, the new information must be shown on an Amended Statement of Organization within ten (10) days. In some instances, other Rules may require a shorter period of time for filing an Amended Statement of Organization. Rule 2.74, for example, establishes a five (5) day deadline for filing an Amended Statement of Organization after a vacancy is filled in the offices of Chair, Treasurer or Deputy Treasurer.

Rule 2.76. Executive Director Authority to Require Additional Information.

The Executive Director shall be authorized to require additional information on the Statements of Organization and Amended Statements of Organization that is consistent with the intent and purposes of these Rules.

History

Promulgated by Ethics Commission January 10, 2014; effective upon Legislature's sine die adjournment May 23, 2014; operative January 1, 2015.

Commission Comment

This provision acknowledges that conditions sometimes make change desirable and permits the administrative addition of information required on the Statement of Organization without promulgation of a new Rule, provided the additional information is consistent with the intent and purposes of the Rules.

Judicial Candidate Committees

Rule 2.77. Judicial Candidates Exclusively Responsible for Compliance with Rules.

Candidates for elective judicial offices, including judicial offices subject to retention, shall be subject to these Rules as they apply to all other candidates for state office; provided, that a judicial candidate shall be responsible exclusively for compliance with these Rules by his or her candidate committee.

History

Promulgated by Ethics Commission January 10, 2014; effective upon Legislature's sine die adjournment May 23, 2014; operative January 1, 2015.

Commission Comment

Judicial candidates, in addition to being governed by these Rules, must comply with the Code of Judicial Conduct. Under the Code of Judicial Conduct, a judicial candidate "is responsible for ensuring that his or her campaign committee complies with applicable provisions of this Code and other applicable law." 5 O.S. Ch. 1, App. 4, Rule 4.4(A).

Exploratory Activities

Rule 2.78. Exploratory Activities.

An individual may conduct exploratory activities, such as polling and other techniques designed exclusively to assist the individual in making a decision as to whether to seek any state office or offices. The individual may accept contributions, subject to the limits in these Rules, and make expenditures limited to exploratory activities without designating a candidate committee; provided, however, the individual shall keep or cause to be kept all records required of a candidate committee. Provided further, once an individual has accepted or expended more than Twenty-five Thousand Dollars (\$25,000.00) for exploratory activities for a statewide office or Ten Thousand Dollars (\$10,000.00) for any other state office, the individual either shall become a candidate and file a Statement of Organization as required by these Rules, or cease all exploratory activities. If the individual becomes a candidate and forms a candidate committee, all contributions received and expenditures made for exploratory activities shall be subject to maximum contribution limits and shall be included in the committee's first Report of Contributions and Expenditures. No individual may conduct exploratory activities for a state office or offices as provided in this section more than one time between regular general elections for state offices.

History

Promulgated by Ethics Commission January 10, 2014; effective upon Legislature's sine die adjournment May 23, 2014; operative January 1, 2015.

Commission Comment

In some situations, individuals wish to "test the waters" for a political campaign and, after doing so, decide not to seek an office. This Rule permits those who engage in such exploratory activities to do so without having to file a Statement of Organization with the Commission, provided they comply with the requirements of the Rule.

Essentially, candidates engaging in exploratory activities keep the same records as the Rules require for candidate committees. Furthermore, the limits that apply to candidate committees apply to exploratory activities.

If, after conducting exploratory activities, the individual decides not to become a candidate for the office, there is no requirement to file a Statement of Organization.

Example: *Smith is considering becoming a candidate for District Attorney. To assist him in making the decision, he spends Seven Thousand Five Hundred Dollars (\$7,500.00) for a poll. Albert and*

Beasley give him a contribution of Two Thousand Dollars (\$2,000.00) each, and Smith pays the balance of Three Thousand Five Hundred Dollars (\$3,500.00) from his personal funds. Subsequently, Smith decides to become a candidate and files a Statement of Organization. Albert and Beasley each will have contributed Two Thousand Dollars (\$2,000.00) toward their maximum potential contribution limit. Smith will be able to consider his contribution as a loan (and thus repayable from future contributions) only if he contemporaneously executed a loan document. See Rule 2.67.

Example: Jones is considering becoming a candidate for Governor and spends Twenty-Five Thousand Dollars (\$25,000.00) of her personal funds to pay for a poll to assist her in making the decision. She spends no more money and decides not to become a candidate. She is not required to file a Statement of Organization.

Example: Johnson, a State Senator, is considering becoming a candidate for Attorney General. He raises Twenty-Five Thousand Dollars (\$25,000.00) in contributions of One Thousand Dollars (\$1,000.00) each from twenty-five (25) contributors and uses the funds to pay for exploratory activities designed to assist him in making the decision. Afterward, Johnson decides not to become a candidate for Attorney General and files a Statement of Organization for a candidate committee to seek another term as State Senator. The contributions he received for the exploratory activities are not considered contributions to his State Senate candidate committee. Note, however, that Johnson may not use the guise of an exploratory committee for the office of Attorney General to further his campaign for re-election to the State Senate. If he does so, the contributions would be attributable to his State Senate candidate committee. The exploratory activities must be bona fide activities designed exclusively to assist Johnson in making a decision as to whether to seek the office of Attorney General.

The Rule prohibits the use of an exploratory committee by any individual more than once between general elections for state offices that are held in November of even-numbered years.

Political Action Committees

Rule 2.79. Political Action Committee Definition.

A political action committee is any group of two or more persons that receives contributions or makes expenditures for any of the following purposes: (1) Making contributions to candidates or candidate committees; (2) making contributions to other political action committees; (3) making independent expenditures; (4) making electioneering communications or (5) advocating the approval or defeat of a state question. Unless they choose to be considered as such, family members, as defined by these Rules, or members of the same household shall not be considered a political action committee.

History

Promulgated by Ethics Commission January 10, 2014; effective upon Legislature's sine die adjournment May 23, 2014; operative January 1, 2015.

Commission Comment

With an exception for families or members of the same household, any group of two or more persons create a political action committee by operation of law when they receive contributions or make expenditures for any of the five listed activities. This applies to both limited and unlimited committees.

Rule 2.80. When to File a Political Action Committee Statement of Organization.

A political action committee shall file a Statement of Organization with the Commission at any earlier time but no later than ten (10) days after the committee receives contributions in excess of One Thousand Dollars (\$1,000.00) or makes expenditures in excess of One Thousand Dollars (\$1,000.00). A political action committee that has filed a Statement of Organization and that has not dissolved as provided in these Rules shall renew its registration during the month of January of each year by filing a Statement of Organization. The renewal of a Statement of Organization filed by a political action committee shall not be accepted unless the political action committee has filed all Reports of Contributions and Expenditures and paid any fees required during the preceding calendar year. In the event a political action committee has not filed all Reports of Contributions and Expenditures and paid fees required during the preceding calendar year, the political action committee shall be prohibited from accepting contributions or making expenditures, except for paying fees, until it is current in filing Reports and fees.

History

Promulgated by Ethics Commission January 10, 2014; effective upon Legislature's sine die adjournment May 23, 2014; operative January 1, 2015.

Amendment promulgated by Ethics Commission January 9, 2015; effective upon sine die adjournment of the Legislature May 22, 2015; operative May 22, 2015.

The 2015 amendment added the following language: "A political action committee that has filed a Statement of Organization and that has not dissolved as provided in these Rules shall renew its registration during the month of January of each year by filing a Statement of Organization. The renewal of a Statement of Organization filed by a political action committee shall not be accepted unless the political action committee has filed all Reports of Contributions and Expenditures and paid any fees required during the preceding calendar year. In the event a political action committee has not filed all Reports of Contributions and Expenditures and paid fees required during the preceding calendar year, the political action committee shall be prohibited from accepting contributions or making expenditures, except for paying fees, until it is current in filing Reports and fees."

Commission Comment

A political action committee may file a Statement of Organization before engaging in activities that require it to do so as provided in Rule 2.79. However, a political action committee that receives contributions or makes expenditures in excess of One Thousand Dollars (\$1,000.00) must file a Statement of Organization within ten (10) days. A political action committee that does not receive contributions or make expenditures in excess of One Thousand Dollars (\$1,000.00) is not required to file a Statement of Organization.

A political action committee that has not dissolved and filed a final report by December 31st must renew its registration during the month of January of the following year. A political action committee has a continuing duty to renew its registration each year until it dissolves to the satisfaction of the Commission and files a Final Report of Contributions and Expenditures. Renewal is conditioned upon the committee's filing of all required reports and payment of all required fees for the preceding calendar year.

Rule 2.81. Political Action Committee Officers.

A political action committee shall have a Chair and a Treasurer, who may be the same person. No candidate shall be an officer of a political action committee. A political action committee may designate a Deputy Treasurer, who may perform the duties of the Treasurer in the Treasurer's absence. The Treasurer and Deputy Treasurer shall be residents of Oklahoma.

History

Promulgated by Ethics Commission January 10, 2014; effective upon Legislature's sine die adjournment May 23, 2014; operative January 1, 2015.

Commission Comment

Each political action committee is required to have a Chair and Treasurer. Appointment of a Deputy Treasurer is optional. The Chair and Treasurer may be the same person, but no candidate may hold the office of Chair, Treasurer or Deputy Treasurer or any other office, if the political action committee has other offices, of a political action committee.

Rule 2.82. Vacancy in Treasurer Office—Prohibition on Activity.

A political action committee cannot accept or expend funds at any time there is a vacancy in the offices of both the Treasurer and Deputy Treasurer.

History

Promulgated by Ethics Commission January 10, 2014; effective upon Legislature's sine die adjournment May 23, 2014; operative January 1, 2015.

Commission Comment

Because these Rules make the Treasurer (or Deputy Treasurer, in the Treasurer's stead) responsible for the political action committee's financial transactions, the committee is prohibited from accepting or expending funds when there is a vacancy in the office of both the Treasurer and Deputy Treasurer. A political action committee can continue accepting or expending funds while there is a temporary vacancy in the office of Chair, as long as the committee has either a Treasurer or Deputy Treasurer.

Rule 2.83. Political Action Committee Treasurer Responsibilities.

The Treasurer shall be responsible for keeping the political action committee's financial records and accounts, including but not limited to all contributions accepted; all deposit slips or other evidence of acceptance of contributions; all expenditures made; all receipts, canceled checks or other evidence of payment of expenditures and all other documents necessary to file Reports of Contributions and Expenditures. All such documents shall be maintained for at least four (4) years and shall be made available to the Commission upon request of the Commission. The Treasurer shall be responsible for timely and accurately filing all Reports of Contributions and Expenditures for the committee.

History

Promulgated by Ethics Commission January 10, 2014; effective upon Legislature's sine die adjournment May 23, 2014; operative January 1, 2015.

Commission Comment

This provision places the Treasurer of a political action committee in a fiduciary relationship with the committee. If the Treasurer is unable to produce the financial records required by this provision at the request of the Commission, failure to properly preserve those records is itself a violation of the Rules. The Rule also makes clear that the Treasurer has the responsibility for timely and accurately filing all Reports of Contributions and Expenditures for the committee.

Rule 2.84. Filling Political Action Committee Office Vacancy.

Any vacancy in the office of Chair, Treasurer or Deputy Treasurer shall be filled within thirty (30) days, and an Amended Statement of Organization identifying the new Chair, Treasurer or Deputy Treasurer shall be filed with the Commission within five (5) days after the vacancy is filled.

History

Promulgated by Ethics Commission January 10, 2014; effective upon Legislature's sine die adjournment May 23, 2014; operative January 1, 2015.

Commission Comment

This Rule simply sets time limits on appointments to fill vacancies in the offices of Chair, Treasurer or Deputy Treasurer. The Rule applies to the office of Deputy Treasurer only if there is a simultaneous vacancy in the office of Treasurer and Deputy Treasurer. If the Deputy Treasurer office becomes vacant, and the vacancy is not filled, an Amended Statement of Organization must be filed within the applicable time limits. The five (5) day limit is shorter than that for other changes in the Statement of Organization. See Rule 2.85.

Rule 2.85. Political Action Committee Statement of Organization Requirements.

The Statement of Organization for a political action committee shall include, but shall not be limited to, the following information: (1) The names of the Chair, Treasurer and, if applicable, Deputy Treasurer of the committee; (2) the full name of the committee, which shall not be an acronym and which shall not be the same as any other political action committee or sufficiently similar to the name of any other political action committee so that the two could be easily confused and which shall include the identifying state question number assigned by the State of Oklahoma for a committee formed to support or oppose a state question; (3) the name and address of any affiliated corporation or labor union; (4) the purpose or purposes of the committee, including but not limited to an indication of whether the committee is a limited committee or unlimited committee; (5) the mailing address and, if applicable, residence address, electronic mailing address, telephone numbers and Internet website, if applicable, of the committee, the Chair, Treasurer and, if applicable, Deputy Treasurer and (6) the full name and address of each depository in which the committee will maintain an account. The committee may also list an acronym, which shall not be the same as any other political action committee or sufficiently similar to the name of any other political action committee so that the two could be easily confused. The Treasurer shall be responsible for notifying the Commission of any change in information provided on the Statement of Organization by filing an Amended Statement of Organization within ten (10) days of a change being made. An Amended Statement of Organization shall contain the same information as the Statement of Organization.

History

Promulgated by Ethics Commission January 10, 2014; effective upon Legislature's sine die adjournment May 23, 2014; operative January 1, 2015.

Amendment promulgated by Ethics Commission January 27, 2017; effective upon sine die adjournment of the Legislature May 26, 2017; operative May 26, 2017.

The 2017 amendment added the following language after "easily confused" in the second subsection of sentence one: "and which shall include the identifying state question number assigned by the State of Oklahoma for a committee formed to support or oppose a state question."

Commission Comment

This Rule provides mandatory requirements for information to be provided on a Statement of Organization for a political action committee.

The Treasurer, and Deputy Treasurer, if a Deputy is appointed, must be residents of Oklahoma. The Chair is not required to be a resident of Oklahoma.

A political action committee cannot have a name so similar to that of another political action committee so as to cause confusion to a reasonable person as to which committee received a contribution or made an expenditure. Before filing a Statement of Organization, the organizers of a political action committee may wish to view Commission records to determine whether the contemplated name of the committee is "sufficiently similar" to the name of an existing political action committee so that the two could be easily confused.

The listing of an acronym is optional. The committee may not use an acronym that is the same as another political action committee or sufficiently similar to the acronym of another political action committee so that the two could be easily confused. Before listing an acronym, the organizers of a political action committee should view Commission records to determine whether the contemplated acronym is "sufficiently similar" to the acronym of an existing political action committee so that the two could be easily confused.

The name and address of an affiliated corporation or labor union must be the legal names of those organizations as they are recorded with other governmental officers or entities, such as the Secretary of State.

The purpose of the committee is important in that it may be used to determine the validity of committee activities. See Rules 2.41 and 2.42.

The Treasurer of the political action committee is under a continuing obligation to notify the Commission of any change in any of the information contained in the Statement of Organization by filing an Amended Statement of Organization within ten (10) days after the change is made. A change in the office of Treasurer or Deputy Treasurer must be reported within five (5) days.

**Rule 2.86. Political Action Committee Statement of Organization
Additional Requirements for Affiliated Entities.**

In addition to other information required on the Statement of Organization, a Statement of Organization for a limited committee that is affiliated with a corporation or labor union shall include, but not be limited to, the name, mailing address, street address, electronic mailing address, main telephone number and Internet website, if applicable, of the corporation or labor union with which the limited committee is affiliated. "Affiliated", as used in this section, means a corporation or labor union that may lawfully use its funds to pay for the establishment of, administration of and solicitation of contributions to the limited committee.

History

Promulgated by Ethics Commission January 10, 2014; effective upon Legislature's sine die adjournment May 23, 2014; operative January 1, 2015.

Commission Comment

This Rule requires additional information about the corporation or labor union that is affiliated with a limited committee.

Rule 2.87. Limitations on Solicitations by Political Action Committee Affiliated with Corporation.

A limited committee affiliated with a corporation may solicit contributions to the committee only from the corporation's shareholders, directors, executive and administrative personnel and their families. For purposes of this section, "executive and administrative personnel" means an individual employed by a corporation who is paid on a salary, rather than hourly, basis and who has policymaking, managerial, professional or supervisory responsibilities.

History

Promulgated by Ethics Commission January 10, 2014; effective upon Legislature's sine die adjournment May 23, 2014; operative January 1, 2015.

Commission Comment

This Rule limits the individuals that may be solicited for contributions to a limited committee affiliated with a corporation or labor union. These limited committees are so restricted due to the costs of establishment of, administration of and solicitation of contributions to the limited committee from treasury funds of the affiliated corporation or labor union.

The test for determining "executive and administrative personnel" is two-pronged. The individual must be paid a salary, rather than on an hourly basis, and must have policymaking, managerial, professional or supervisory responsibilities. The presence of one condition without the other is not sufficient to categorize an employee as "executive or administrative personnel."

Rule 2.88. Limitation on Solicitation by Political Action Committee Affiliated with Membership Organization [Effective through October 31, 2019].

A limited committee affiliated with an incorporated not-for-profit membership organization (other than a labor union) may solicit contributions from the membership organization's directors and executive and administrative personnel and their families and from its non-corporate members and their families. Such a membership organization may solicit dues and contributions to the limited committee in a single solicitation, provided the dues and contributions to the limited committee are placed in segregated accounts. Such a membership organization that has corporate members may solicit contributions to the limited committee from the shareholders, directors, executive and administrative personnel and their families of member corporations, provided the member corporation gives its consent in writing. Such consent shall be of continuing duration until revoked by the member corporation.

History

Promulgated by Ethics Commission January 10, 2014; effective upon Legislature's sine die adjournment May 23, 2014; operative January 1, 2015; amended 2019 by SB 393 [effective November 1, 2019].

The 2019 amendment will remove the following language: ", provided the member corporation gives its consent in writing. Such consent shall be of continuing duration until revoked by the member corporation." The sentences read as follows: "Such membership organization that has corporate members may solicit contributions to the limited committee from the shareholders, directors, executive and administrative personnel and their families of member corporations, provided the member corporation gives its consent in writing. Such consent shall be of continuing duration until revoked by the member corporation."

Commission Comment

This Rule specifies special solicitation requirements only for limited committees affiliated with incorporated not-for-profit membership organizations other than labor unions. These committees may solicit contributions from three groups.

The first includes the organization's directors and administrative and executive personnel and their families. The test for determining "executive and administrative personnel" is two-pronged. The individual must be paid a salary, rather than on an hourly basis, and must have policymaking, managerial, professional or supervisory responsibilities. The presence of one condition without the other is not sufficient to categorize an employee as "executive or administrative personnel."

The second group consists of non-corporate members of the organization and their families.

The third group consists of the shareholders, directors, executive and administrative personnel and their families of member corporations, provided the member corporation gives its consent in writing. The committee should keep a record of the consent and, if applicable, the revocation. While no form is specified for the member corporation's consent, it must be in writing and executed with someone who has authority to obligate or bind the corporation.

Example: The Widget Makers Club, Inc., is an incorporated not-for-profit membership organization consisting of corporate members and individuals. It has a staff of five, including an executive director, a general counsel and three clerical employees. All five employees are paid salaries, but the three clerical employees have no policymaking, managerial, professional or supervisory responsibilities. The membership of the Club consists of twenty-five (25) individuals and six (6) corporations. The Club paid the cost of establishing a limited committee and is paying the costs of administration of and solicitation of contributions to the committee from its general treasury funds, which consist of membership dues and fees for training programs sponsored by the Club for its members and their employees.

The limited committee may solicit contributions from Samantha, the Club's executive director, and her husband, but not from Edgar, Samantha's assistant.

The limited committee may solicit contributions from Garland, an individual member of the Club, and his wife, but not from Fred, Garland's employee.

The limited committee may solicit contributions from Harold, the vice president of Widget King, Inc., a member corporation that gave written consent to the Club to solicit its shareholders, directors, executive and administrative personnel and their families, and Harold's wife, but not from Jack, vice president of Widget Queen, Inc., a member corporation that has not given written consent to the Club for solicitation of its shareholders, directors, executive and administrative personnel and their families.

The limited committee may solicit contributions from Kent, an individual member who works for Widget Prince, Inc., a member corporation that has not given written consent to the Club for solicitation of its shareholders, directors, executive and administrative personnel and their families, and Kent's wife.

The Rule also permits the solicitation of contributions to the limited committee to be included with dues statements, under certain conditions. The dual solicitation cannot be sent to corporate members, since the corporation would be prohibited from making a contribution to the limited committee. The dual solicitation must be made in such a way that the person being solicited could pay dues to the organization without making a contribution to the committee. When a single payment is received for both dues to the organization and a contribution to the committee, the funds must go to separate accounts. Contributions should go directly from the contributor to the limited committee's account. Dues for the organization should never be deposited in the limited committee's account. Financial institutions typically will provide for such "split deposits,"

but if that is not possible, the solicitation may suggest separate payments for dues and contributions to the limited committee.

Example: The Widget Makers Club, Inc., an incorporated not-for-profit membership organization, has an affiliated limited committee. The Club may send Garland, an individual member, an invoice soliciting One Hundred Dollars (\$100.00) for membership dues in the Club and soliciting an additional contribution to the limited committee. Garland may write a single check for One Hundred Fifty Dollars (\$150.00). When it is received, Fifty Dollars (\$50.00) must be deposited directly into the limited committee's account via split deposit. However, if the split deposit option is unavailable, the Club should request two separate checks in its solicitation" (1) one for membership dues and (2) one for contributions to the PAC.

**Rule 2.88. Limitation on Solicitation by Political Action
Committee Affiliated with Membership Organization [Effective
November 1, 2019].**

A limited committee affiliated with an incorporated not-for-profit membership organization (other than a labor union) may solicit contributions from the membership organization's directors and executive and administrative personnel and their families and from its non-corporate members and their families. Such a membership organization may solicit dues and contributions to the limited committee in a single solicitation, provided the dues and contributions to the limited committee are placed in segregated accounts. Such a membership organization that has corporate members may solicit contributions to the limited committee from the shareholders, directors, executive and administrative personnel and their families of member corporations.

History

Promulgated by Ethics Commission January 10, 2014; effective upon Legislature's sine die adjournment May 23, 2014; operative January 1, 2015; amended 2019 by SB 393 [effective November 1, 2019].

The 2019 amendment removed the following language: ", provided the member corporation gives its consent in writing. Such consent shall be of continuing duration until revoked by the member corporation." The sentences read as follows: "Such membership organization that has corporate members may solicit contributions to the limited committee from the shareholders, directors, executive and administrative personnel and their families of member corporations, provided the member corporation gives its consent in writing. Such consent shall be of continuing duration until revoked by the member corporation."

Commission Comment

This Rule specifies special solicitation requirements only for limited committees affiliated with incorporated not-for-profit membership organizations other than labor unions. These committees may solicit contributions from three groups.

The first includes the organization's directors and administrative and executive personnel and their families. The test for determining "executive and administrative personnel" is two-pronged. The individual must be paid a salary, rather than on an hourly basis, and must have policymaking, managerial, professional or supervisory responsibilities. The presence of one condition without the other is not sufficient to categorize an employee as "executive or administrative personnel."

The second group consists of non-corporate members of the organization and their families.

The third group consists of the shareholders, directors, executive and administrative personnel and their families of member corporations.

Example: The Widget Makers Club, Inc., is an incorporated not-for-profit membership organization consisting of corporate members and individuals. It has a staff of five, including an executive director, a general counsel and three clerical employees. All five employees are paid salaries, but the three clerical employees have no policymaking, managerial, professional or supervisory responsibilities. The membership of the Club consists of twenty-five (25) individuals and six (6) corporations. The Club paid the cost of establishing a limited committee and is paying the costs of administration of and solicitation of contributions to the committee from its general treasury funds, which consist of membership dues and fees for training programs sponsored by the Club for its members and their employees.

The limited committee may solicit contributions from Samantha, the Club's executive director, and her husband, but not from Edgar, Samantha's assistant.

The limited committee may solicit contributions from Garland, an individual member of the Club, and his wife, but not from Fred, Garland's employee.

The limited committee may solicit contributions from Harold, the vice president of Widget King, Inc., a member corporation, directors, executive and administrative personnel and their families, and Harold's wife.

The limited committee may solicit contributions from Kent, an individual member who works for Widget Prince, Inc., and Kent's wife.

The Rule also permits the solicitation of contributions to the limited committee to be included with dues statements, under certain conditions. The dual solicitation cannot be sent to corporate members, since the corporation would be prohibited from making a contribution to the limited committee. The dual solicitation must be made in such a way that the person being solicited could pay dues to the organization without making a contribution to the committee. When a single payment is received for both dues to the organization and a contribution to the committee, the funds must go to separate accounts. Contributions should go directly from the contributor to the limited committee's account. Dues for the organization should never be deposited in the limited committee's account. Financial institutions typically will provide for such "split deposits," but if that is not possible, the solicitation may suggest separate payments for dues and contributions to the limited committee.

Example: The Widget Makers Club, Inc., an incorporated not-for-profit membership organization, has an affiliated limited committee. The Club may send Garland, an individual member, an invoice soliciting One Hundred Dollars (\$100.00) for membership dues in the Club and soliciting an additional contribution to the limited committee. Garland may write a single check for One Hundred Fifty Dollars (\$150.00). When it is received, Fifty Dollars (\$50.00) must be deposited directly into the limited committee's account via split deposit. However, if the split deposit option is unavailable, the Club should request two separate checks in its solicitation" (1) one for membership dues and (2) one for contributions to the PAC.

Rule 2.89. Limitations on Solicitations by Political Action Committee Affiliated with Labor Union.

A limited committee affiliated with a labor union may solicit contributions to the committee only from the labor union's members.

History

Promulgated by Ethics Commission January 10, 2014; effective upon Legislature's sine die adjournment May 23, 2014; operative January 1, 2015.

Commission Comment

This Rule limits the individuals that may be solicited for contributions to a limited committee affiliated with a labor union. These limited committees are so restricted because the costs of establishment of, administration of and solicitation of contributions to the limited committee may be paid from treasury funds of the affiliated labor union.

Rule 2.90. Solicitations by Non-Affiliated Limited Committee.

Unless otherwise prohibited or limited by law or these Rules, a limited committee that is not affiliated with a corporation or labor union may solicit contributions from any individual or entity. Costs of establishment of, administration of and solicitation of contributions to the limited committee shall be made from contributions accepted by the committee.

History

Promulgated by Ethics Commission January 10, 2014; effective upon Legislature's sine die adjournment May 23, 2014; operative January 1, 2015.

Commission Comment

Unaffiliated limited committees are generally unrestricted with respect to solicitation of contributions to the committee. This is so in part because, unlike affiliated limited committees, these committees must use contributions to pay the cost of establishment of, administration of and solicitation of contributions to the committee. These limited committees may not solicit or receive contributions from corporations, labor unions, or foreign nationals, as defined in 2 U.S.C. § 441e. Contributions are subject to the limits set forth in Rule 2.33.

Rule 2.91. Contributions to Be Voluntary.

A political party committee, political action committee or candidate committee shall not accept a contribution or make an expenditure (1) by using anything of value secured by physical force, job discrimination, financial reprisals or threats of the same or (2) in exchange for any advantage or promise of an advantage conditioned upon making a contribution, or reprisal or threat of reprisal related to the failure to make a contribution. In soliciting contributions, a political action committee shall make clear that a contribution is purely voluntary and that the person being solicited will not be given any advantage or disadvantage based on whether or not a contribution is made or the amount of a contribution.

History

Promulgated by Ethics Commission January 10, 2014; effective upon Legislature's sine die adjournment May 23, 2014; operative January 1, 2015.

Commission Comment

Political contributions should be voluntarily given, not coerced or improperly induced. Some political action committees find it useful to suggest an amount to be contributed, and when that is the case, the committee must follow the requirements of this Rule. The requirements apply whether the solicitation is made orally or in writing or by other means.

If a contribution is not voluntary it shall be returned or refunded to the contributor.

Rule 2.92. Registration Requirements for Out of State Political Action Committee.

A political action committee that is not registered with the Federal Election Commission but that is registered in another state shall be required to file with the Commission written proof of its registration in another state before making contributions to a candidate or candidates for state office. A certified copy of its registration document from another state shall be sufficient to meet the requirements of this section.

History

Promulgated by Ethics Commission January 10, 2014; effective upon Legislature's sine die adjournment May 23, 2014; operative January 1, 2015.

Commission Comment

Because registration requirements for state political action committees vary from state to state, it is not necessary for a committee registered in another state (but not with the Federal Election Commission) to register with the Commission. Instead, such a committee must provide written proof of its registration in another state prior to making a contribution to a candidate for state office in Oklahoma. While a certified copy of its registration document from another state is sufficient, that is not a mandatory requirement.

When an out of state political action committee makes a contribution to a candidate for state office in Oklahoma the committee must file a Report of Contributions and Expenditures for Non-Oklahoma Committees. See Rule 2.99.

Out of state political action committees that accept contributions from corporations or labor unions may not contribute to Oklahoma candidates. Oklahoma candidates are prohibited from accepting contributions from corporations or labor unions.

Rule 2.93. Executive Director Authority to Require Additional Information.

The Executive Director shall be authorized to require additional information on the Reports of Contributions and Expenditures that is consistent with the intent and purposes of these Rules.

History

Promulgated by Ethics Commission January 10, 2014; effective upon Legislature's sine die adjournment May 23, 2014; operative January 1, 2015.

Amendment promulgated by Ethics Commission January 9, 2015; effective upon sine die adjournment of the Legislature May 22, 2015; operative May 22, 2015.

The 2015 amendment deleted the following language:

"Statements of Organization and Amended Statements of Organization."

The 2015 amendment added the following language:

"Reports of Contributions and Expenditures."

Commission Comment

This provision acknowledges that conditions sometimes make change desirable and permits the administrative addition of information required on Reports of Contributions and Expenditures without promulgation of a new Rule, provided the additional information is consistent with the intent and purposes of the Rules. The 2015 amendment corrected an error.

Campaign Depositories and Accounts

Rule 2.94. Campaign Depository in Financial Institution.

Every candidate committee, political action committee and political party committee shall establish one or more campaign depositories in a financial institution or financial institutions that ordinarily conduct business within the state.

History

Promulgated by Ethics Commission January 10, 2014; effective upon Legislature's sine die adjournment May 23, 2014; operative January 1, 2015.

Commission Comment

Candidate committees, political action committees and political party committees must have at least one campaign depository that is segregated from any other accounts to prevent commingling of funds of the committee and any other entity.

Rule 2.95. Campaign Depository Account Requirements.

Every candidate committee, political action committee and political party committee shall maintain a campaign account in each campaign depository in the name of the committee as it is registered with the Commission. All contributions to a committee except in-kind contributions, including contributions by a candidate to his or her candidate committee, shall be deposited in a campaign account. All expenditures made by a committee shall be made on a check or by debit card, signed by the candidate, Treasurer or Deputy Treasurer of a candidate committee and by the Treasurer or Deputy Treasurer of a political action committee. Provided, however, a candidate may authorize other individuals to sign checks or debit cards for the candidate's committee; however, the candidate, the Treasurer and Deputy Treasurer shall remain responsible for the lawful expenditure of committee funds. Checks for a political action committee shall include the identification number of the committee assigned by the Commission. A campaign account may earn interest paid by the financial institution in which the account is maintained, but campaign funds shall not be invested in any other way. Contributions from corporations, labor unions, a limited liability company that has one or more corporate members or a partnership that has one or more corporate partners shall not be commingled with other contributions made to a candidate committee, a limited committee or a political party committee.

History

Promulgated by Ethics Commission January 10, 2014; effective upon Legislature's sine die adjournment May 23, 2014; operative January 1, 2015.

Amendment promulgated by Ethics Commission January 27, 2017; effective upon sine die adjournment of the Legislature May 26, 2017; operative May 26, 2017.

The 2017 amendment added the following language as the fourth sentence in the provision: "Provided, however, a candidate may authorize other individuals to sign checks or debit cards for the candidate's committee; however, the candidate, the Treasurer and Deputy Treasurer shall remain responsible for the lawful expenditure of committee funds."

Commission Comment

This Rule establishes the basis for maintenance of financial records for candidate committees, political action committees and political party committees to ensure that contributions and expenditures are accounted for properly. Except for in-kind contributions, all contributions must be placed in a campaign depository, such as a bank or other financial institution. Expenditures must be either by check or debit card drawn on the committee depository, signed by the appropriate official(s) of the

committee. A political action committee's checks must bear the identification number of the committee as assigned by the Commission. Contributions may not be invested in any way except for investment in an interest-bearing account of the campaign depository. Personal funds contributed by a candidate to his or her own committee shall be deposited in the depository before being expended. However, any personal funds expended by the candidate that do not go through the campaign depository still must be reported as a monetary contribution by the candidate to the committee and an expenditure by the committee, unless the candidate is reimbursed within 90 days. If a candidate is reimbursed within 90 days of the original expenditure, the original expenditure is reported as an in-kind expenditure to the ultimate vendor and an expenditure to the candidate as a reimbursement. Candidate's must provide the Treasurer timely information of the expenditure to ensure the expenditure is included on the proper report, and also must provide the documentation of the expenditure to be kept with committee's records. See Rule 2.43.

Under no circumstances may corporate funds be commingled with committee funds.

Rule 2.96. Political Action Committee Registered with Federal Election Commission.

A political action committee registered with the Federal Election Commission or registered in another state that makes a contribution or contributions to a political party committee, political action committee or candidate committee shall not be required to have a campaign depository in this state.

History

Promulgated by Ethics Commission January 10, 2014; effective upon Legislature's sine die adjournment May 23, 2014; operative January 1, 2015.

Commission Comment

The requirement for having a campaign depository in Oklahoma that applies to political action committees registered with the Commission does not apply to political action committees registered with the Federal Election Commission or registered in another state.

Political action committees registered outside of Oklahoma that accept contributions from corporations or labor unions may not contribute to Oklahoma candidates. Oklahoma candidates are prohibited from accepting contributions from corporations or labor unions.

Rule 2.97. Payment of Costs of Affiliated Limited Committee.

Payment of costs for the establishment of, administration of and solicitation of contributions to a limited committee shall be made directly from funds of the corporation or the labor union, as the case may be, but such funds shall not be deposited in a campaign depository of the committee.

History

Promulgated by Ethics Commission January 10, 2014; effective upon Legislature's sine die adjournment May 23, 2014; operative January 1, 2015.

Commission Comment

This provision further underscores the Rule that corporate and labor union treasury funds may not be commingled with the campaign funds of affiliated political action committees. When corporations or labor unions make payments for the costs of establishment of, administration of and solicitation of contributions to an affiliated political action committee, those payments should be made directly by the corporation or the labor union to the recipient and should never be deposited in the committee's campaign depository.

Reports of Contributions and Expenditures

Rule 2.98. Reports for Political Action Committee Registered with Federal Election Committee.

A political action committee registered with the Federal Election Commission that makes a contribution or contributions to a candidate or candidates for state office shall not be required to register or to file a Report of Contributions and Expenditures with the Commission, provided the contribution or contributions are reported to the Federal Election Commission and are available to the public.

History

Promulgated by Ethics Commission January 10, 2014; effective upon Legislature's sine die adjournment May 23, 2014; operative January 1, 2015.

Commission Comment

Political action committees registered with the Federal Election Commission may make contributions to candidates for state office, subject to other restrictions in these Rules, but those committees do not have to file a Report of Contributions and Expenditures with the Commission provided the contributions to candidates for state office are reported to the Federal Election Commission and made available to the public. One purpose of the Rules is to make records of campaign contributions available to the public, and the Commission believes that in this case there is no need to duplicate records already being made available to the public.

Rule 2.99. Reports for Out of State Political Action Committees.

A political action committee registered in another state that makes a contribution or contributions to a candidate or candidates for state office shall file a Report of Contributions and Expenditures for Non-Oklahoma Committees.

History

Promulgated by Ethics Commission January 10, 2014; effective upon Legislature's sine die adjournment May 23, 2014; operative January 1, 2015.

Commission Comment

Political action committees registered in another state that make a contribution or contributions to a candidate for state office are not required to register with the Commission. See Rule 2.92. However, these committees are required to file a Report of Contributions and Expenditures for Non-Oklahoma Committees. See Rule 2.105(C). This is distinguishable from the Rule governing political action committees registered with the Federal Election Commission that do not have to file a Report of Contributions and Expenditures with the Commission. See Rule 2.98. The difference is because contributions to candidates for state office by committees registered in other states may not be required to be available to the public or may not be readily accessible to the public.

Rule 2.100. Quarterly Reports for Oklahoma Committees.

Each state political party committee, political action committee and candidate committee shall file a quarterly Report of Contributions and Expenditures:

(1) no earlier than January 1 nor later than January 31 for the period beginning October 1 and ending December 31 of the immediately preceding year;

(2) no earlier than April 1 nor later than April 30 for the period beginning January 1 and ending March 31 of the same year;

(3) no earlier than July 1 nor later than July 31 for the period beginning April 1 and ending June 30 of the same year and

(4) no earlier than October 1 nor later than October 31 for the period beginning July 1 and ending September 30 of the same year.

Except for good cause shown, any committee that files more than one quarterly Report of Contributions and Expenditures after the date it is due in any calendar year shall be deemed to have intentionally failed to file the report in violation of these Rules.

Candidates for election or retention to judicial offices who are prohibited from soliciting or accepting contributions more than sixty (60) days after the last election in which the candidate participated under the Code of Judicial Conduct shall not be required to file Reports of Contributions and Expenditures following the expiration of the sixty (60) day period until such time as they are permitted to solicit and accept contributions prior to the next filing period under the Code of Judicial Conduct.

History

Promulgated by Ethics Commission January 10, 2014; effective upon Legislature's sine die adjournment May 23, 2014; operative January 1, 2015.

Amendment promulgated by Ethics Commission January 9, 2015; effective upon sine die adjournment of the Legislature May 22, 2015; operative May 22, 2015.

The 2015 amendment added the following language:

"Except for good cause shown, any committee that files more than one quarterly Report of Contributions and Expenditures after the date it is due in any calendar year shall be deemed to have intentionally failed to file the report in violation of these Rules.

"Candidates for election or retention to judicial offices who are prohibited from soliciting or accepting contributions more than sixty (60) days after the last election in which the candidate participated under the Code of Judicial Conduct shall not be required to file Reports of Contributions and Expenditures following the expiration of the sixty

(60) day period until such time as they are permitted to solicit and accept contributions prior to the next filing period under the Code of Judicial Conduct."

Commission Comment

Quarterly Reports of Contributions and Expenditures must be filed by state political party committees and political action committees every year. Candidate committees must file quarterly Reports of Contributions and Expenditures during odd-numbered years and for the first reporting period in even-numbered years. However, candidate committees must follow a different reporting schedule for the final nine months of even-numbered years. See Rule 2.101.

State political party committees must file quarterly reports, but Congressional District, county and precinct political party committees are required to file quarterly reports only if they meet the conditions described in Rule 2.104.

The 2015 amendment permits candidates for election or retention to judicial offices who are prohibited from accepting contributions during certain time periods by the Code of Judicial Conduct are exempted from filing quarterly reports during the time they are prohibited from accepting contributions.

Rule 2.101. Reports for Candidate Committee in Election Year.

(A) Regular Elections. Each candidate committee for a candidate who has filed a declaration of candidacy with the State Election Board for an office to be filled at the general election shall not be required to file quarterly reports after April 30 of the year in which the declaration of candidacy is filed but shall file a pre-election Report of Contributions and Expenditures:

(1) no earlier than fourteen (14) days nor later than eight (8) days before the primary election for the period beginning April 1 and ending fifteen (15) days before the primary election;

(2) no earlier than fourteen (14) days nor later than eight (8) days before the runoff primary election for the period beginning fourteen (14) days before the primary election and ending fifteen (15) days before the runoff primary election;

(3) no earlier than fourteen (14) days nor later than eight (8) days before the general election for the period beginning fourteen (14) days before the runoff primary election and ending fifteen (15) days before the general election.

Such candidate committee shall file a post-election Report of Contributions and Expenditures no earlier than January 1 nor later than January 31 of the year following the general election for the period beginning the day after the last day of the general election pre-election reporting period and ending December 31 of the immediately preceding year.

(B) Special Elections. Each candidate committee for a candidate in a special primary, runoff primary or general election shall file a pre-election Report of Contributions and Expenditures for the special primary, runoff primary or general election on the same dates and for the same periods as provided in section (A).

(1) If there is no special runoff primary election scheduled, the period covered by the pre-election report for the general election shall begin fourteen (14) days before the primary election and end fifteen (15) days before the general election.

(2) Following the special general election, each candidate committee shall file a post-election Report of Contributions and Expenditures during the filing period required for the next quarterly report following the special general election. That post-election report shall be for a period beginning the day after the last day of the general election pre-election reporting period and ending on the same day as the last day of the regular quarterly report. Thereafter, the committee shall file

reports as otherwise required by these Rules.

(C) Except for good cause shown, any candidate committee that files more than one Report of Contributions and Expenditures after the date it is due shall be deemed to have intentionally failed to file the report in violation of these Rules.

History

Promulgated by Ethics Commission January 10, 2014; effective upon Legislature's sine die adjournment May 23, 2014; operative January 1, 2015.

Amendment promulgated by Ethics Commission January 9, 2015; effective upon sine die adjournment of the Legislature May 22, 2015; operative May 22, 2015.

The 2015 amendment added the following language:

"Except for good cause shown, any committee that files more than one quarterly Report of Contributions and Expenditures after the date it is due in any calendar year shall be deemed to have intentionally failed to file the report in violation of these Rules."

Amendment promulgated by Ethics Commission February 5, 2018; effective upon Legislature's sine die adjournment May 3, 2018; operative May 3, 2018.

The 2018 amendment separated the provision into subsections "(A)" - "(C)," with what is now subsection (A) titled as "Regular Elections." and what is now subsection (B) titled as "Special Elections." The 2018 amendment also separated the provision, starting with the language "If there is no special runoff" and ending with the language "Thereafter, the committee shall file reports as otherwise required by these Rules," further into subsections (1) and (2) for what is now subsection (B). In addition, the 2018 amendment replaced "period beginning fifteen (15) days before" with "period beginning fourteen (14) days before" in what are now subsections (A)(1) - (3). The 2018 amendment added "post-election" between "Such candidate committee shall file" and "Report of Contributions and Expenditures" in what is now subsection (A)(3), as well as between "Following the special election, each candidate committee shall file a" and "Report of Contributions and Expenditures" in what is now subsection (B)(2). The 2018 amendment removed "this" between "provided in" and "section", and it added "(A)" after "section" in the last line of what is now subsection (B). Finally, the 2018 amendment added "during the filing period" between "Report of Contributions and Expenditures" and "required for the next quarterly report following the special general election" in what is now subsection (B)(2), and it replaced "quarterly" with "post-election" in the second sentence of what is now (B)(2).

Commission Comment

Quarterly reports are sufficient to make information concerning candidate committee contributions and expenditures available to the public except during the time periods in close proximity to elections. For that reason, candidate committees file Reports of Contributions and Expenditures on a quarterly basis in non-election (odd-numbered) years and during the first quarter of an election (even-numbered) year.

During the year of the election specific to the candidate committee, however, reports must be filed prior to the primary, runoff primary and general elections. This is the case regardless of whether the candidate for whom the candidate committee is registered is a candidate in the following election.

A candidate who is unopposed must file all three pre-election reports.

A candidate who has only a primary election must file all three pre-election reports.

A candidate who has only a general election must file all three pre-election reports.

A candidate who has a primary, runoff primary and general election must file all three pre-election reports.

Pre-election reports also are required by candidates in special elections.

The default determination of intentionally failing to file a report for a second late report during a calendar year is intended to discourage chronic or deliberate late filing.

Rule 2.102. Continuing Reports by Candidate Committee Between Pre-Election Report and Election Day.

Each candidate committee shall file a Continuing Report of Contributions for any contributions accepted from any person in excess of One Thousand Dollars (\$1,000.00) in the aggregate:

(1) after the last day of the primary election pre-election reporting period and ending two (2) days before the primary election;

(2) after the last day of the runoff primary election pre-election reporting period and ending two (2) days before the runoff primary election and

(3) after the last day of the general election pre-election reporting period and ending two (2) days before the general election.

For purposes of this section, "accepted" means that a contribution has been placed in a campaign depository or that an in-kind contribution has been used in the campaign. A Continuing Report of Contributions shall be filed with the Commission within twenty-four (24) hours after the contribution is accepted and shall contain the name, address and occupation and employer of any person other than a political action committee making a contribution, the amount of the contribution and the date it was made and the name of a political action committee making a contribution, the amount of the contribution and the date it was made. The candidate committee of a candidate whose name does not appear on the ballot at the next following election shall not be required to file a Continuing Report of Contributions.

History

Promulgated by Ethics Commission January 10, 2014; effective upon Legislature's sine die adjournment May 23, 2014; operative January 1, 2015.

Commission Comment

To make information concerning contributions and expenditures available to the public up until two (2) days before an election, candidate committees must report within twenty-four (24) hours any contribution in excess of One Thousand Dollars (\$1,000.00) in the aggregate accepted by the committee during a time period that begins after the last day of the preceding pre-election reporting period and ending two days before the election for that pre-election report. This information is filed on a Continuing Report of Contributions.

To calculate the aggregate amount of contributions, any contributions from the same contributor during the reporting period are aggregated. Those contributions are not aggregated with prior contributions that have been reported.

Example: Johnson contributes Five Hundred Dollars (\$500.00) to

Candidate Smith seven days before the election. Two days later, Johnson contributes an additional One Thousand Dollars (\$1,000.00) to Candidate Smith. Candidate Smith's candidate committee must file a Continuing Report of Contributions within twenty-four (24) hours of receipt of the second contribution. The report will show the entire amount, One Thousand Five Hundred Dollars (\$1,500.00) from Johnson, together with the other required information about the contributions.

Example: Albert gave Candidate Jones a contribution of One Thousand Dollars (\$1,000.00) three weeks before the general election. Candidate Jones' candidate committee reported the contribution from Albert on its pre-election report for the general election. A week prior to the general election, Albert makes another contribution to Candidate Jones of Five Hundred Dollars (\$500.00). Candidate Jones' candidate committee is not required to make a Continuing Report of Contributions to show this contribution.

This Rule does not apply to candidate committees of candidates whose name does not appear on the ballot at the next following election.

Example: Candidate Smith is unopposed at the primary election but will be on the ballot at the general election. His candidate committee must file a pre-election report for the primary election; however, the candidate committee is not required to file a Continuing Report of Contributions prior to the primary election, even if contributions that would otherwise qualify are received.

Rule 2.103. First Report for Candidate Committee or Political Action Committee.

The first Report of Contributions and Expenditures by a candidate committee or political action committee shall be filed at the same time as required for the quarterly or pre-election Report of Contributions and Expenditures following the filing of a statement of organization by the committee for the period beginning on the date the first contribution was accepted or expenditure made and ending on the same ending date for the quarterly or pre-election period.

History

Promulgated by Ethics Commission January 10, 2014; effective upon Legislature's sine die adjournment May 23, 2014; operative January 1, 2015.

Commission Comment

After a candidate committee or political action committee has filed a Statement of Organization, it must begin filing regular Reports of Contributions and Expenditures, beginning with the next required report. The only distinction between this provision and regular reporting requirements is that the starting date for the period reported is the date the first contribution was accepted or the first expenditure was made.

Rule 2.104. Report Requirements for Political Party Committee.

State political party committees shall file a Statement of Organization in July of any odd-numbered year. The Statement of Organization shall include, but not be limited to, the following information: (1) The names of the Chair, Treasurer and, if applicable, Deputy Treasurer of the committee; (2) the full name of the committee; (3) the mailing address and, if applicable, residence address, electronic mailing address, telephone numbers and Internet website, if applicable, of the committee, the Chair, Treasurer and, if applicable, Deputy Treasurer and (4) the full name and address of each depository in which the committee will maintain an account. The Treasurer shall be responsible for notifying the Commission of any change in information provided on the Statement of Organization by filing an Amended Statement of Organization within ten (10) days of a change being made. An Amended Statement of Organization shall contain the same information as the Statement of Organization. Congressional District, county and precinct political party committees and any other political party committee officially recognized by the party's bylaws or similar governing document, shall file a Statement of Organization containing the same information prior to filing a Report of Contributions and Expenditures as required hereafter. Congressional District, county and precinct political party committees and any other political party committee officially recognized by the party's bylaws or similar governing document, shall be required to file a Report of Contributions and Expenditures in any year the committee makes an independent expenditure, an electioneering communication or a contribution to a candidate for state office. The Report of Contributions and Expenditures shall be made at the quarterly reporting period next following the making of the independent expenditure, electioneering communication or contribution to a candidate for state office. The Report shall cover the period beginning January 1 of the year in which the report is filed (or January 1 of the immediately preceding calendar year for a quarterly report filed in January) or the end of the last preceding reporting period filed by the committee during the same calendar year, if the committee has filed a prior report in the same calendar year, and ending on the last day of the month prior to the month in which the quarterly report is filed.

A Report of Contributions and Expenditures by a political party committee shall include, but not be limited to, the following information:

- A. (1) the name of the committee and the time period covered by the report;

(2) the total of all monetary contributions accepted during the time period covered by the report, and the aggregate total of all monetary contributions accepted during the calendar year of the time period covered by the report;

(3) the total of all monetary contributions from political action committees accepted during the time period covered by the report, and the aggregate total of all monetary contributions from political action committees accepted during the calendar year of the time period covered by the report;

(4) the total of all other funds accepted during the time period covered by the report, including transfers from a federal, state, district, county or precinct party committee, and the aggregate total of all such other funds accepted during the calendar year of the time period covered by the report;

(5) the total of all monetary contributions or funds accepted from any source during the time period covered by the report, and the aggregate total of all monetary contributions or funds accepted during the calendar year of the time period covered by the report;

(6) the total value of all in-kind contributions accepted during the time period covered by the report, and the aggregate total value of all in-kind contributions accepted during the calendar year of the time period covered by the report;

(7) the total of all expenditures made during the time period covered by the report, and the aggregate total of all expenditures made during the calendar year of the time period covered by the report;

(8) the total of all refunds made during the time period covered by the report, and the aggregate total of all refunds made during the calendar year of the time period covered by the report;

(9) the total of all transfers made to a federal, state, district, county or precinct party committee during the time period covered by the report and the date of each transfer, and the aggregate total of all such transfers made during the calendar year of the time period covered by the report;

(10) the beginning balance of the committee account for the reporting period, and the closing balance of the committee account at the end of the reporting period;

B. (1) The name, address, occupation and employer of any person other than a political action committee making a contribution or contributions exceeding Fifty Dollars (\$50.00) in value in the aggregate; the date and amount of

any monetary or in-kind contributions made during the time period covered by the report; and the aggregate total of all contributions accepted from the person during the calendar year of the time period covered by the report;

(2) the total of all contributions accepted during the time period covered by the report from contributors making contributions of no more than Fifty Dollars (\$50.00) in the aggregate, and the aggregate total of all such contributions during the calendar year of the time period covered by the report;

(3) the name and Commission identification number of a political action committee or candidate committee making a contribution or contributions, the date and amount of any monetary or in-kind contributions made during the time period covered by the report, and the aggregate total of all contributions accepted from the political action committee during the calendar year of the time period covered by the report;

(4) the name, address, occupation and employer, if applicable, of a contributor to whom a refund was made during the time period covered by the report; the date and amount of the refund; and the aggregate total of all contributions refunded to the contributor during the calendar year of the time period covered by the report;

(5) loans made to the committee during the time period covered by the report, including loans by commercial financial institutions; the name, address and, if applicable, occupation and employer, of the person making the loan; the amount of the loan, the date the loan was made, the interest rate for the loan, the repayment terms for the loan and the total of all loans made to the committee; any payments on loans during the time period covered by the report, the amount of the payment, the date the payment was made and the remaining balance of the loan following the payment; and the total of all payments made on all loans to the committee and the remaining balance on all loans to the committee during the calendar year of the time period covered by the report;

(6) the name and address of any person or entity to whom an expenditure of more than Two Hundred Dollars (\$200.00) in the aggregate was made during the time period covered by the report, a description of the goods or services purchased with the expenditure, and the aggregate total of all expenditures made to the person or entity during the calendar year of the time period covered by the report. Split purchasing for the purpose of evading reporting an expenditure shall be prohibited. Expenditures made to

compensate political consultants and similar consultants shall be reported by identifying the type of services provided to the campaign by the consultants. Expenditures made by political consultants and other third parties on behalf of the committee shall be reported as if the expenditures were made by the committee. Expenditures made by using a credit card shall be reported by itemizing each individual expenditure of more than Two Hundred Dollars (\$200.00).

Contributions accepted from a limited liability company shall be reported as contributions from the individual members of the limited liability company in proportions equal to their ownership interest in the limited liability company. Contributions accepted from a partnership shall be reported as contributions from the individual partners of the partnership in proportions equal to their ownership interest in the partnership. Transfers between a federal, state, district, county or precinct party committee shall not be considered as contributions or expenditures.

History

Promulgated by Ethics Commission January 10, 2014; effective upon Legislature's sine die adjournment May 23, 2014; operative January 1, 2015.

Amendment promulgated by Ethics Commission January 9, 2015; effective upon sine die adjournment of the Legislature May 22, 2015; operative May 22, 2015.

The 2015 amendment added the following language:

"State political party committees shall file a Statement of Organization in July of any odd-numbered year. The Statement of Organization shall include, but not be limited to, the following information: (1) The names of the Chair, Treasurer and, if applicable, Deputy Treasurer of the committee; (2) the full name of the committee; (3) the mailing address and, if applicable, residence address, electronic mailing address, telephone numbers and Internet website, if applicable, of the committee, the Chair, Treasurer and, if applicable, Deputy Treasurer and (4) the full name and address of each depository in which the committee will maintain an account. The Treasurer shall be responsible for notifying the Commission of any change in information provided on the Statement of Organization by filing an Amended Statement of Organization within ten (10) days of a change being made. An Amended Statement of Organization shall contain the same information as the Statement of Organization. Congressional District, county and precinct political party committees and any other political party committee officially recognized by the party's bylaws or similar governing document, shall file a Statement of Organization containing the same information prior to filing a Report of Contributions and Expenditures

as required hereafter. Congressional District, county and precinct political party committees and any other political party committee officially recognized by the party's bylaws or similar governing document, shall be required to file a Report of Contributions and Expenditures in any year the committee makes an independent expenditure, an electioneering communication or a contribution to a candidate for state office. The Report of Contributions and Expenditures shall be made at the quarterly reporting period next following the making of the independent expenditure, electioneering communication or contribution to a candidate for state office. The Report shall cover the period beginning January 1 of the year in which the report is filed (or January 1 of the immediately preceding calendar year for a quarterly report filed in January) or the end of the last preceding reporting period filed by the committee during the same calendar year, if the committee has filed a prior report in the same calendar year, and ending on the last day of the month prior to the month in which the quarterly report is filed."

Commission Comment

This section provides for both registration of, and reporting by, political party committees. State political party committees are required to register by filing a Statement of Organization during the month of July of any odd-numbered year and pay the registration fee annually. However, Congressional District, county and precinct party committees and any other political party committee officially recognized by the party's bylaws or similar document are required to register and pay the registration fee only in a year in which the committee does one of three things: (1) Makes an independent expenditure; (2) makes an electioneering communication or (3) makes a contribution in any amount to a candidate for any state office. When one of those triggering events occurs, the Congressional District, county and precinct party committees and any other political party committee officially recognized by the party's bylaws or similar document must file the same Statement of Organization as required for the state political party. The term "any other political party committee officially recognized by the party's bylaws or similar document" is intended to include sub-groups of the state party such as women's groups, young members groups, etc., who are allowed some role in the governance of the party. This term does not include political action committees that may have the name of the party in their name, but that are not accorded recognition by the state party.

Once a Congressional District, county or precinct party committee or one of the sub-groups described above files a Statement of Organization, that committee is then required to file quarterly Reports of Contributions and Expenditures beginning with the first quarterly report required after the Statement of Organization is filed. That Report covers a period beginning January 1 of the year in which it is filed (or January 1 of the immediately preceding calendar year for a quarterly report filed in January) and ending either at the end of the last preceding reporting period filed by the committee during the same calendar year (if the committee has filed a report during the calendar year) or on the last day of the month prior to the month in which the quarterly report is filed.

While state political party committees are required to file quarterly reports throughout the year, Congressional District, county or precinct party committees of the sub-groups described above filed reports only when required to do so by their triggering action. Also, the registration fee paid covers the entirety of the year during which the committee is required to register, regardless of the number of reports the committee is required to file.

Example: A county political party committee makes a contribution to a candidate for State Senate in March. The party must register by filing a Statement of Organization with the Commission. After filing the Statement of Organization, the committee must file a quarterly Report of Contributions and Expenditures in April. The report covers the period beginning January 1 and ending March 31. The committee makes no other contributions and does not make an independent expenditure or electioneering communication for the balance of the year. The committee is not required to make any additional quarterly reports during that calendar year.

Example: A county political party committee makes a contribution to a candidate for State Senate in March. The party must register by filing a Statement of Organization with the Commission. After filing the Statement of Organization, the committee must file a quarterly Report of Contributions and Expenditures in April. The report covers the period beginning January 1 and ending March 31. The committee makes no further contributions until it makes another contribution to the same candidate and to a candidate for Governor in October of the same year. The committee must file a second quarterly Report of Contributions and Expenditures in January of the following year. The report covers the period beginning April 1 and ending December 31 of the year preceding the filing of the report in January.

The Statement of Organization requires identification of the Chair, Treasurer and, if applicable, Deputy Treasurer of the committee; the full name of the committee; the mailing address and, if applicable, residence address, electronic mailing address, telephone numbers and Internet website, if applicable of the committee, the Chair, Treasurer and Deputy Treasurer; the full name and address of each depository in which the committee maintains an account.

The Treasurer is required to notify the Commission of any changes to information on the Statement of Organization by filing an Amended Statement of Organization within ten (10) days of the change.

The intent of this reporting Rule is to show all funds and in-kind contributions flowing into and all funds flowing out of the reporting committee.

Because of the unique status of political parties in the political landscape, transfers between various levels of political parties (e.g., federal, state, Congressional District, county and precinct) are considered neither contributions nor expenditures, but must be reported.

Contributor information, such as name, address, occupation and employer, is required from contributors, regardless of the value of the contribution. However, contributors of no more than Fifty Dollars

(\$50.00) in the aggregate during a calendar year will not be itemized on a report by name, but by the total amount of such contributions.

Example: Johnson makes a one-time contribution of Twenty-Five Dollars (\$25.00). The amount, i.e., Twenty-Five Dollars (\$25.00) must be reported, but Johnson's information will not be itemized on the report.

Contributors of more than Fifty Dollars (\$50.00) in the aggregate during a calendar must be itemized by name, address, occupation and employer on a report.

Example: Carson, an engineer employed by Ace Widget Manufacturing, Inc., makes monthly contributions of One Hundred Dollars (\$100.00). Each of Carson's contributions must be itemized in the report, together with the aggregate total at the time the contribution is made, his name, address, occupation (engineer) and employer (Ace Widget Manufacturing, Inc.).

Contributions from political action committees or candidate committees must include the Commission identification number of the contributor.

Contributions received from a limited liability company or a partnership shall be reported as contributions from the individual members of the Limited Liability Company or partnership in proportions equal to their ownership interests. Limited liability companies and partnerships are prohibited from making contributions to a political party committee, limited committee or candidate committee if any member of the LLC or any partner of the partnership is a corporation. See Rules 2.24 and 2.25.

Example: Ajax Limited Liability Company is owned in equal shares by three individuals, Johnson, Carson and Larson. The committee receives a contribution of Three Thousand Dollars (\$3,000.00) written on an Ajax LLC check. The committee does not report a contribution from Ajax LLC; instead, it reports contributions of One Thousand Dollars (\$1,000.00) each from Johnson, Carson and Larson.

Committees that receive contributions by a check drawn on a joint checking account must determine from the contributor(s) how much of the contribution to allocate to each account holder. If a contribution is to be split equally, the contribution should be reported by evenly dividing the total amount on the check by the individuals on the check and reporting them as separate contributions from each individual. The contribution should not be listed as a single contribution from the combined individuals on the report. If the contributor specifies the contribution is only from one spouse listed on the check, then the report should attribute the entire amount to the designated contributor.

Example: A check for \$1,000 bearing the names "Joe and Nancy Smith" is made out to Political Party Committee X. At the time the check is received, Political Party Committee X determined the contribution was from both spouses equally and should report this contribution as \$500 from Joe Smith and \$500 from Nancy Smith. The contribution should not be reported as a single contribution of \$1,000 from Joe and Nancy Smith.

Example: A check for \$1,000 bearing the names "Joe and Nancy Smith" is made out to Political Party Committee X. Nancy Smith tells Political Party Committee X that the entire \$1,000 contribution is from her and not from Joe. Political Party Committee X should report this contribution as \$1,000 from Nancy Smith.

Refunds that are made to contributors must include the same information that was required to report the contribution.

Expenditures of more than Two Hundred Dollars (\$200.00) must be itemized in a report. The name and address of any person or entity to whom such an expenditure is made must be itemized, together with a description of the goods or services for which the expenditure is made. It is prohibited for an expenditure to be split for purposes of evading the itemization requirement.

Example: The committee purchases Three Hundred Fifty Dollars (\$350.00) of office supplies from Ajax Office Supply Store. The committee must itemize the amount of the purchase, indicate the purchase was made from Ajax Office Supply Store and show "office supplies" as the goods purchased.

Example: The committee wants to purchase One Thousand Dollars (\$1,000.00) of computer equipment from Ajax Computer Store, a controversial foreign owned company. The committee does not want others to know that it purchased anything from this company, so it arranges to pay in five monthly installments of Two Hundred Dollars (\$200.00). The committee then does not itemize the company in its reports. The committee has violated this Rule by making a prohibited split purchase.

When an expenditure is made to compensate a political consultant or similar consultant, such as a polling firm, the report must show the type of services provided. The purpose of this provision is to identify the type of consulting being provided, so a simple indication of "consulting services" would not be responsive.

Staff Memorandum 2017-02: Ethics Rules require both the ultimate recipient of funds to be identified as well as the good or service purchased by the committee. Expenditures for consulting services require more than a description of "consulting" and must include the type of consulting service provided; expenditures by a consultant or other 3rd party on behalf of the committee are reported as if the committee itself made the expenditure. The committee must ensure it has sufficient records of all expenditures made by the committee as well as by consultants and 3rd parties on behalf of a Committee.

Example: The committee hires ABC Consultants to do polling, including analysis of the results, as well as to provide strategic recommendations for the committee. The committee must include all of this information in its report.

Expenditures made by political consultants and other third parties on behalf of the committee must be reported as if the expenditures were made directly by the committee.

Example: The committee contracts with XYZ, Inc., a media consulting company, to produce television and radio commercials and to place those commercials in appropriate time periods. The total contract is for One Hundred Thousand Dollars (\$100,000.00), of which XYZ's fee is Fifteen Thousand Dollars (\$15,000.00). The committee reports Fifteen Thousand Dollars (\$15,000.00) as a payment to XYZ for its services in producing and placing the commercials, but reports the Eighty-Five Thousand Dollars (\$85,000.00) worth of commercials individually.

Expenditures made using a credit card must be reported by itemizing each individual expenditure of more than Two Hundred Dollars (\$200.00).

Example: The committee uses a credit card to make purchases of Five Hundred Dollars (\$500.00) from Ajax Office Supply Store for office supplies, Two Hundred Fifty Dollars (\$250.00) from Ajax Computer Store for printer cartridges and Fifty Dollars (\$50.00) from Ajax Pizza for pizza for its staff one night when the staff was working late. At the end of the month, the committee is billed for Eight Hundred Dollars (\$800.00) by the credit card company and a committee check for Eight Hundred Dollars (\$800.00) is used pay the bill. The committee must report the purchases from Ajax Office Supply Store and Ajax Computer Store individually, just as if the purchases had been made by individual check, and the purchase from Ajax Pizza must be reported as part of the aggregate expenditures total. If the committee reports an expenditure of Eight Hundred Dollars (\$800.00) for "credit card expenses," the committee has violated the Rule.

Rule 2.105. Report Requirements for Political Action Committee.

A Report of Contributions and Expenditures by a political action committee shall include, but not be limited to, the following information:

- A. (1) the name of the committee and the time period covered by the report;
- (2) the total of all monetary contributions accepted during the time period covered by the report, and the aggregate total of all monetary contributions accepted during the calendar year of the time period covered by the report;
- (3) the total of all monetary contributions from other political action committees accepted during the time period covered by the report, and the aggregate total of all monetary contributions from other political action committees accepted during the calendar year of the time period covered by the report;
- (4) the total of all other funds accepted during the time period covered by the report, including transfers from an associated political action committee, and the aggregate total of all such other funds accepted during the calendar year of the time period covered by the report;
- (5) the total of all monetary contributions or funds accepted from any source during the time period covered by the report, and the aggregate total of all monetary contributions or funds accepted during the calendar year of the time period covered by the report;
- (6) the total value of all in-kind contributions accepted during the time period covered by the report, and the aggregate total value of all in-kind contributions accepted during the calendar year of the time period covered by the report;
- (7) the total of all expenditures (other than contributions to candidate committees, independent expenditures or electioneering communications) made during the time period covered by the report, and the aggregate total of all such expenditures made during the calendar year of the time period covered by the report;
- (8) the total of all refunds made during the time period covered by the report, and the aggregate total of all refunds made during the calendar year of the time period covered by the report;
- (9) the total of all transfers made to or received from an associated political action committee during the time period covered by the report and the date of each transfer, and the aggregate total of all such transfers made during the calendar year of the time period covered by the report;

(10) the total amount of all contributions made by the committee to a candidate committee during the time period covered by the report, and the aggregate total of all such contributions made during the calendar year of the time period covered by the report;

(11) the total amount of all independent expenditures made by the committee during the time period covered by the report, and the aggregate total of all such independent expenditures made during the calendar year of the time period covered by the report;

(12) the total amount of funds spent on electioneering communications made by the committee during the time period covered by the report, and the aggregate total of funds spent on electioneering communications made during the calendar year of the time period covered by the report;

(13) the beginning balance of the committee account for the reporting period, and the closing balance of the committee account at the end of the reporting period;

(14) for limited committees affiliated with a corporation or labor union, the total amount of funds spent by the corporation or labor union during the time period covered by the report for the costs of establishment of, administration of and solicitation of contributions to the committee; and the aggregate total of funds spent on the costs of establishment of, administration of and solicitation of contributions to the committee made during the calendar year.

B. (1) The name, address, occupation and employer of any person other than a political action committee making a contribution or contributions exceeding Fifty Dollars (\$50.00) in value in the aggregate, the date and amount of any monetary or in-kind contributions made during the time period covered by the report, and the aggregate total of all contributions accepted from the person during the calendar year of the time period covered by the report;

(2) the total of all contributions accepted during the time period covered by the report from contributors making contributions of no more than Fifty Dollars (\$50.00) in the aggregate, and the aggregate total of all such contributions during the calendar year of the time period covered by the report;

(3) the name and Commission identification number of a political action committee making a contribution or contributions, the date and amount of any monetary or in-kind contributions made during the time period covered by the report, and the aggregate total of all contributions accepted from the political action committee during the calendar year of the time period covered by the report;

(4) the name, address, occupation and employer, if applicable, of a contributor to whom a refund was made during the time period covered by the report, the date and amount of the refund, and the aggregate total of all contributions refunded to the contributor during the calendar year of the time period covered by the report;

(5) loans made to the committee during the time period covered by the report, including loans by commercial financial institutions; the name, address and, if applicable, occupation and employer, of the person making the loan; the amount of the loan, the date the loan was made, the interest rate for the loan, the repayment terms for the loan and the total of all loans made to the committee; any payments on loans during the time period covered by the report, the amount of the payment, the date the payment was made and the remaining balance of the loan following the payment; and the total of all payments made on all loans to the committee and the remaining balance on all loans to the committee during the calendar year of the time period covered by the report;

(6) the name and address of any person or entity to whom an expenditure of more than Two Hundred Dollars (\$200.00) in the aggregate was made during the time period covered by the report, a description of the goods or services purchased with the expenditure, and the aggregate total of all expenditures made to the person or entity during the calendar year of the time period covered by the report. Split purchasing for the purpose of evading reporting an expenditure shall be prohibited. Expenditures made to compensate political consultants and similar consultants shall be reported by identifying the type of services provided to the campaign by the consultants. Expenditures made by political consultants and other third parties on behalf of the committee shall be reported as if the expenditures were made by the committee. Expenditures made by using a credit card shall be reported by itemizing each individual expenditure of more than Two Hundred Dollars (\$200.00).

Contributions accepted from a limited liability company shall be reported as contributions from the individual members of the limited liability company in proportions equal to their ownership interest in the limited liability company. Contributions accepted from a partnership shall be reported as contributions from the individual partners of the partnership in proportions equal to their ownership interest in the partnership. As used in this section, "associated political action committee" shall mean a political action committee registered with the Federal Election Commission when the connected or affiliated entities of the two committees share a formal business relationship such as the

national and state organizations of a professional or business organization or labor union. Transfers between a political action committee and an associated political action committee shall not be considered as contributions or expenditures.

C. The Report of Contributions and Expenditures for Non-Oklahoma Committees shall include, but not be limited to, the following information:

- (1) the name of the committee and the time period covered by the report;
- (2) the total amount of all contributions made by the committee to an Oklahoma state candidate committee during the time period covered by the report, and the aggregate total of all such contributions made during the calendar year of the time period covered by the report;
- (3) the total amount of all independent expenditures made by the committee during the time period covered by the report, and the aggregate total of all such independent expenditures made during the calendar year of the time period covered by the report;
- (4) the total amount of funds spent on electioneering communications made by the committee during the time period covered by the report, and the aggregate total of funds spent on electioneering communications made during the calendar year of the time period covered by the report;
- (5) The name, address, occupation and employer of any Oklahoma resident making a contribution or contributions exceeding Fifty Dollars (\$50.00) in value in the aggregate, the date and amount of any monetary or in-kind contributions made during the time period covered by the report, and the aggregate total of all contributions accepted from the person during the calendar year of the time period covered by the report.

History

Promulgated by Ethics Commission January 10, 2014; effective upon Legislature's sine die adjournment May 23, 2014; operative January 1, 2015.

Commission Comment

The intent of this reporting Rule is to show all funds and in-kind contributions flowing into and all funds flowing out of the reporting committee.

Some political action committees affiliated with a corporation or labor union have "associated political action committees" that are registered with and report to the Federal Election Commission. This relationship occurs when the connected or affiliated entities or the two committees share a formal business relationship such as the national and state organizations of a professional or business organization or labor union.

When an affiliated political action committee has an associated political action committee, transfers between the two are not considered as contributions or expenditures but must be reported as transfers.

Contributor information, such as name, address, occupation and employer, is required from contributors, regardless of the value of the contribution. However, contributors of no more than Fifty Dollars (\$50.00) in the aggregate during a calendar year need not be itemized by name in the report, but instead by the total amount of such contributions.

Example: Johnson makes a one-time contribution of Twenty-Five Dollars (\$25.00). The amount, i.e., Twenty-Five Dollars (\$25.00) must be reported, but Johnson's information need not be itemized.

Contributors of more than Fifty Dollars (\$50.00) in the aggregate during a calendar must be itemized by name, address, occupation and employer.

Example: Carson, an engineer employed by Ace Widget Manufacturing, Inc., makes monthly contributions of One Hundred Dollars (\$100.00). Each of Carson's contributions must be itemized, together with the aggregate total at the time the contribution is made, his name, address, occupation (engineer) and employer (Ace Widget Manufacturing, Inc.).

Contributions from other political action committees must include the Commission identification number of the contributing committee.

Contributions received from a limited liability company or a partnership shall be reported as contributions from the individual members of the Limited Liability Company or partnership in proportions equal to their ownership interests. Limited liability companies and partnerships are prohibited from making contributions to a political party committee, limited committee or candidate committee if any member of the LLC or any partner of the partnership is a corporation. See Rules 2.24 and 2.25.

Example: Ajax Limited Liability Company is owned in equal shares by three individuals, Johnson, Carson and Larson. The committee receives a contribution of Three Thousand Dollars (\$3,000.00) written on an Ajax LLC check. The committee does not report a contribution from Ajax LLC; instead, it reports contributions of One Thousand Dollars (\$1,000.00) each from Johnson, Carson and Larson.

Committees that receive contributions by a check drawn on a joint checking account must determine from the contributor(s) how much of the contribution to allocate to each account holder. If a contribution is to be split equally, the contribution should be reported by evenly dividing the total amount on the check by the individuals on the check and reporting them as separate contributions from each individual. The contribution should not be listed as a single contribution from the combined individuals on the report. If the contributor specifies the contribution is only from one spouse listed on the check, then the report should attribute the entire amount to the designated contributor.

Example: A check for \$1,000 bearing the names "Joe and Nancy Smith" is made out to PAC X. At the time the check is received, PAC X determined the contribution was from both spouses equally and should

report this contribution as \$500 from Joe Smith and \$500 from Nancy Smith. The contribution should not be reported as a single contribution of \$1,000 from Joe and Nancy Smith.

Example: A check for \$1,000 bearing the names "Joe and Nancy Smith" is made out to PAC X. Nancy Smith tells PAC X that the entire \$1,000 contribution is from her and not from Joe. PAC X should report this contribution as \$1,000 from Nancy Smith.

Refunds that are made to contributors must include the same information that was required to report the contribution.

Contributions by a political action committee to candidate committees are not reported as expenditures, but are reported separately.

Independent expenditures by a political action committee are not reported as expenditures, but are reported separately.

Electioneering communications by a political action committee are not reported as expenditures, but are reported separately.

For political action committees affiliated with a corporation or labor union, expenditures by the corporation or labor union for the costs of establishment of, administration of and solicitation of contributions to the committee are not reported as expenditures, but are reported separately.

Expenditures of more than Two Hundred Dollars (\$200.00) must be itemized in reports. The name and address of any person or entity to whom such an expenditure is made must be itemized, together with a description of the goods or services for which the expenditure is made. It is prohibited for an expenditure to be split for purposes of evading the reporting requirement.

Example: The committee purchases Three Hundred Fifty Dollars (\$350.00) of office supplies from Ajax Office Supply Store. The committee must itemize the expenditure, indicating the amount of the purchase, the purchase was made from Ajax Office Supply Store and show "office supplies" as the goods purchased.

Example: The committee wants to purchase One Thousand Dollars (\$1,000.00) of computer equipment from Ajax Computer Store, a controversial foreign owned company. The committee does not want others to know that it purchased anything from this company, so it arranges to pay in five monthly installments of Two Hundred Dollars (\$200.00). The committee then does not itemize the company in its reports. The committee has violated this Rule by making a prohibited split purchase.

When an expenditure is made to compensate a political consultant or similar consultant, such as a polling firm, the report must show the type of services provided. The purpose of this provision is to identify the type of consulting being provided, so a simple indication of "consulting services" would not be responsive.

Staff Memorandum 2017-02: Ethics Rules require both the ultimate recipient of funds to be identified as well as the good or service

purchased by the committee. Expenditures for consulting services require more than a description of "consulting" and must include the type of consulting service provided; expenditures by a consultant or other 3rd party on behalf of the committee are reported as if the committee itself made the expenditure. The committee must ensure it has sufficient records of all expenditures made by the committee as well as by consultants and 3rd parties on behalf of a committee.

Example: *The committee hires ABC Consultants to do polling including analysis of the results, as well as to provide strategic recommendations for the committee. The committee must include all of this information in its report.*

Expenditures made by political consultants and other third parties on behalf of the committee must be reported as if the expenditures were made directly by the committee.

Example: *The committee contracts with XYZ, Inc., a media consulting company, to produce television and radio commercials and to place those commercials in appropriate time periods. The total contract is for One Hundred Thousand Dollars (\$100,000.00), of which XYZ's fee is Fifteen Thousand Dollars (\$15,000.00). The committee reports Fifteen Thousand Dollars (\$15,000.00) as a payment to XYZ for its services in producing and placing the commercials, but reports the Eighty-Five Thousand Dollars (\$85,000.00) worth of commercials individually.*

Expenditures made using a credit card must be reported by itemizing each individual expenditure of more than Two Hundred Dollars (\$200.00).

Example: *The committee uses a credit card to make purchases of Five Hundred Dollars (\$500.00) from Ajax Office Supply Store for office supplies, Two Hundred Fifty Dollars (\$250.00) from Ajax Computer Store for printer cartridges and Fifty Dollars (\$50.00) from Ajax Pizza for pizza for its staff one night when the staff was working late. At the end of the month, the committee is billed for Eight Hundred Dollars (\$800.00) by the credit card company and a committee check for Eight Hundred Dollars (\$800.00) is used pay the bill. The committee must report the purchases from Ajax Office Supply Store and Ajax Computer Store individually, just as if the purchases had been made by individual check, and the purchase from Ajax Pizza must be reported as part of the aggregate expenditures total. If the committee reports an expenditure of Eight Hundred Dollars (\$800.00) for "credit card expenses," the committee has violated the Rule.*

There are different reporting requirements for non-Oklahoma committees that make contributions to state candidate committees. The intent of this requirement is to show contributions made by the committee to Oklahoma candidate committees and contributions of more than Fifty Dollars (\$50.00) in the aggregate received by the committee from Oklahoma residents. The report also must show any independent expenditures or electioneering communications made by the non-Oklahoma committee. Because the non-Oklahoma committee's political focus is in another state, there is no requirement to report all the information that an Oklahoma political action committee must report.

Rule 2.106. Report Requirements for Candidate Committee.

A Report of Contributions and Expenditures by a candidate committee shall include, but not be limited to, the following information:

- A. (1) the candidate's name, the name of the committee and the time period covered by the report;
 - (2) the total of any surplus funds transferred from a candidate committee for a previous campaign of the same candidate;
 - (3) the total of all monetary contributions accepted during the time period covered by the report, and the aggregate total of all monetary contributions accepted;
 - (4) the total of all monetary contributions from political action committees accepted during the time period covered by the report, and the aggregate total of all monetary contributions from political action committees accepted;
 - (5) the total of all other funds accepted during the time period covered by the report, and the aggregate total of all other funds accepted;
 - (6) the total of all monetary contributions or funds accepted from any source during the time period covered by the report, and the aggregate total of all monetary contributions or funds accepted;
 - (7) the total value of all in-kind contributions accepted during the time period covered by the report, and the aggregate total value of all in-kind contributions accepted;
 - (8) the total of all expenditures made during the time period covered by the report, and the aggregate total of all expenditures made;
 - (9) the total of all refunds made during the time period covered by the report, and the aggregate total of all refunds made;
 - (10) the beginning balance of the campaign account for the reporting period, and the closing balance of the campaign account at the end of the reporting period.
- B. (1) The name, address, occupation and employer of any person other than a political action committee, political party committee, or candidate committee making a contribution or contributions, the date and amount of any monetary or in-kind contributions made during the time period covered by the report, and the aggregate total of all contributions accepted from the person;
 - (a) Contributions accepted from a limited liability company shall be reported as contributions from the individual members of the limited liability company in proportions equal to their ownership interest in the limited liability company; and

(b) Contributions accepted from a partnership shall be reported as contributions from the individual partners of the partnership in proportions equal to their ownership interest in the partnership.

(2) any contributions received from individuals which do not exceed fifty dollars (\$50) in the aggregate from any one individual are not itemized and are shown on the report by the total of all contributions accepted during the time period covered by the report from contributors making contributions of no more than Fifty Dollars (\$50.00) in the aggregate, and the aggregate total of all such contributions;

(3) the name, address, and Commission identification number of a political action committee, political party committee, or candidate committee making a contribution or contributions, the date and amount of any monetary or in-kind contributions made during the time period covered by the report, and the aggregate total of all contributions accepted from the political action committee, political party committee, or candidate committee;

(4) the name, address, occupation and employer, if applicable, of a contributor to whom a refund was made during the time period covered by the report, the date and amount of the refund, and the aggregate total of all contributions refunded to the contributor;

(5) loans made to the committee during the time period covered by the report, including loans by the candidate and by commercial financial institutions; the name, address and, if applicable, occupation and employer, of the person making the loan; the amount of the loan, the date the loan was made, the interest rate for the loan, the repayment terms for the loan and the total of all loans made to the committee; any payments on loans during the time period covered by the report, the amount of the payment, the date the payment was made and the remaining balance of the loan following the payment, and the total of all payments made on all loans to the committee and the remaining balance on all loans to the committee;

(6) the name and address of any person or entity to whom an expenditure of more than Two Hundred Dollars (\$200.00) in the aggregate was made during the time period covered by the report, a description of the goods or services purchased with the expenditure, and the aggregate total of all expenditures made to the person or entity, provided however:

(a) Split purchasing for the purpose of evading reporting an expenditure shall be prohibited;

(b) Expenditures made to compensate consultants and similar individuals or organizations shall be reported by identifying

the type of services provided to the campaign by the consultants;

(c) Expenditures made by political consultants and other third parties on behalf of the committee shall be reported as if the expenditures were made by the committee;

(d) Expenditures made by using a credit card shall be reported by itemizing each individual expenditure of more than Two Hundred Dollars (\$200.00);

(e) All expenditures made to reimburse a candidate for personal expenditures made on behalf of the committee shall be itemized in detail, regardless of their value.

History

Promulgated by Ethics Commission January 10, 2014; effective upon Legislature's sine die adjournment May 23, 2014; operative January 1, 2015.

Amendment promulgated by Ethics Commission January 27, 2017; effective upon sine die adjournment of the Legislature May 26, 2017; operative May 26, 2017.

The 2017 amendment added the following language as the sixth sentence under section subsection (B)(6) : "Expenditures made to reimburse a candidate for personal expenditures made on behalf of the candidate committee must be made within ninety (90) days of the original expenditure and must be reported in detail as required by Rule 2.106."

Amendment promulgated by Ethics Commission February 5, 2018; effective upon Legislature's sine die adjournment May 3, 2018; operative May 3, 2018.

The 2018 amendment added "political party committee, or candidate committee," in between "political action committee," and "making a contribution or contribution(s)", and it removed the language "exceeding Fifty Dollars (\$50.00) in value in the aggregate" in subsection (B)(1).

The language under subsection (B)(1) read as follows: "The name, address, occupation and employer of any person other than a political action committee making a contribution or contribution(s) exceeding Fifty Dollars (\$50.00) in value in the aggregate, the date and amount of any monetary or in-kind contributions made during the time period covered by the report, and the aggregate total of all contributions accepted from the person;"

The 2018 amendment also added subsections "(a)" and "(b)" under subsection (B)(1), which includes the following language: "(a) Contributions accepted from a limited liability company shall be reported as contributions from the individual members of the limited liability company in proportions equal to their ownership interest in the limited liability company; and (b) Contributions accepted from a partnership shall be reported as contributions from the individual partners of the partnership in proportions equal to their ownership interest in the partnership.

The 2018 amendment added the following in subsection (B)(3) of the provision: ", address," between "the name" and "and Commission"; ", political party committee," between "political action committee" and "or candidate committee"; and ", political party committee, or candidate committee" after "contributions accepted from the political action committee."

The 2018 amendment also replaced the "." with ", provided however:" after "the aggregate total of all expenditures made to the person or entity" in subsection (B)(6). It also separated the language in subsection (B)(6) into "(a)" - "(e)," beginning with the language "Split purchasing for the purpose of evading reporting"

The 2018 amendment removed the following language from the end of the provision: "Contributions accepted from a limited liability company shall be reported as contributions from the individual members of the limited liability company in proportions equal to their ownership interest in the limited liability company. Contributions accepted from a partnership shall be reported as contributions from the individual partners of the partnership in proportions equal to their ownership interest in the partnership."

Commission Comment

The intent of this reporting Rule is to show all funds and in-kind contributions flowing into and all funds flowing out of the reporting committee.

When one candidate committee is dissolved, and a second one organized by the same candidate, and surplus funds are transferred from the first committee to the second committee, that amount is shown as a transfer but is not a contribution. Officeholders that transfer funds over to a new committee may only use those surplus funds transferred over for officeholder expenses, campaign contributions received for the new campaign cannot be used for officeholder expenses.

Contributor information, such as name, address, occupation and employer, is required from contributors, regardless of the value of the contribution. However, contributions of no more than Fifty Dollars (\$50.00) in the aggregate during a calendar year will not be itemized but instead will be shown in a report by the total amount of such contributions.

Example: *Johnson makes a one-time contribution of Twenty-Five Dollars (\$25.00). The amount, i.e., Twenty-Five Dollars (\$25.00) must be reported, but Johnson's contributor information need not be itemized.*

Contributors of more than Fifty Dollars (\$50.00) in the aggregate during a calendar year must be itemized in reports by name, address, occupation and employer.

Example: *Carson, an engineer employed by Ace Widget Manufacturing, Inc., makes monthly contributions of One Hundred Dollars (\$100.00). Each of Carson's contributions must be itemized, together with the aggregate total at the time the contribution is made, his name,*

address, occupation (engineer) and employer (Ace Widget Manufacturing, Inc.).

Contributions from political action committees or other candidate committees must include the Commission identification number of the contributing committee.

Contributions received from a limited liability company or a partnership shall be reported as contributions from the individual members of the Limited Liability Company or partnership in proportions equal to their ownership interests. Limited liability companies and partnerships are prohibited from making contributions to a political party committee, limited committee or candidate committee if any member of the LLC or any partner of the partnership is a corporation. See Rules 2.24 and 2.25.

Example: Ajax Limited Liability Company is owned in equal shares by three individuals: Johnson, Carson and Larson. The committee receives a contribution of Three Thousand Dollars (\$3,000.00) written on an Ajax LLC check. The committee does not report a contribution from Ajax LLC; instead, it reports contributions of One Thousand Dollars (\$1,000.00) each from Johnson, Carson and Larson.

Committees that receive contributions by a check drawn on a joint checking account must determine from the contributor(s) how much of the contribution to allocate to each account holder. If a contribution is to be split equally the contribution should be reported by evenly dividing the total amount on the check by the individuals on the check and reporting them as separate contributions from each individual. The contribution should not be listed as a single contribution from the combined individuals on the report. If the contributor specifies the contribution is only from one spouse listed on the check, then the report should attribute the entire amount to the designated contributor.

Example: A check for \$1,000 bearing the names "Joe and Nancy Smith" is made out to Jones for Senate 2020. At the time the check is received, Jones for Senate 2020 determined the contribution was from both spouses equally and should report this contribution as \$500 from Joe Smith and \$500 from Nancy Smith. The contribution should not be reported as a single contribution of \$1,000 from Joe and Nancy Smith.

Example: A check for \$1,000 bearing the names "Joe and Nancy Smith" is made out to Jones for Senate 2020. Nancy Smith tells Candidate Jones the entire \$1,000 contribution is from her and not from Joe. Jones for Senate 2020 should report this contribution as \$1,000 from Nancy Smith.

All loans to the committee are reported, including loans made by the candidate to his or her own committee.

Refunds that are made to contributors must include the same information that was required to report the contribution.

Expenditures of more than Two Hundred Dollars (\$200.00) must be itemized in reports. The name and address of any person or entity to whom such an expenditure is made must be itemized, together with a description of the

goods or services for which the expenditure is made. It is prohibited for an expenditure to be split for purposes of evading the reporting requirement.

Example: The committee purchases Three Hundred Fifty Dollars (\$350.00) of office supplies from Ajax Office Supply Store. The committee must itemize the amount of the purchase, indicate the purchase was made from Ajax Office Supply Store, and show "office supplies" as the goods purchased.

Example: The committee wants to purchase One Thousand Dollars (\$1,000.00) of computer equipment from Ajax Computer Store, a controversial foreign owned company. The committee does not want others to know that it purchased anything from this company, so it arranges to pay in five monthly installments of Two Hundred Dollars (\$200.00). The committee then does not itemize the company in its reports. The committee has violated this Rule by making a prohibited split purchase.

When an expenditure is made to compensate a political consultant or similar consultant, such as a polling firm, the report must show the type of services provided. The purpose of this provision is to identify the type of consulting being provided, so a simple indication of "consulting services" would not be responsive.

Staff Memorandum 2017-02: Ethics Rules require both the ultimate recipient of funds to be identified as well as the good or service purchased by the committee. Expenditures for consulting services require more than a description of "consulting" and must include the type of consulting service provided; expenditures by a consultant or other 3rd party on behalf of the committee are reported as if the committee itself made the expenditure. The committee must ensure it has sufficient records of all expenditures made by the committee as well as by consultants and 3rd parties on behalf of a committee.

Example: The committee hires ABC Consultants to do polling including analysis of the results, as well as to provide strategic recommendations for the committee. The committee must include all of this information in its report.

Expenditures made by political consultants and other third parties on behalf of the committee must be reported as if the expenditures were made directly by the committee.

Example: The committee contracts with XYZ, Inc., a media consulting company, to produce television and radio commercials and to place those commercials in appropriate time periods. The total contract is for One Hundred Thousand Dollars (\$100,000.00), of which XYZ's fee is Fifteen Thousand Dollars (\$15,000.00). The committee reports Fifteen Thousand Dollars (\$15,000.00) as a payment to XYZ for its services in producing and placing the commercials, but reports the Eighty-Five Thousand Dollars (\$85,000.00) worth of commercials individually.

Expenditures made using a credit card must be reported by itemizing each individual expenditure of more than Two Hundred Dollars (\$200.00).

Example: The committee uses a credit card to make purchases of Five Hundred Dollars (\$500.00) from Ajax Office Supply Store for office supplies, Two Hundred Fifty Dollars (\$250.00) from Ajax Computer Store for printer cartridges and Fifty Dollars (\$50.00) from Ajax Pizza for pizza for its staff one night when the staff was working late. At the end of the month, the committee is billed for Eight Hundred Dollars (\$800.00) by the credit card company and a committee check for Eight Hundred Dollars (\$800.00) is used pay the bill. The committee must report the purchases from Ajax Office Supply Store and Ajax Computer Store individually, just as if the purchases had been made by individual check, and the purchase from Ajax Pizza must be reported as part of the aggregate expenditures total. If the committee reports an expenditure of Eight Hundred Dollars (\$800.00) for "credit card expenses," the committee has violated the Rule.

Reports of Independent Expenditures

Rule 2.107. Time and Requirements for Independent Expenditure Reports.

(A) Any person other than an individual, including a political action committee, that makes an independent expenditure of Five Thousand Dollars (\$5,000.00) or more in the aggregate at least fifteen (15) days prior to any election shall be required to file a report with the Commission at the same time that candidate committees are required to file pre-election reports for the applicable election.

(B) Any person other than an individual, including a political action committee, that makes an independent expenditure of Five Thousand Dollars (\$5,000.00) or more in the aggregate during the period beginning no more than fourteen (14) days prior to any election and ending on the day of the election shall make a report to the Commission no later than the business day following the day the expenditure is made.

(C) Each report filed by a person other than a political action committee shall include the name and address of the person making the independent expenditure and the name, street address, telephone number, and office or title of the individual filing the report.

(D) Each report filed shall include the name of the political action committee or the person making the independent expenditure; the amount, date and a brief description or statement of each independent expenditure; and the name and office of the candidate supported or opposed, indicating whether the candidate was supported or opposed.

(E) If the person making the independent expenditure, other than a political action committee, received funds from any other person for the purpose of making an independent expenditure or expenditures, the report shall include the name, address and principal business activity of each person contributing funds in excess of Fifty Dollars (\$50.00) in the aggregate and the amount of any such contribution or contributions that have not been previously reported, together with a cumulative total of all contributions made by each person since the first report was filed for the election for which the independent expenditure is being made. As used in this section, "for the purpose of" means that the funds are either (1) received by an organization or corporation in response to a solicitation specifically requesting funds to pay for an independent expenditure or electioneering communication or (2) specifically designated for independent expenditures or electioneering communications by the donor.

(F) If the person making the independent expenditure is a non-profit corporation that has not been officially approved by the United States Internal Revenue Service for tax exempt status under Section 501(c) of Title 26 of the United States Code as it currently exists or as it may be amended, the report shall include the name, address and principal business activity of each person contributing funds in excess of Fifty Dollars (\$50.00) in the aggregate to the corporation during the current calendar year and the preceding calendar year and the amount of any such contribution or contributions that have not been previously reported, together with a cumulative total of all contributions made by each person since the first report was filed for the election for which the independent expenditure is being made.

(G) Reports required by this section shall not relieve the person making the report from filing other reports required by these Rules.

(H) If any person makes, or contracts to make, any expenditure for an independent expenditure and such expenditure is coordinated with a candidate or a candidate committee in any way, the expenditure shall be considered as a contribution to the candidate committee and as an expenditure by the candidate committee.

History

Promulgated by Ethics Commission January 10, 2014; effective upon Legislature's sine die adjournment May 23, 2014; operative January 1, 2015.

Amendment promulgated by Ethics Commission December 11, 2015; effective upon sine die adjournment of the Legislature May 27, 2016; operative May 27, 2016.

The 2016 amendment added "or electioneering communication" after "independent expenditure" in list item number one and number two in the second sentence of subsection (E). The sentence read: "As used in this section, 'for the purpose of' means that the funds are either (1) received by an organization or corporation in response to a solicitation specifically requesting funds to pay for an independent expenditure or (2) specifically designated for independent expenditures by the donor."

The 2016 amendment added subsection (F) in its entirety.

The 2016 amendment changed former subsection (F) to subsection (G).

The 2016 amendment added subsection (H) in its entirety.

Commission Comment

An individual who makes an independent expenditure from personal funds is not required to file a report.

Generally reports of independent expenditures follow the same time schedule as reports made by candidate committees, regardless of the entity required to make the report. If the independent expenditures are made in time to be reported during the pre-election reporting period, then reports of such expenditures are made during the same time frame. If the independent expenditures are made following the last day covered by the pre-election reports, then reports must be made on the next business day after the expenditure is made.

Political action committees that make independent expenditures also must include those expenditures in the next following quarterly report by the committee.

The threshold amount of Five Thousand Dollars (\$5,000.00) is an aggregate figure. Once it is exceeded, the reporting requirement applies. The threshold amount is for all independent expenditures, not just independent expenditures made to advocate the election or defeat of a single candidate.

Example: PAC X, an unlimited committee, makes a \$10,000 independent expenditure 15 days before the primary election. PAC X then makes additional independent expenditures on the Monday, Tuesday and Wednesday before the primary election, each valued at \$1,000. Here, PAC X is only required to file an IE/EC Report at the same time candidate committees are required to file the pre-election reports. It is not required to make next business day reports because the committee only expended \$3,000 for independent expenditures during the next business day reporting period (i.e., the period beginning no more than 14 days prior to primary election).

Example: A political action committee makes independent expenditures of Two Thousand Dollars (\$2,000.00) to advocate the election of Candidate Smith, Two Thousand Dollars (\$2,000.00) to advocate the election of Candidate Jones and Two Thousand Dollars to advocate the defeat of Candidate Johnson. The committee must report all three independent expenditures because they exceed Five Thousand Dollars (\$5,000.00) in the aggregate.

Reports must be filed by persons making independent expenditures that exceed the threshold amount, even when the persons are not political action committees registered with the Commission.

Example: The Widget Manufacturers Association makes independent expenditures of Fifty Thousand Dollars (\$50,000.00) to advocate the defeat of Candidate Smith. Even though the Association is not a political action committee, it must file a report.

When a person other than a political action committee receives funds for the purpose of making an independent expenditure, it must identify by name, address and principal business activity of each person that contributes funds in excess of Fifty Dollars (\$50.00) in the aggregate. The report is cumulative of all contributions made by each person since the first report was filed.

Example: The Widget Manufacturers Association asks its members to make contributions to make independent expenditures to defeat

Candidate Smith. The Association then makes independent expenditures that trigger the reporting requirement. The Association must report the identity of all persons that make contributions in response to its solicitation.

Example: The Widget Manufacturers Association decides to make independent expenditures to defeat Candidate Smith. However, the Association decides to use dues funds already collected to make the expenditures. The Association never solicited funds to make independent expenditures. The Association must make a report, but is not required to identify individual contributors.

Example: The Widget Manufacturers Association asks its members to make contributions to make independent expenditures to defeat Candidate Smith. The Association then makes independent expenditures that trigger the reporting requirement, but uses both contributions made in response to its solicitation and funds already collected to make the expenditures. The Association must report the identity of all persons that make contributions in response to its solicitation.

Paragraph F requires any non-profit corporation that makes an independent expenditure to identify every contributor in excess of \$50.00 for the current and previous calendar years if the corporation has not been officially approved for non-profit status under Section 501(C) by the Internal Revenue Service. This identification must be made regardless of the purpose for which the contributions were made. The purpose of this provision is to prevent the abuse of section 501(C) to hide the individuals or entities funding independent expenditures.

Paragraph H makes it clear that any independent expenditure that is coordinated with a candidate or candidate committee in any way will be treated as a contribution to the candidate committee, which could result in prohibited excessive contributions or corporate contributions in many circumstances.

Reports of Electioneering Communications

Rule 2.108. Time and Requirements for Electioneering Communication Report.

(A) Any person other than an individual, including a political action committee, that makes an electioneering communication of Five Thousand Dollars (\$5,000.00) or more in the aggregate at least fifteen (15) days prior to any election shall be required to file a report with the Commission at the same time that candidate committees are required to file pre-election reports for the applicable election.

(B) Any person other than an individual, including a political action committee, that makes an electioneering communication of Five Thousand Dollars (\$5,000.00) or more in the aggregate during the period beginning no more than fourteen (14) days prior to any election and ending on the day of the election shall make a report to the Commission no later than the business day following the day the electioneering communication is made.

(C) Each report filed by a person other than a political action committee shall include the name and address of the person making the electioneering communication and the name, street address, telephone number, and office or title of the individual filing the report.

(D) Each report filed shall include the name of the political action committee or the person making the electioneering communication; the amount, date and a brief description or statement of each electioneering communication, and the name and office of the candidate or candidates identified in the electioneering communication.

(E) If the person making the electioneering communication, other than a political action committee, received funds from any other person for the purpose of making an electioneering communication or communications, the report shall include the name, address and principal business activity of each person contributing funds in excess of Fifty Dollars (\$50.00) in the aggregate and the amount of any such contribution or contributions that have not been previously reported, together with a cumulative total of all contributions made by each person since the first report was filed for the election for which the electioneering communication is being made. As used in this section, "for the purpose of" means that the funds are either: (1) received by an organization or corporation in response to a solicitation specifically requesting funds to pay for an electioneering communication or independent expenditure or (2)

specifically designated for electioneering communications or independent expenditure by the donor.

(F) If the person making the electioneering communication is a non-profit corporation that has not been officially approved by the United States Internal Revenue Service for tax exempt status under Section 501(c) of Title 26 of the United States Code as it currently exists or as it may be amended, the report shall include the name, address and principal business activity of each person contributing funds in excess of Fifty Dollars (\$50.00) in the aggregate to the corporation during the current calendar year and the preceding calendar year and the amount of any such contribution or contributions that have not been previously reported, together with a cumulative total of all contributions made by each person since the first report was filed for the election for which the electioneering communication is being made.

(G) Reports required by this section shall not relieve the person making the report from filing other reports required by these Rules.

(H) If any person makes, or contracts to make, any expenditure for an electioneering communication and such expenditure is coordinated with a candidate or a candidate committee in any way, the expenditure shall be considered as a contribution to the candidate committee and as an expenditure by the candidate committee.

History

Promulgated by Ethics Commission January 10, 2014; effective upon Legislature's sine die adjournment May 23, 2014; operative January 1, 2015.

Amendment promulgated by Ethics Commission January 9, 2015; effective upon sine die adjournment of the Legislature May 22, 2015; operative May 22, 2015.

Prior to the 2015 amendment, Subsection (D) provided as follows:

Each report filed shall include the name of the political action committee or the person making the electioneering communication; the amount, date and a brief description or statement of each electioneering communication, and the name and office of the candidate supported or opposed indicating whether the candidate was supported or opposed.

The 2015 amendment deleted the words "supported or opposed indicating whether the candidate was supported or opposed" and added the words "or candidates identified in the electioneering communication."

Amendment promulgated by Ethics Commission December 11, 2015; effective upon sine die adjournment of the Legislature May 27, 2016; operative May 27, 2016.

The 2016 amendment added "or independent expenditure" after "electioneering communication" in list item number one and number two in the second sentence of subsection (E). The sentence read: "As used in this section, 'for the purpose of' means that the funds are either (1) received by an organization or corporation in response to a solicitation specifically requesting funds to pay for an electioneering communication or (2) specifically designated for electioneering communications by the donor."

The 2016 amendment added subsection (F) in its entirety.

The 2016 amendment changed former subsection (F) to subsection (G).

The 2016 amendment added subsection (H) in its entirety.

Commission Comment

An individual who makes electioneering communications from personal funds is not required to file a report.

Generally reports of electioneering communications follow the same time schedule as reports made by candidate committees, regardless of the entity required to make the report. If the electioneering communications are made in time to be reported during the pre-election reporting period, then reports of such communications are made during the same time frame. If the electioneering communications are made following the last day covered by the pre-election reports, then reports must be made on the next business day after the communication is made.

Political action committees that make electioneering communications also must include those communications in the next following quarterly report by the committee.

The threshold amount of Five Thousand Dollars (\$5,000.00) is an aggregate figure. Once it is exceeded, the reporting requirement applies. The threshold amount is for all electioneering communications, not just electioneering communications that include the name of a single candidate.

Example: PAC X, an unlimited committee, makes a \$10,000 electioneering communication 15 days before the primary election. PAC X then makes additional electioneering communications on the Monday, Tuesday and Wednesday before the primary election, each valued at \$1,000. Here, PAC X is only required to file an IE/EC Report at the same time candidate committees are required to file the pre-election reports. It is not required to make next business day reports because the committee only expended \$3,000 for electioneering communications during the next business day reporting period (i.e., the period beginning no more than 14 days prior to primary election).

Example: A political action committee makes electioneering communications of Two Thousand Dollars (\$2,000.00) mentioning Candidate Smith, Two Thousand Dollars (\$2,000.00) mentioning Candidate Jones and Two Thousand Dollars mentioning Candidate

Johnson. The committee must report all three electioneering communications because they exceed Five Thousand Dollars (\$5,000.00) in the aggregate.

Reports must be filed by persons making electioneering communications that exceed the threshold amount, even when the persons are not political action committees registered with the Commission.

Example: The Widget Manufacturers Association makes electioneering communications of Fifty Thousand Dollars (\$50,000.00) mentioning Candidate Smith. Even though the Association is not a political action committee, it must file a report.

When a person other than a political action committee receives funds for the purpose of making an electioneering communication, it must identify by name, address and principal business activity each person that contributes funds in excess of Fifty Dollars (\$50.00) in the aggregate. The report is cumulative of all contributions made by each person since the first report was filed.

Example: The Widget Manufacturers Association asks its members to make contributions to make electioneering communications. The Association must report the identity of all persons that make such contributions.

Example: The Widget Manufacturers Association decides to make electioneering communications mentioning Candidate Smith. However, the Association decides to use funds already collected to make the communications. The Association never solicited funds to make electioneering communications. The Association must make a report, but is not required to identify individual contributors.

Example: The Widget Manufacturers Association asks its members to make contributions to make electioneering communications to defeat Candidate Smith. The Association then makes electioneering communications that trigger the reporting requirement, but uses both contributions made in response to its solicitation and funds already collected to make the expenditures. The Association must report the identity of all persons that make contributions in response to its solicitation.

Paragraph F requires any non-profit corporation that makes an electioneering communication to identify every contributor in excess of \$50.00 for the current and previous calendar years if the corporation has not been officially approved for non-profit status under Section 501(C) by the Internal Revenue Service. This identification must be made regardless of the purpose for which the contributions were made. The purpose of this provision is to prevent the abuse of section 501(C) to hide the individuals or entities funding electioneering communications.

Paragraph H makes it clear that any electioneering communication that is coordinated with a candidate or candidate committee in any way will be treated as a contribution to the candidate committee, which could result in prohibited excessive contributions or corporate contributions in many circumstances.

Reports of State Question Communications

Rule 2.109 Time and Requirements for State Question Communications.

(A) Any person other than an individual, including a political action committee, that makes a state question communication of Five Thousand Dollars (\$5,000.00) or more in the aggregate at least fifteen (15) days prior to an election shall be required to file a report with the Commission at the same time that candidate committees are required to file pre-election reports for the applicable election.

(B) Any person other than an individual, including a political action committee, that makes a state question communication of Five Thousand Dollars (\$5,000.00) or more in the aggregate during the period beginning no more than fourteen (14) days prior to any election and ending on the day of the election shall make a report to the Commission no later than the business day following the day the expenditure is made.

(C) Each report filed by a person other than a political action committee shall include the name and address of the person making the state question communication and the name, street address, telephone number, and office or title of the individual filing the report.

(D) Each report filed shall include the name of the political action committee or the person making the state question communication; the amount, date and a brief description or statement of the state question communication; and identification of the specific state question supported or opposed, indicating whether the state question was supported or opposed.

(E) If the person making the state question communication, other than a political action committee, received funds from any other person for the purpose of making state question communications, the report shall include the name, address and principal business activity of each person contributing funds in excess of Fifty Dollars (\$50.00) in the aggregate and the amount of any such contribution or contributions that have not been previously reported, together with a cumulative total of all contributions made by each person since the first report was filed for the election for which the state question communication was made. As used in this section, "for the purpose of" means that the funds are either (1) received by an organization or corporation in response to a solicitation specifically requesting funds to pay for a state question communication; or (2) specifically designated for expenditures supporting or opposing a state question by the donor.

(F) If the person making the state question communication is a non-profit corporation that has not been officially approved by the United States Internal Revenue Service for tax exempt status under Section 501(c) of Title 26 of the United States Code as it currently exists or as it may be amended, the report shall include the name, address and principal business activity of each person contributing funds in excess of Fifty Dollars (\$50.00) in the aggregate to the corporation during the current calendar year and the preceding calendar year and the amount of any such contribution or contributions that have not been previously reported, together with a cumulative total of all contributions made by each person since the first report was filed for the election for which the state question communication is made.

(G) Reports required by this section shall not relieve the person making the report from filing other reports required by these Rules.

History

Promulgated by Ethics Commission January 27, 2017; effective upon sine die adjournment of the Legislature May 26, 2017; operative May 26, 2017.

The 2017 Rule was inserted as Rule 2.109 causing the prior Rule 2.109 and all subsequent Rules in Rule 2 to be renumbered.

Commission Comment

The 2017 Rule was inserted as Rule 2.109 because it is substantively similar to Rule 2.107 and Rule 2.108 concerning reporting requirements of significant expenditures prior to an election.

An individual who makes a state question communication from personal funds is not required to file a report.

Generally, reports of state question communications follow the same time schedule as reports made by candidate committees, regardless of the entity required to make the report. If the state question communications are made in time to be reported during the pre-election reporting period, then reports of such expenditures are made during the same time frame. If the state question communication(s) is made following the last day covered by the pre-election reports, then the State Question Communication report must be made on the next business day after the expenditure is made.

Political action committees that make state question communications also must include those expenditures in the committee's next quarterly report.

The threshold amount of Five Thousand Dollars (\$5,000.00) is an aggregate figure. Once it is exceeded, the reporting requirement applies.

Example: *Support SQ 000 PAC, an unlimited state question committee, makes a \$10,000 state question communication 15 days before SQ 000 is decided. Support SQ 000 PAC then makes additional state question communications on the Monday, Tuesday and Wednesday of the week SQ 000 will be decided, each valued at \$1,000. Here, Support SQ 000 is only required to file a*

Pre-Election SQ Communication Report at the same time candidate committees are required to file the pre-election reports. It is not required to make next business day reports because the committee only expended \$3,000 for SQ communications during the next business day reporting period (i.e., the period beginning no more than 14 days prior to the election to the day of the election deciding SQ 000).

Reports must be filed by persons making state question communications that exceed the threshold amount, even when the persons are not political action committees that are registered with the Commission.

Example: The Widget Manufacturers Association makes state question communications of Fifty Thousand Dollars (\$50,000.00) to advocate the defeat of State Question 123. Even though the Association is not a political action committee, it must file a State Question report.

When a person other than a political action committee receives funds for the purpose of making a state question communication, it must identify by name, address and principal business activity of each person that contributes funds in excess of Fifty Dollars (\$50.00) in the aggregate. The report is cumulative of all contributions made by each person since the first report was filed.

Example: The Widget Manufacturers Association asks its members to make contributions to make state question communications to defeat State Question 123. The Association then makes state question communications that trigger the reporting requirement. The Association must report the identity of all persons that make contributions in response to its solicitation.

Example: The Widget Manufacturers Association decides to make state question communications to defeat State Question 123. However, the Association decides to use funds already collected to make the communications. The Association never solicited funds to make state question communications. The Association must make a report, but is not required to identify individual contributors.

Example: The Widget Manufacturers Association asks its members to make contributions to make state question communications to defeat State Question 123. The Association then makes state question communications that trigger the reporting requirement, but it uses both contributions made in response to its solicitation and funds already collected to make the expenditures. The Association must report the identity of all persons that make contributions in response to its solicitation.

Paragraph F requires any non-profit corporation that makes a state question communication to identify every contributor in excess of \$50.00 for the current and previous calendar years if the corporation has not been officially approved for non-profit status under Section 501(C) by the Internal Revenue Service. This identification must be made regardless of the purpose for which the contributions were made. The purpose of this provision is to prevent the abuse of section 501(C) to hide the individuals or entities funding state question communications.

Resources Used for Campaign Communications

Rule 2.110. Campaign Communications Received on State Equipment by State Officer or Employee.

When an unsolicited campaign communication is received on a state-owned telephone, state electronic mail or other state equipment or services, the state officer or employee who receives the communication may either (1) not respond, (2) unsubscribe, if that option is available or (3) send a reply that substantially states: "Your message has been sent to a (telephone, electronic mail, etc.) that is the property of the State of Oklahoma. This is a request for you to immediately terminate any such communications."

History

Promulgated by Ethics Commission January 10, 2014; effective upon Legislature's sine die adjournment May 23, 2014; operative January 1, 2015.

The 2017 amendment's addition of a new Rule as section 2.109 modified this Rule's section number from 2.109 to 2.110.

Commission Comment

In an age of computer-produced electronic mail and automated telephone calls, state officers and employees may inadvertently receive campaign communications on state equipment. This Rule provides guidance to those state officers and employees as to how they may respond in such instances.

Rule 2.111. Use of Personal Resources for Volunteer Campaign Communications.

Use by an individual of personal telephone, electronic mail, Internet social media or similar electronic devices or services for campaign communications shall be considered volunteer services and not contributions.

History

Promulgated by Ethics Commission January 10, 2014; effective upon Legislature's sine die adjournment May 23, 2014; operative January 1, 2015.

The 2017 amendment's addition of a new Rule as section 2.109 modified this Rule's section number from 2.110 to 2.111.

Commission Comment

This Rule basically categorizes volunteer services made by the use of personal electronic media the same as other volunteer services.

Rule 2.112. Use of Commercial Resources for Campaign Communications.

Use by a commercial entity, including corporations, of telephone, electronic mail, Internet social media or similar electronic devices or services for campaign communications shall be considered as in-kind contributions to a political party committee, political action committee or candidate committee unless the political party committee, political action committee or candidate committee has made an expenditure to pay for the communications.

History

Promulgated by Ethics Commission January 10, 2014; effective upon Legislature's sine die adjournment May 23, 2014; operative January 1, 2015.

The 2017 amendment's addition of a new Rule as section 2.109 modified this Rule's section number from 2.111 to 2.112.

Commission Comment

This Rule distinguishes the use of commercial electronic media from personal electronic media. See Rule 2.111. When commercial services are used, those services cannot be "volunteered" but are considered as in-kind contributions. Unless paid for by a political party committee, limited committee or candidate committee benefitting from use of the services, such services provided by a corporation would constitute an unlawful corporate contribution to the recipient.

Example: *A lawyer who is the sole member of a professional limited liability company, operating as a law firm, may volunteer his or her services to a campaign, but cannot use resources of the law firm, such as computers, copiers, or telephones, in the course of his or her volunteer work for a campaign. The lawyer also may not use the personnel of the law firm for volunteer services. Use of the law firm's resources would be a contribution to the campaign from the law firm. In this example the law firm is an L.L.C., owned by one member. If L.L.C resources were used free of charge, the services from the L.L.C. would be reported as a contribution from the lawyer.*

Contributions from corporations are prohibited, including for profit, nonprofit, and professional corporations. Note that in the example above, if the law firm was incorporated, use of corporate resources would be a prohibited corporate contribution.

Rule 2.113. Website Development, Internet Advertising, Other Electronic Services.

Expenditures for development of Internet websites, Internet advertising, electronic mail lists and similar electronic communications services shall be considered ordinary expenditures by a political party committee, political action committee or candidate committee.

History

Promulgated by Ethics Commission January 10, 2014; effective upon Legislature's sine die adjournment May 23, 2014; operative January 1, 2015.

The 2017 amendment's addition of a new Rule as section 2.109 modified this Rule's section number from 2.112 to 2.113.

Commission Comment

This Rule provides simply that expenditures made for development of Internet and other electronic communications are treated as ordinary expenses, just the same as expenditures for development of television commercials or newspaper advertising.

Dissolution

Rule 2.114. Dissolution of Political Party Committee.

A political party committee may dissolve when the political party ceases to be recognized under the laws of the state. The committee shall file a Final Report of Contributions and Expenditures that shows no funds remaining in the committee.

History

Promulgated by Ethics Commission January 10, 2014; effective upon Legislature's sine die adjournment May 23, 2014; operative January 1, 2015.

The 2017 amendment's addition of a new Rule as section 2.109 modified this Rule's section number from 2.113 to 2.114.

Commission Comment

This dissolution provision recognizes the unique status of political parties within the political landscape. Generally formed as perpetual organizations, the dissolution of a political party committee is permitted only when the party is no longer recognized under state law. It then must dispose of all of its funds and file a final report. The committee may dissolve after resolving any debt. See Rule 2.117.

Rule 2.115. Dissolution of Political Action Committee.

A political action committee may dissolve at any time by filing a Final Report of Contributions and Expenditures that shows no funds remaining in the committee.

History

Promulgated by Ethics Commission January 10, 2014; effective upon Legislature's sine die adjournment May 23, 2014; operative January 1, 2015.

The 2017 amendment's addition of a new Rule as section 2.109 modified this Rule's section number from 2.114 to 2.115.

Commission Comment

This Rule simply requires political action committees to terminate their existence by filing a final report that shows no funds remaining in the committee. The committee may dissolve after resolving any debt. See Rule 2.117.

If a political action committee does not dissolve to the satisfaction of the Commission, and a Final Report of Contributions and Expenditures is not filed on or before December 31st, pursuant to Rule 2.118, the political action committee must renew its registration and pay registration fees in January of each year.

Rule 2.116. Dissolution of Candidate Committee.

A candidate committee may dissolve at any time by filing a Final Report of Contributions and Expenditures that shows no funds remaining in the committee. A candidate committee shall dissolve no later than two (2) years after the general election for an office with a two-year term, no later than four (4) years after the general election for an office with a four-year term, and no later than six (6) years after the general election for an office with a six-year term, if not required to dissolve sooner by law or these Rules.

History

Promulgated by Ethics Commission January 10, 2014; effective upon Legislature's sine die adjournment May 23, 2014; operative January 1, 2015.

The 2017 amendment's addition of a new Rule as section 2.109 modified this Rule's section number from 2.115 to 2.116.

Commission Comment

Candidate committees may file a final report and dissolve only when there are no funds remaining in the committee.

Candidate committees are required to terminate their existence by a date certain. Candidates, including candidates losing an election, have a continuing duty to timely submit Reports of Contributions and Expenditures, even if the candidate committee has no activity, until the candidate committee is dissolved to the satisfaction of the Commission and a Final Report of Contributions and Expenditures is filed. See, also, Rule 2.48 for candidates who are not elected.

The mandatory time frames for dissolution of candidate committees are based on the term of office for the office that the candidate serves. This ensures the timely dissolution of candidate committees and levels the playing field for successful candidates and unsuccessful candidates. The committee may dissolve after resolving any debt. See Rule 2.117.

Advisory Opinion 2019-01: *A candidate committee without funds remaining in its campaign depository must dissolve by the specified mandatory dissolution date as established in Rule 2.116.*

However, a candidate committee with funds remaining in its campaign depository on the specified mandatory dissolution date as established in Rule 2.116 are, from the mandatory dissolution date and on, no longer permitted to (1) receive contributions, (2) contribute to other candidate committees, (3) make campaign expenditures, or (4) make operating expenditures. However, such committees may make the following expenditures:

- b. Candidate committees of **elected officers** may make expenditures (1) for officeholder expenses until his/her term expires or the office is vacated and (2) of surplus funds as provided for in Rule 2.48 for ninety (90) days after the officeholder's term is*

completed or vacated; or
c. Candidate committees of **unelected candidates** may make expenditures of surplus funds as provided for in Rule 2.48 for ninety (90) days after the second year following the general election for which the committee was formed.

After the ninety (90) day period has ended, any remaining funds must be deposited in the state's general revenue fund.

Rule 2.117. Resolution of Committee Debt.

If a political party committee, political action committee or candidate committee has debt at the time of dissolution, the Final Report of Contributions and Expenditures shall describe in detail the resolution of the debt. Resolution of debt shall be made in a commercially reasonable manner. Resolution of debt to a corporation or to any other person for the purpose of evading prohibitions or limitations of these Rules shall be considered a contribution to the committee in the amount of the forgiven debt.

History

Promulgated by Ethics Commission January 10, 2014; effective upon Legislature's sine die adjournment May 23, 2014; operative January 1, 2015.

The 2017 amendment's addition of a new Rule as section 2.109 modified this Rule's section number from 2.116 to 2.117.

Commission Comment

Sometimes political party committees, political action committees and candidate committees are unable to pay all their bills before dissolving. For a candidate committee, dissolution is mandatory. Any outstanding debt at the time of dissolution must be resolved in a commercially reasonable manner. The term "commercially reasonable manner" is not defined, so it is subject to proof. Care should be taken to ensure that this requirement is met. If not, any forgiven debt will be treated as a contribution to the committee. If a debt is forgiven by a corporation in a manner that is not commercially reasonable, the amount of the forgiven debt would constitute an unlawful contribution to a political party committee, a limited committee or a candidate committee.

Rule 2.118. Final Report of Contributions and Expenditures.

A Final Report of Contributions and Expenditures shall include, but not be limited to, the same information that is included on a Report of Contributions and Expenditures and shall cover a period beginning after the last day of the immediately preceding reporting period and ending on the day before the Final Report of Contributions and Expenditures is filed. Provided, however, the Final Report of Contributions and Expenditures shall include information about the resolution of debt, if any, and the disposition of tangible assets, if any, by the committee. If tangible assets are purchased from a candidate committee by the candidate or a member of the candidate's family, or from a political action committee by an officer or family member of an officer of the political action committee, the purchase price must be fair market value.

History

Promulgated by Ethics Commission January 10, 2014; effective upon Legislature's sine die adjournment May 23, 2014; operative January 1, 2015.

Amendment promulgated by Ethics Commission January 9, 2015; effective upon sine die adjournment of the Legislature May 22, 2015; operative May 22, 2015.

The 2015 amendment added the words "and the disposition of tangible assets, if any, to the second sentence, and added the sentence, "If tangible assets are purchased from a candidate committee by the candidate or a member of the candidate's family, or from a political action committee by an officer or family member of an officer of the political action committee, the purchase price must be fair market value."

The 2017 amendment's addition of a new Rule as section 2.109 modified this Rule's section number from 2.117 to 2.118.

Commission Comment

A final report can be filed at any time, provided the committee filing the report has no funds. See Rules 2.114, 2.115, and 2.116.

Tangible assets, other than vehicles, purchased by a candidate committee can be transferred/donated in-kind, or sold and the sale proceeds transferred/donated, for the purposes set forth in Rule 2.48 and provided the candidate or committee officers do not receive a personal benefit from the transfer or donation. Further, the committee may not donate assets to the candidate or family member of the candidate, or an officer or family member of an officer of a PAC without fair market value being remitted to the committee.

If tangible assets are purchased from a candidate committee by the candidate or a member of the candidate's family, or from a political action committee by an officer or family member of an officer of the political action committee, the committee may be required to show what considerations were made in determining fair market value.

Other Funds

Rule 2.119. Special Committees.

A. When an elected state officer solicits or authorizes the solicitation of monetary or in-kind contributions for an event such as an inaugural event associated with the officer's office, the officer shall create a special committee for that purpose. The committee shall register and make one report of contributions received and expenditures made within one hundred eighty (180) days after the event is held. Any person not otherwise prohibited by law, including but not limited to individuals, partnerships, limited liability companies, corporations and labor unions, may make contributions in any amount to such committees.

B. When a state officer or employee or a state agency sponsors in part or in whole a conference, seminar, meeting or other event for which a state officer or employee solicits funds, goods or services to assist with expenses associated with the event, the sponsoring officer or agency shall create a special committee for that purpose. The committee shall register and make one report of contributions received and expenditures made within one hundred eighty (180) days after the event is held. Any person not otherwise prohibited by law, including but not limited to individuals, partnerships, limited liability companies, corporations and labor unions, may make contributions in any amount to such committee. For purposes of this paragraph, "sponsors" means to permit the name of the state officer or employee or state agency to be used in promoting the event.

History

Promulgated by Ethics Commission January 10, 2014; effective upon Legislature's sine die adjournment May 23, 2014; operative January 1, 2015.

Amendment promulgated by Ethics Commission January 9, 2015; effective upon sine die adjournment of the Legislature May 22, 2015; operative May 22, 2015.

The 2015 amendment added Subsection (B) in its entirety.

The 2017 amendment's addition of a new Rule as section 2.109 modified this Rule's section number from 2.118 to 2.119.

Commission Comment

Typically, there are a number of events surrounding the inauguration of the Governor, including but not limited to inaugural balls. This Rule requires that funds received for and expenditures made for these purposes be reported. The Rule is not limited to the gubernatorial inaugural events, but includes such events as the Speaker's Ball and other similar events that acknowledge a state officer in connection with his or her election or appointment to that office. A committee must be formed to receive funds and make expenditures for these events. While there is no express requirement for a separate segregated account to be established, such a requirement is implied by this Rule. There are no limits on the sources or amounts of contributions to such committees. The committee must register and make one report at any time within one hundred eighty (180) days following the event. This requirement implies that no additional funds will be received, and no additional expenditures made after the report is made.

This Section also requires the formation of a special committee with identical registration and reporting requirements when a state officer or employee or a state agency sponsors in part or in whole a conference, seminar, meeting or other event for which a state officer or employee solicits funds, goods or services to assist with expenses associated with the event. "Sponsors" in this instance means to permit the use of the name of a state officer or employee or state agency in promotion of the event; an unauthorized use does not trigger the registration or reporting requirement.

Rule 2.120. Litigation Funds.

When an elected state officer solicits or authorizes the solicitation of monetary or in-kind contributions to pay for the costs of defending the officer in a criminal prosecution or when an elected state officer solicits or authorizes the solicitation of monetary or in-kind contributions to pay for the costs of prosecuting or defending a civil lawsuit, the officer shall create a special committee for that purpose. The committee shall register and make reports of contributions received and expenditures made at the same time and for the same time period as is required for political action committees under these Rules. The committee may be dissolved the same as a political action committee is dissolved under these Rules. Any person not otherwise prohibited by law, including but not limited to individuals, partnerships, limited liability companies, corporations and labor unions, may make contributions in any amount to such committees.

History

Promulgated by Ethics Commission January 10, 2014; effective upon Legislature's sine die adjournment May 23, 2014; operative January 1, 2015.

The 2017 amendment's addition of a new Rule as section 2.109 modified this Rule's section number from 2.119 to 2.120.

Commission Comment

This Rule provides the procedure to be used when an elected state officer creates a legal defense fund or similar fund. It applies to costs for both criminal and civil litigation, and in cases of civil litigation, it can be used either for the prosecution of or defense of the lawsuit. See Rules 2.85 and 2.105.

When solicitations are made for such a fund, a committee must be created, and the committee registers and makes reports just the same as a political action committee. While there is no express requirement for a separate segregated account to be established, such a requirement is implied by this Rule. There are no limits on the sources or amounts of contributions to such committees.

Rule 2.121. Special Committee Reports.

The Executive Director of the Commission shall devise Statements of Organization and Reports of Contributions and Expenditures forms for these special committees that include the same information as those forms for political action committees to the extent determined by the Executive Director to be practical.

History

Promulgated by Ethics Commission January 10, 2014; effective upon Legislature's sine die adjournment May 23, 2014; operative January 1, 2015.

The 2017 amendment's addition of a new Rule as section 2.109 modified this Rule's section number from 2.120 to 2.121.

Commission Comment

This Rule simply provides for the administrative execution of forms to be used by special committees contemplated by Rules 2.119 and 2.120.

Electronic Filing

Rule 2.122. Electronic Filing.

All documents required to be filed with the Commission under these Rules shall be filed electronically, unless otherwise ordered by the Commission or the Executive Director of the Commission.

History

Promulgated by Ethics Commission January 10, 2014; effective upon Legislature's sine die adjournment May 23, 2014; operative January 1, 2015.

The 2017 amendment's addition of a new Rule as section 2.109 modified this Rule's section number from 2.121 to 2.122.

Commission Comment

This Rule recognizes that there may be unforeseen circumstances, such as natural disasters or equipment failures, that make electronic filing impossible or impractical and provides a response to such circumstances.

Rule 3
Financial Disclosure

Rule 3.1. Purpose of Rule 3. [Repealed]

Repealed, effective July 1, 2016.

History

Promulgated by Ethics Commission January 10, 2014; effective upon Legislature's sine die adjournment May 23, 2014; operative January 1, 2015.

Repealed by Ethics Commission December 11, 2015; effective July 1, 2016.

The rule read as follows: "The purpose of Rule 3 is to establish rules of ethical conduct for state officers and employees by requiring financial disclosure that reveals potential conflicts between their public duties and private economic interests."

Rule 3.2. Definitions. [Repealed]

Repealed, effective July 1, 2016.

History

Promulgated by Ethics Commission January 10, 2014; effective upon Legislature's sine die adjournment May 23, 2014; operative January 1, 2015.

Repealed by Ethics Commission December 11, 2015; effective July 1, 2016.

The rule read as follows:

"As used in Rule 3:

1. 'Agency' means any entity of state government created by the Constitution or laws of the State of Oklahoma and supported in whole or in part by state funds or entrusted with the expending of state funds or administering of state property or otherwise exercising the sovereign power of the State of Oklahoma, including but not limited to all such offices, departments, institutions, boards, bureaus, commissions, agencies, authorities and instrumentalities of the State of Oklahoma. "Agency" shall not mean any city, county, rural electric cooperative or tribal housing authority created under the Oklahoma Housing Authorities Act nor any state entity that performs only advisory functions and that cannot independently exercise the sovereign power of the State of Oklahoma;
2. 'Candidate' shall mean an individual who has filed a statement of organization for a candidate committee as required by these Rules;
3. 'Commission' shall mean the Oklahoma Ethics Commission;
4. 'Dependent' shall mean an individual claimed as a dependent on the filer's federal or state income tax return;
5. 'Filer' shall mean an individual required to file a Financial Disclosure Statement as required by these Rules; and
6. 'Material financial interest' shall mean:
 - (a) an interest that could result in directly or indirectly receiving a substantial pecuniary gain or sustaining a substantial pecuniary loss as a result of a filer's ownership or interest in a business entity, or as a result of a filer's salary, gratuity or other compensation or remuneration; or
 - (b) an ownership interest in a private business, including but not limited to, a closely held corporation, limited liability company, Subchapter S corporation or partnership for which the filer or the filer's spouse or dependents is a director, officer, owner, manager, employee, or agent or any private business, closely held corporation or limited liability company in which the filer or the filer's spouse or dependent owns or has owned stock, another form of equity interest, stock options, debt instruments, or has received dividends or income worth Five Thousand Dollars (\$5,000.00) or more at any point during the preceding calendar year; or
 - (c) an ownership interest of five percent (5%) or more in a publicly held corporation by a filer or the filer's spouse; or
 - (d) an ownership interest in a publicly held corporation from which dividends of Fifty Thousand Dollars (\$50,000.00) or more were derived

during the preceding calendar year by the filer or the filer's spouse or dependents; or

(e) an ownership interest in a Subchapter S corporation or partnership from which income of Fifty Thousand Dollars (\$50,000.00) or more was derived; or

(f) an interest that arises as a result of the filer's or the filer's spouse or dependents' service as a director, officer, representative, agent or employee of a publicly held corporation during the preceding calendar year.

"Material financial interest" shall not mean (1) an interest in a mutual fund or other community investment vehicle in which the filer or the filer's spouse or dependents exercises no control over the acquisition or sale of particular holdings, or (2) an interest in a pension plan, 401k, individual retirement account or other retirement investment vehicle that makes diversified investments over which the filer or the filer's spouse or dependents exercises no control over the acquisition or sale of particular holdings."

**Rule 3.3. Persons Required to File Financial Disclosures.
[Repealed]**

Repealed, effective July 1, 2016.

History

Promulgated by Ethics Commission January 10, 2014; effective upon Legislature's sine die adjournment May 23, 2014; operative January 1, 2015.

Repealed by Ethics Commission December 11, 2015; effective July 1, 2016.

The rule read as follows:

"The following persons are required to file Financial Disclosure Statements:

(1) All elected state executive, legislative and judicial officers;

(2) All state judicial officers subject to retention;

(3) All candidates for state elective executive, legislative and judicial offices;

(4) All chief administrative officers and first assistant administrative officers of each agency;

(5) All state officers and employees who make policy decisions;

(6) All state officers and employees who are engaged in purchasing decisions; and

(7) All members of boards, commissions, authorities and similar public bodies of state agencies.

As used in this section, "state officers and employees who make policy decisions" shall mean state officers and employees (a) who determine policies or (b) who vote on policies, provided the policies are not internal policies used only for operation of the state entity affected.

As used in this section, "state officers and employees who are engaged in purchasing decisions" shall mean state officers and employees who perform functions in the purchasing process for purchases in excess of Fifty Thousand Dollars (\$50,000.00), including but not limited to participation

(a) in preparation of requests for proposals, bid specifications or similar documents, or (b) in review and evaluation of proposals, bids or similar responses, or (c) in recommendations for selection of successful proposals or bids or other similar awards, or (d) in approval of requisitions for purchase. It shall not apply to persons performing only nondiscretionary or clerical functions."

**Rule 3.4. Generally One Financial Disclosure Per Year.
[Repealed]**

Repealed, effective July 1, 2016.

History

Promulgated by Ethics Commission January 10, 2014; effective upon Legislature's sine die adjournment May 23, 2014; operative January 1, 2015.

Repealed by Ethics Commission December 11, 2015; effective July 1, 2016.

The rule read as follows: "No individual shall be required to file a Financial Disclosure Statement more than one time during any calendar year, except in the case of a Final Disclosure Statement as provided in this Rule."

**Rule 3.5. Filing Deadline for State Officers and Employees.
[Repealed]**

Repealed, effective July 1, 2016.

History

Promulgated by Ethics Commission January 10, 2014; effective upon Legislature's sine die adjournment May 23, 2014; operative January 1, 2015.

Repealed by Ethics Commission December 11, 2015; effective July 1, 2016.

The rule read as follows: "Except as provided in Rules 3.6 and 3.8, all Financial Disclosure Statements shall be filed no later than May 15 of each calendar year; provided, however, an individual who becomes an officer or employee required to file a Financial Disclosure Statement later than May 1 of any calendar year shall file a Financial Disclosure Statement within thirty (30) days thereafter. An extension of no more than thirty (30) days shall be granted upon an application in writing filed with the Commission within the ten (10) days prior to the last day for filing the Financial Disclosure Statement."

Rule 3.6. Filing Deadline for Candidates. [Repealed]

Repealed, effective July 1, 2016.

History

Promulgated by Ethics Commission January 10, 2014; effective upon Legislature's sine die adjournment May 23, 2014; operative January 1, 2015.

Repealed by Ethics Commission December 11, 2015; effective July 1, 2016.

The rule read as follows: "A candidate shall file a Financial Disclosure Statement at the same time he or she files a statement of organization for a candidate committee and shall file a Financial Disclosure Statement as required by Rule 3.5 as long as he or she is a candidate."

Rule 3.7. Amended Financial Disclosure Statements. [Repealed]
Repealed, effective July 1, 2016.

History

Promulgated by Ethics Commission January 10, 2014; effective upon Legislature's sine die adjournment May 23, 2014; operative January 1, 2015.

Repealed by Ethics Commission December 11, 2015; effective July 1, 2016.

The rule read as follows: "A filer may file an Amended Financial Disclosure Statement at any time to correct a bona fide oversight or error in the Financial Disclosure Statement previously filed, provided the filer certifies that the filing of an Amended Financial Disclosure Statement is not made for the purpose of reporting information that was intentionally omitted or misstated on the previously-filed Financial Disclosure Statement. If the filer files a certified Amended Financial Disclosure Statement that is not in fact made for the purpose of reporting information that was intentionally omitted or misstated, the filer shall not be deemed to have violated these Rules by having made an erroneous prior filing."

**Rule 3.8. Final Financial Disclosure Statements Required.
[Repealed]**

Repealed, effective May 27, 2016.

History

Promulgated by Ethics Commission January 10, 2014; effective upon Legislature's sine die adjournment May 23, 2014; operative January 1, 2015.

Repealed by Ethics Commission December 11, 2015; effective upon sine die adjournment of the Legislature May 27, 2016.

The rule read as follows: "An individual who is required to file a Financial Disclosure Statement whose service to, or employment by, the State of Oklahoma ends for any reason other than death, disability or involuntary termination shall file a Final Financial Disclosure Statement at any time during the last thirty (30) days of his or her service to the state. A Final Financial Disclosure Statement shall be supplemented if any information provided therein changes in a material way prior to the filer's last day of service to, or employment by, the State of Oklahoma."

Rule 3.9. Agency Liaisons. [Repealed]

Repealed, effective July 1, 2016.

History

Promulgated by Ethics Commission January 10, 2014; effective upon Legislature's sine die adjournment May 23, 2014; operative December 1, 2014.

Repealed by Ethics Commission December 11, 2015; effective July 1, 2016.

The rule read as follows: "Each agency shall designate one (1) individual, hereafter designated as 'Agency Liaison'. Each Cabinet Secretary shall appoint an Agency Liaison who shall perform the duties of Agency Liaison for all agencies within the Secretary's Cabinet that have five (5) or fewer full-time equivalent employees. The Chief Administrative Officer of any agency shall serve as the Agency Liaison in the event there is a vacancy in the position. The Agency Liaison shall submit to the Commission during the month of December of each year a list of all officers and employees of the agency and all members of boards, commissions, authorities and similar public bodies of the agency required to file Financial Disclosure Statements under these Rules for the following calendar year. The list shall be submitted electronically and shall contain information prescribed by the Executive Director of the Commission. The Agency Liaison shall supplement the list at any time during the year with the names of newly elected, appointed or employed persons required to file Financial Disclosure Statements as soon as practical after such election, appointment or employment. When appropriate, the supplementary notice shall identify the individual being replaced. The Agency Liaison shall also supplement the list at any time during the year with the names of state officers or employees whose status is changed in such a way that they are required to make policy decisions or to be engaged in purchasing decisions as soon as practical after the status is changed. Only individuals whose names appear on the list shall be required to file Financial Disclosure Statements, unless the Commission determines that the names of others should be included on the list under these Rules. In such case, those individuals shall be required to file a Financial Disclosure Statement within thirty (30) days after the Commission's determination. The intentional or inadvertent omission of the name of an individual shall not subject the individual whose name is omitted to any liability resulting from the omission, unless that individual engaged in a conspiracy to cause the omission. The intentional omission of the name of an individual whose name the Agency Liaison knows or should know should have been placed on the list shall be a violation of these Rules by the Agency Liaison."

Rule 3.10. Electronic Filing. [Repealed]

Repealed, effective July 1, 2016.

History

Promulgated by Ethics Commission January 10, 2014; effective upon Legislature's sine die adjournment May 23, 2014; operative January 1, 2015.

Repealed by Ethics Commission December 11, 2015; effective July 1, 2016.

The rule read as follows: "Financial Disclosure Statements shall be filed electronically, unless otherwise ordered by the Commission or the Executive Director of the Commission."

Rule 3.11. Financial Disclosure Required Information.[Repealed]

Repealed, effective July 1, 2016.

History

Promulgated by Ethics Commission January 10, 2014; effective upon Legislature's sine die adjournment May 23, 2014; operative January 1, 2015.

Repealed by Ethics Commission December 11, 2015; effective July 1, 2016.

The rule read as follows:

"The following information shall appear on the Financial Disclosure Statement:

1. Name, mailing address, work place telephone number and electronic mail address of the filer;
2. If applicable, an indication that there has been no change in any of the information required from the Financial Disclosure Statement filed by the filer in the preceding calendar year;
3. Name of state office held or sought by filer or name of agency and position, whichever is applicable;
4. Expiration of term of office, if applicable;
5. Date of appointment, employment or election, as applicable;
6. Appointing authority, if applicable;
7. If applicable, the name, mailing address and category of business, profession or industry of the filer's private employer; or, if the filer is self-employed, the name, mailing address and category of business, profession or industry of the filer's self-employment; or, if the filer is retired, the name, mailing address and category of the filer's last employment, including self-employment;
8. The name of any agency providing salary or similar compensation in the amount of Five Thousand Dollars (\$5,000.00) or more received during the preceding calendar year by the filer or the filer's spouse or dependents indicating whether the income was realized by the filer or another named family member;
9. A list, by category of business, profession or industry, of any other entity providing income of any kind which the filer or the filer's spouse or dependents received in the amount of Five Thousand Dollars (\$5,000.00) during the preceding calendar year;
10. A list, by category of business, profession or industry, of entities, including mutual funds or similar securities, in which the filer held securities valued at Five Thousand Dollars (\$5,000.00) or more at any time during the preceding calendar year;
11. Any business or professional relationships with registered lobbyists that resulted in income in any amount to the filer or the filer's spouse or dependents during the preceding calendar year, stating with specificity the nature of the relationship;
12. Every office, directorship, trusteeship or similar position held by the filer in an entity doing business with any agency during the preceding calendar year and the agency with which the entity was doing business;
13. Professional or occupational permits or licenses held by the filer;

14. Contracts (other than a contract of employment) between an agency and the filer or the filer's spouse or dependents or any entity in which the filer or the filer's spouse or dependents has a material financial interest;
15. Whether the filer, the filer's spouse or dependents or an entity in which the filer or the filer's spouse or dependents has a material financial interest is regulated or licensed by the agency identified in subsection 3 of this Rule, or if the employer of the filer or filer's spouse or dependents is regulated or licensed by the agency and, if so, the name and mailing address of the individual or entity so regulated or licensed."

Rule 3.12. Final Financial Disclosure Statement Required Information. [Repealed]

Repealed, effective May 27, 2016.

History

Promulgated by Ethics Commission January 10, 2014; effective upon Legislature's sine die adjournment May 23, 2014; operative January 1, 2015.

Repealed by Ethics Commission December 11, 2015; effective upon sine die adjournment of the Legislature May 27, 2016.

The rule read as follows: "A Final Financial Disclosure Statement shall include all of the information required in a Financial Disclosure Statement and shall be for the period beginning January 1 of the year in which the statement is filed and ending on the last day of the filer's service as a state officer or state employee. For a filer whose service as a state officer or state employee ends during the first thirty (30) days in January of any year, the Final Financial Disclosure Statement shall be for the period beginning January 1 of the preceding year and ending on the last day of the filer's service as a state officer or employee."

Rule 3.13. Purpose of Rule 3.

The purpose of Rule 3 is to establish rules of ethical conduct to assist state officers who file financial disclosure statements to identify and disclose potential conflicts of interests between their public duties and private economic interests.

History

Promulgated by Ethics Commission December 11, 2015; effective July 1, 2016; operative July 1, 2016.

Commission Comment

Article XXIX, Section 3(A) of the Oklahoma Constitution requires the Commission to "promulgate rules of ethical conduct for campaigns for elective state office." As one way to address this requirement, the Commission requires elected state officers to disclose certain financial information so that the voters may have that information available for consideration. Article XXIX, Section 3(B) of the Oklahoma Constitution requires the Commission to "promulgate rules of ethical conduct for state officers and employees." As one way to address this requirement, the Commission requires financial disclosure to reveal potential conflicts of interest between the public duties and private financial interests of elected state officers.

Rule 3.14. Definitions

As used in Rule 3:

- A. "Commission" shall mean the Oklahoma Ethics Commission;
- B. "Dependent" shall mean an individual claimed as a dependent on the filer's federal or state income tax return;
- C. "Filer" shall mean an individual required to file a financial disclosure statement as required by these Rules.

History

Promulgated by Ethics Commission December 11, 2015; effective July 1, 2016; operative July 1, 2016.

Commission Comment

The rules are intended to ensure a required filer can clearly identify what information needs to be disclosed, whose information needs to be disclosed, and that the filer has access the information to be disclosed.

By defining "dependent" as an individual claimed on a tax return, the filer is clearly able to identify whose information may need to be disclosed and ensures the filer has access to the information necessary to be disclosed.

The term "filer" is used throughout the Ethics Rules. By defining "Filer" specifically in Rule 3, it clarifies when the term "filer" is used in Rule 3 it will only apply to those individuals who are required to file a financial disclosure statement under the Ethics Rules.

Rule 3.15. Financial Disclosure Statements

A. An initial financial disclosure statement shall be filed within thirty (30) days of assuming office for a full or partial term or as otherwise provided in these Rules.

B. Annual financial disclosure statements shall be filed between January 1 and May 15 of each year.

C. No individual shall be required to file more than one (1) financial disclosure statement for any calendar year.

D. A filer may amend a financial disclosure statement at any time to correct a bona fide oversight or error, provided the filer certifies that the amendment is not made for the purpose of reporting information that was intentionally omitted or misstated on a prior filed statement. If the filer files an amendment that is not in fact made for the purpose of reporting information that was intentionally omitted or misstated, the filer shall not be deemed to have violated these Rules by having made an erroneous prior filing.

E. Financial disclosure statements shall be filed electronically in the manner determined by the Executive Director of the Commission, unless otherwise ordered by the Commission or the Executive Director of the Commission.

F. All filers must provide to the Commission an electronic mail address that will be used by the filer to receive notifications regarding the electronic filing of financial disclosure statements.

History

Promulgated by Ethics Commission December 11, 2015; effective July 1, 2016; operative July 1, 2016.

Commission Comment

Paragraphs A and B establish the routine time period during which financial disclosure statements must be filed. All new filers are required to file an initial financial disclosure statement within 30 days of assuming office. For annual filers, the May 15th deadline follows filing deadlines for state and federal income taxes on April 15th of each year, thus making it convenient for filers to base their filings on recently-compiled financial information. Annual financial disclosure statements may be filed any time after January 1st for the preceding calendar year.

Paragraph C requires only one financial disclosure statement per calendar year.

Paragraph D allows filers to correct any unintentional errors on the statement. It is a violation of these rules to intentionally omit information from the statement.

Paragraph E requires filers to submit financial disclosure statements on The Guardian System—the Commission’s online reporting system.

Paragraph F requires a valid e-mail address for filers to receive notifications and filing instructions. This is how the Commission will communicate filers regarding financial disclosure filing.

An official's obligation to file continues even after the official leaves office; however, an official is not required to file a financial disclosure statement for the calendar year he or she leaves office.

Example: District Judge Smith retires on January 31, 2019. Judge Smith is required to file a financial disclosure statement for calendar year 2018, during the reporting period January 1 - May 15, 2019. However, Judge Smith will not be required to file a financial disclosure statement for calendar year 2019, during the reporting period January 1 - May 15, 2020.

Example: Representative Jones does not run for reelection in 2020, and leaves office in November of 2020. Representative Jones files a financial disclosure statement for calendar year 2019, during the reporting period January 1 - May 15, 2020. Representative Jones is not required to file a financial disclosure statement for calendar year 2020, during the reporting period January 1 - May 15, 2021.

Rule 3.16. Financial Disclosure for Elected Officers

A. All state officers who are elected or subject to retention to judicial office are required to file financial disclosure statements pursuant to this Rule.

B. Officers identified in subsection (A) of this Rule shall disclose the following information:

1. Name, mailing address, work place telephone number and electronic mail address of the filer;
2. Name of state office held by filer;
3. Beginning date of term of office;
4. Expiration date of term of office;
5. Acknowledgements of the jurisdiction of the Commission, the Ethics Rules, and educational opportunities provided by the Commission;
6. Acknowledgments of understanding of certain conflicts of interest Rules applicable to state officers;
7. Disclosure of all material financial interests as defined in subsection (C) of this Rule by disclosing the full name and address of the entity or entities; and
8. Any other information required by the Executive Director of the Commission that is consistent with the intent and purpose of these Rules.

C. For purposes of this Rule, a "material financial interest" shall mean:

1. an ownership interest in a private business, including but not limited to, a closely held corporation, limited liability company, Subchapter S corporation or partnership for which the filer, the filer's spouse or a dependent is a director, officer, owner, manager, employee, or agent or any private business, closely held corporation or limited liability company in which the filer, the filer's spouse or a dependent owns or has owned stock, another form of equity interest, stock options, debt instruments, or has received dividends or income worth Twenty Thousand Dollars (\$20,000.00) or more at any point during the preceding calendar year; or
2. an ownership interest of five percent (5%) or more in a publicly traded corporation or other business entity by a filer, the filer's spouse, or a dependent at any point during the preceding calendar year; or
3. an ownership interest in a publicly traded corporation or other business entity from which dividends or income, not to include salary, of Fifty Thousand Dollars (\$50,000.00) or more were derived during the preceding calendar year by the filer, the filer's spouse, or a dependent;

4. an interest that arises as a result of the filer's, the filer's spouse, or a dependent's service as a director or officer of a publicly traded corporation or other business entity at any time during the preceding calendar year; or
5. any sources of income derived from employment, other than compensation pertaining to the office for which the state officer is subject to election or retention, in the amount of Twenty Thousand Dollars (\$20,000.00) or more by the filer, the filer's spouse or a dependent not otherwise disclosed herein.

D. For purposes of this Rule a "material financial interest" shall not mean (1) an interest in a mutual fund or other community investment vehicle in which the filer, the filer's spouse or a dependent exercises no control over the acquisition or sale of particular holdings, or (2) an interest in a pension plan, 401k, individual retirement account or other retirement investment vehicle that makes diversified investments over which the filer, the filer's spouse or a dependent exercises no control over the acquisition or sale of particular holdings.

History

Promulgated by Ethics Commission December 11, 2015; effective July 1, 2016; operative July 1, 2016.

Commission Comment

This Rule is intended to require financial disclosure by all elected officials and judges subject to retention. This Rule is intended to make public the potential for financial conflicts by elected state officers who are in a position to make decisions or influence decisions that can result in the substantial expenditure of state funds either through direct purchases by the State or by policies that otherwise have an impact on public or private finances. This Rule is also intended to make the financial disclosure statements serve as an educational tool to introduce and reinforce the requirements of the Ethics Rules that pertain to conflicts of interests for state officers.

Elected state officers are individuals who were elected to their position after filing a Declaration of Candidacy for state office. Elected officials do not include individuals elected within an organization by members of that organization.

Rule 4
Conflicts of Interest

Rule 4.1. Purpose of Rule 4.

The purpose of Rule 4 is to establish rules of ethical conduct for state officers and employees by prohibiting conflicts between their public duties and private economic interests.

History

Promulgated by Ethics Commission January 10, 2014; effective upon Legislature's sine die adjournment May 23, 2014; operative January 1, 2015.

Commission Comment

Article XXIX, Section 3(B) of the Oklahoma Constitution requires the Commission to "promulgate rules of ethical conduct for state officers and employees." As one way to address this requirement the Commission requires financial disclosure to reveal potential conflicts of interest between the public duties and private financial interests of certain state officers and employees in Rule 3. In Rule 4, the Commission restricts certain conduct by state officers and employees to eliminate other potential conflicts of interest.

Rule 4.2. Definitions.

As used in Rule 4:

1. "Agency" means any entity of state government created by the Constitution or laws of the State of Oklahoma and supported in whole or in part by state funds or entrusted with the expending of state funds or administering of state property or otherwise exercising the sovereign power of the State of Oklahoma, including but not limited to all such offices, departments, institutions, boards, bureaus, commissions, agencies, authorities and instrumentalities of the State of Oklahoma. "Agency" shall not mean any city, county, rural electric cooperative or tribal housing authority created under the Oklahoma Housing Authorities Act nor any state entity that performs only advisory functions and that cannot independently exercise the sovereign power of the State of Oklahoma;
2. "Charitable organization" is one described in Section 501(c)(3) of Title 26 of the United States Code as it currently exists or as it may be amended;
3. "Commission" shall mean the Oklahoma Ethics Commission;
4. "Family member" shall include spouse, children (including stepchildren), mother, father, sister or brother;
5. "Gift" means property transferred to or service provided for another without compensation of equal value;
6. "Vendor" means any seller or prospective seller of any property or service to the State of Oklahoma; and
7. "Vendor's agent" means a representative of a vendor.

History

Promulgated by Ethics Commission January 10, 2014; effective upon Legislature's sine die adjournment May 23, 2014; operative January 1, 2015.

Amendment promulgated by Ethics Commission January 27, 2017; effective upon sine die adjournment of the Legislature May 26, 2017; operative May 26, 2017.

The 2017 amendment removed the following language under subsection (6) and moved the definition of Material Financial Interest to Rule 4.7:

"Material financial interest" shall mean:

- (a) an interest that could result in directly or indirectly receiving a substantial pecuniary gain or sustaining a substantial pecuniary loss as a result of a filer's ownership or interest in a business entity, or as a result of a filer's salary, gratuity or other compensation or remuneration; or
- (b) an ownership interest in a private business, including but not limited to a closely held corporation, limited liability company, Subchapter S corporation or partnership for which the filer or the filer's spouse or dependents is a director, officer, owner, manager, employee, or agent or any private business, closely held corporation

- or limited liability company in which the filer or the filer's spouse or dependents owns or has owned stock, another form of equity interest, stock options, debt instruments, or has received dividends or income worth Five Thousand Dollars (\$5,000.00) or more at any point during the preceding calendar year; or
- (c) an ownership interest of five percent (5%) or more in a publicly held corporation by a filer or the filer's spouse; or
 - (d) an ownership interest in a publicly held corporation from which dividends of Fifty Thousand Dollars (\$50,000.00) or more were derived during the preceding calendar year by the filer or the filer's spouse or dependents, or
 - (e) an ownership interest in a Subchapter S corporation or partnership from which income of Fifty Thousand Dollars (\$50,000.00) or more was derived; or
 - (f) an interest that arises as a result of the filer's or the filer's spouse or dependents' service as a director, officer, representative, agent or employee of a publicly held corporation during the preceding calendar year.

'Material financial interest' shall not mean (1) an interest in a mutual fund or other community investment vehicle in which the filer or the filer's spouse or dependents exercises no control over the acquisition or sale of particular holdings or (2) an interest in a pension plan, 401k, individual retirement account or other retirement investment vehicle that makes diversified investments over which the filer or the filer's spouse or dependents exercises no control over the acquisition or sale of particular holdings;"

The 2017 amendment removal of subsection 6 caused the remainder of the subsections to be renumbered.

Commission Comment

The definition of "agency" is intended to encompass all entities that exercise the sovereign power of the State. It does not include entities whose only powers, duties or responsibilities are advisory in nature.

"Family member" is defined to include the nuclear family—individual, spouse and children—for two generations: that of the state officer or employee and his or her parents.

"Vendor" may be an individual, e.g., an attorney, or a more complex business entity, such as a corporation.

Rule 4.3. Rules or Policies More Restrictive than Ethics Rules.

In addition to these Rules, a state officer or employee shall comply with any more restrictive rules or policies established by his or her employing agency and with any more restrictive provisions of the statutes of the State of Oklahoma; provided, the Commission shall not be responsible for enforcement of Rules other than these Rules unless otherwise required by law.

History

Promulgated by Ethics Commission January 10, 2014; effective upon Legislature's sine die adjournment May 23, 2014; operative January 1, 2015.

Commission Comment

Some agencies have adopted standards more restrictive than those in Rule 4. Officers and employees of those agencies must comply with those standards, and that agency, not the Ethics Commission, will enforce those more restrictive policies.

Rule 4.4. Misuse of Office.

Except as permitted by law or these Rules, a state officer or employee shall not use his or her State office (1) for his or her own private gain, (2) for the endorsement of any product, service or enterprise, (3) for the private gain of a family member or persons with whom the state officer or employee is affiliated in a nongovernmental capacity, including nonprofit organizations of which the state officer or employee is an officer or member, or (4) for the private gain of persons with whom the state officer or employee seeks employment or business relations. These prohibitions shall not apply to any act or endorsement if the act or endorsement is customary for the state officer or employee's position or is authorized or permitted by the state officer or employee's contract of employment or if otherwise permitted or authorized by the Constitution or statutes or by these Rules. A state officer or employee may promote or solicit funds for civic, community or charitable organizations, including those promoting businesses or industries, or civic, community or charitable fund-raising events provided the state officer or state employee receives nothing for doing so except the costs associated with the state officer or state employee's participation in a fund-raising promotion or event paid for from funds of a charitable organization. No individual or other entity may pay for, or reimburse the charitable organization for, any such costs and gratuities; provided, however, nothing shall prevent individuals or other entities from making customary donations or paying sponsorship fees to the charitable organization.

History

Promulgated by Ethics Commission January 10, 2014; effective upon Legislature's sine die adjournment May 23, 2014; operative January 1, 2015.

Commission Comment

This Rule embodies the principle that state officers and employees should not use their state offices to improperly enrich themselves or others.

The prohibitions in this Rule extend to direct private gain by the state officer or employee, to endorsements, to the private gain of family members, to the private gain of persons with whom the state officer or employee is affiliated in a nongovernmental capacity, including nonprofit organizations and to persons with whom the state officer or employee is seeking employment or other business relations.

The exception for "customary" practices is intended to cover such situations as consulting contracts for higher education faculty members, endorsement contracts for members of higher education athletic staff members and similar widely recognized and accepted practices.

A state officer or employee writing a professional reference letter for another individual is not a misuse of office if it is customary for the state officer's or employee's position and in accordance with other Ethics Rules.

The Rule also acknowledges that state officers and employees often properly engage in promotions and fund-raising activities for civic, community and charitable organizations. These events are exceptions to the general prohibition provided the state officer or employee receives nothing for doing so. There is an exception to the exception for charitable organizations which permits the costs associated with the state officer or employee's participation to be paid by the charitable organization, provided the charitable organization is not reimbursed for doing so.

Example: Olson, a professor of statistics at a state university, may accept a fee for testifying as an expert witness even though her credentials as an expert depend upon her state office.

Example: Stockton, a basketball coach at a state university, may endorse a particular brand of athletic wear if that is a customary practice for his professional position.

Example: Senator Smith may participate in a ribbon-cutting ceremony for Ajax Corporation, provided he receives nothing for doing so.

Example: Representative Jones may participate in a golf tournament to raise funds for a charity. Her costs, including breakfast and lunch and the costs of playing in the tournament may be paid by the charity.

Example: Ajax Corporation may not reimburse a charity for the costs of Representative Jones's participation in a golf tournament to raise funds for the charity. However, Ajax Corporation may make its customary sponsorship contribution to the charity.

Advisory Opinion 2017-01 found that while it is not a misuse of office for a member of the Council of Bond Oversight to vote to approve bond indebtedness issued by a state governmental entity and then purchase the bonds, there would be an appearance of a conflict of interest under Rule 4.7 that precludes a Council member from approving a bond issue and purchasing the bonds on the primary market. 2017 OK Ethics 01.

Rule 4.5. Misuse of Authority.

A state officer or employee shall not use or permit the use of his or her office or title or any authority associated with his or her state office, or a state office to which he or she has been elected, in a manner that is intended to coerce or induce another person, including a subordinate, to provide any benefit, financial or otherwise, to himself or herself or to his or her family members or persons with whom the state officer or employee is affiliated in a nongovernmental capacity, except to the extent otherwise permitted or authorized by the Constitution or statutes or by these Rules.

History

Promulgated by Ethics Commission January 10, 2014; effective upon Legislature's sine die adjournment May 23, 2014; operative January 1, 2015.

Commission Comment

This Rule is intended to prevent a state officer or employee from using, directing or enticing third parties to use the state officer or employee's public position to improperly enrich the state officer or employee or others.

Example: *Ferguson, who has been elected to a statewide office but has not yet taken the office, may not offer or threaten "special treatment" for someone that he will regulate as a state officer, depending on whether that person will provide employment or other financial benefits to his spouse.*

Example: *Owens, the head of a state agency, may not permit Finch, her deputy director, to suggest to a representative of Ajax Corporation that "my boss" (Owens) would really enjoy a weekend at the Ajax Corporation resort in Florida.*

Rule 4.6. State Officer or Employee Emergency Relief Efforts.

A state officer or employee participating in emergency rescue or relief efforts may accept goods or services that are provided generally to others participating in emergency rescue or relief efforts.

History

Promulgated by Ethics Commission January 10, 2014; effective upon Legislature's sine die adjournment May 23, 2014; operative January 1, 2015.

Commission Comment

During emergencies such as tornado relief efforts and similar situations, corporations and other organizations often set up facilities to provide food and other goods or services for relief workers, including those who are state officers and employees. This Rule permits state officers and employees to accept goods or services that are being provided to emergency workers in those circumstances.

Rule 4.7. State Officer Impartiality.

In the event a state officer or employee:

(1) knows that a particular matter involving specific parties is likely to have a direct and predictable effect on the material financial interests of the state officer or employee or of his or her family member; or

(2) knows that a person with whom he or she has a business relationship other than a routine consumer transaction is a party to or represents a party to such matter; or

(3) determines that the circumstances would cause a reasonable person with knowledge of the relevant facts to question his or her impartiality in the matter;

the state officer or employee shall not participate in the matter unless he or she is required to do so by law or permitted to do so by these Rules. This provision shall not apply when the effect of the matter applies equally to all members of a profession, occupation or large class. In considering whether a relationship would cause a reasonable person to question his or her impartiality, the state officer or employee may seek the advice of the Commission. The Commission may exercise discretion in determining whether or not to provide such advice or may delegate responsibility to the Executive Director to provide such advice. Such advice, if given by the Commission or the Executive Director, shall bind the Commission. Failure to seek such advice shall have no relevance in any subsequent proceeding involving that individual. A particular matter will have a direct and predictable effect on a material financial interest if there is a close causal link between any decision or action to be taken in the matter and any expected effect of the matter on the material financial interest, even though the effect is not immediate. It shall not apply to a chain of causation if it is attenuated or is contingent on the occurrence of events that are speculative or that are independent of, and unrelated to, the matter.

For purposes of this Rule, a "material financial interest" shall mean:

1. an ownership interest in a private business, including but not limited to, a closely held corporation, limited liability company, Subchapter S corporation or partnership for which the state officer or employee or his or her family member is a director, officer, owner, manager, employee, or agent or any private business, closely held corporation or limited liability company in which the state officer or employee or his or her family member owns or has owned stock, another form of equity interest, stock options, debt instruments, or has received dividends or income worth Twenty Thousand

- Dollars (\$20,000.00) or more at any point during the preceding calendar year; or
2. an ownership interest of five percent (5%) or more in a publicly traded corporation or other business entity by a state officer or employee or his or her family member at any point during the preceding calendar year; or
 3. an ownership interest in a publicly traded corporation or other business entity from which dividends or income, not to include salary, of Fifty Thousand Dollars (\$50,000.00) or more were derived during the preceding calendar year by the state officer or employee or his or her family member; or
 4. an interest that arises as a result of the state officer's or employee's or his or her family member's service as a director or officer of a publicly traded corporation or other business entity at any time during the preceding calendar year; or
 5. any sources of income derived from employment, other than compensation pertaining to the office for which the state officer or employee or his or her family member holds, in the amount of Twenty Thousand Dollars (\$20,000.00) or more by the state officer or employee or his or her family member.

For purposes of this Rule a "material financial interest" shall not mean (1) an interest in a mutual fund or other community investment vehicle in which the state officer or employee or his or her family member exercises no control over the acquisition or sale of particular holdings, or (2) an interest in a pension plan, 401k, individual retirement account or other retirement investment vehicle that makes diversified investments over which the state officer or employee or his or her family member exercises no control over the acquisition or sale of particular holdings.

History

Promulgated by Ethics Commission January 10, 2014; effective upon Legislature's sine die adjournment May 23, 2014; operative January 1, 2015.

Amendment promulgated by Ethics Commission January 27, 2017; effective upon sine die adjournment of the Legislature May 26, 2017; operative May 26, 2017.

The 2017 amendment moved (1) from between "In the event a state officer or employee:" and "knows that a particular matter" to between "material financial interests" and "of the state officers" in the first sentence. The 2017 amendment replaced the comma with a semicolon in the first sentence between "family member" and "or," and it removed (3) from between "or" and "if the state officer." The 2017 amendment removed the language "if the state officer or employee" from the first sentence, and it moved (2) from between "employee or" and "of his or her" to between "or" and "knows that a person" in the first sentence. The 2017 amendment removed

", and where the state officer or employee" in the first sentence between "to such matter" and "determines that," and it replaced it with "; or (3)." The 2017 amendment replaced the comma between "in the matter" and "the state officer" with a semicolon. The sentence read as follows: "In the event a state officer or employee: knows that a particular matter involving specific parties is likely to have a direct and predictable effect on the material financial interests (1) of the state officer or employee or (2) of his or her family member, or (3) if the state officer or employee knows that a person with whom he or she has a business relationship other than a routine consumer transaction is a party to or represents a party to such matter, and where the state officer or employee determines that the circumstances would cause a reasonable person with knowledge of the relevant facts to question his or her impartiality in the matter, the state officer or employee shall not participate in the matter unless he or she is required to do so by law or permitted to do so by these Rules."

The 2017 amendment added the following language to the end of the section: "For purposes of this Rule, a 'material financial interest' shall mean:

1. an ownership interest in a private business, including but not limited to, a closely held corporation, limited liability company, Subchapter S corporation or partnership for which the state officer or employee or his or her family member is a director, officer, owner, manager, employee, or agent or any private business, closely held corporation or limited liability company in which the state officer or employee or his or her family member owns or has owned stock, another form of equity interest, stock options, debt instruments, or has received dividends or income worth Twenty Thousand Dollars (\$20,000.00) or more at any point during the preceding calendar year; or
2. an ownership interest of five percent (5%) or more in a publicly traded corporation or other business entity by a state officer or employee or his or her family member at any point during the preceding calendar year; or
3. an ownership interest in a publicly traded corporation or other business entity from which dividends or income, not to include salary, of Fifty Thousand Dollars (\$50,000.00) or more were derived during the preceding calendar year by the state officer or employee or his or her family member; or
4. an interest that arises as a result of the state officer's or employee's or his or her family member's service as a director or officer of a publicly traded corporation or other business entity at any time during the preceding calendar year; or
5. any sources of income derived from employment, other than compensation pertaining to the office for which the state officer or employee or his or her family member holds, in the amount of Twenty Thousand Dollars (\$20,000.00) or more by the state officer or employee or his or her family member.

For purposes of this Rule a 'material financial interest' shall not mean (1) an interest in a mutual fund or other community investment vehicle in which the state officer or employee or his or her family member exercises no control over the acquisition or sale of particular holdings, or (2) an interest in a pension plan, 401k, individual retirement account or other retirement investment vehicle that makes diversified investments over which the state officer or employee or his or her family member exercises no control over the acquisition or sale of particular holdings."

Commission Comment

This Rule requires state officers and employees to disqualify from matters in which their impartiality may reasonably be questioned. It also permits state officers and employees to voluntarily disqualify from participating in matters in which they may have a real or perceived conflict of interest. To evaluate whether or not such a conflict exists, the Rule requires a "reasonable person" standard, i.e., would a reasonable person with knowledge of the relevant facts question the impartiality of the state officer or employee? A "reasonable person" is a hypothetical person used as a legal standard.

The Rule provides that a state officer or employee who disqualifies should not "participate in the matter." That means that not only should the state officer or employee disqualify from voting or participating in a final decision in the matter, but that the state officer or employee should refrain from discussing or in any way trying to influence the ultimate decision, including making public statements other than his or her disqualification.

The Rule does not apply to legislators acting in their legislative capacities nor does it apply to judicial officers acting in their judicial capacities. See Article V, Section 24 and Article VIIA of the Oklahoma Constitution.

In considering whether a conflict exists, the link between a decision on the matter and the financial impact on the state officer or employee will be determinative. The closer the causal link, the more likely a conflict exists. The more attenuated the causal link, the less likely a conflict exists.

This Rule does not apply when the effect of a matter applies equally to the state officer or employee and all other members of the state officer or employee's profession or occupation or to all other members of a large class.

Example: *Oliver, who serves on a state board that regulates widget manufacturers, is a widget manufacturer. The board is considering a rule that would have the same impact on all widget manufacturers in the state, including Oliver. Oliver is not required to disqualify, but may do so voluntarily depending on the other circumstances. Factors that Oliver may consider: If a majority of members of the board also are widget manufacturers, the board could not act if each of them disqualified, so it would make little sense for them to do so. If, however, Oliver is the only widget manufacturer on the board, he might believe that his voluntary disqualification is prudent.*

Example: *Swanson, who is the head of a state agency, owns a significant amount of stock in a computer hardware company. The agency is considering a substantial purchase of computer hardware, and the company in which Swanson owns stock is submitting a bid. Swanson must disqualify from participating in the matter in any way.*

Example: *Manning, a state officer, sits on a board that is considering an application of a tax law that will affect every*

property taxpayer in Oklahoma in the same way. Manning pays property taxes. Manning is not required to disqualify.

Example: Morton, who is the chief executive of Agency A, sits on the board of Agency Z by virtue of a statute. The board of Agency Z is considering a matter that would have a significant impact on Agency A, as well as a few other state agencies. Morton is not required to disqualify because it is anticipated by the law that such situations will arise.

Example: Eagleton, whose husband owns a trucking company, sits on the board of an agency that regulates several industries, including trucking. Eagleton should disqualify from matters involving the trucking industry.

Example: Allen, whose husband owns convenience stores that sell gasoline and diesel, sits on a state board that regulates environmental matters. The board is considering a fee for certain types of motor vehicle fuel. The fee would be passed through to consumers of the motor vehicle fuels. Allen is not required to disqualify because the effect of the fee on her and her husband will be the same as consumers.

Example: Bennett is an attorney who serves on a state board. He and Carter often serve as co-counsel on cases in court. Carter is representing a client in an administrative hearing before the board. Bennett may or may not be required to disqualify, depending on all the circumstances, but he may wish to do so voluntarily because a reasonable person might question his impartiality. Bennett may wish to ask the Ethics Commission for advice on his participation in the matter.

This Rule permits state officers and employees to seek the advice of the Commission in deciding whether or not to disqualify. The Commission has complete discretion in deciding whether or not to provide such advice and may delegate its responsibility for doing so to the Executive Director. If the Commission or the Executive Director provides such advice, that advice is binding on the Commission. Failure to seek advice, however, shall have no relevance in any subsequent proceeding before the Commission. A state officer or state employee who seeks such advice should do so with ample time for a response to be made before the matter is under consideration.

"Material financial interest" is defined in a way so that the interest might be affected by an action of a state officer or employee.

Advisory Opinion 2017-01 found that while it is not a misuse of office for a member of the Council of Bond Oversight to vote to approve bond indebtedness issued by a state governmental entity and then purchase the bonds, there would be an appearance of a conflict of interest under Rule 4.7 that precludes a Council member from approving a bond issue and purchasing the bonds on the primary market. 2017 OK Ethics 01.

Rule 4.8. Gifts from Vendors to Persons Engaged in Purchasing Decisions.

No state officer or employee shall accept any gift for himself or herself or for his or her family member from any vendor or vendor's agent that is selling or attempting to sell goods or services to the state officer or employee's agency if the state officer or employee is engaged in purchasing decisions designed to determine the vendor that will sell the goods or services to the agency. As used in this section, "engaged in purchasing decisions" shall mean performing functions in the purchasing process for purchases in excess of Fifty Thousand Dollars (\$50,000.00), including but not limited to participation (a) in preparation of requests for proposals, bid specifications or similar documents, or (b) in review and evaluation of proposals, bids or similar responses, or (c) in recommendations for selection of successful proposals or bids or other similar awards or (d) in approval of requisitions for purchase. It shall not apply to persons performing only nondiscretionary or clerical functions. This prohibition shall not apply to the state officer or employee's family member if the gift is given for a bona fide reason unrelated to the state officer or state employee's status as a state officer or employee and the state officer or employee receives no direct benefit from the gift.

History

Promulgated by Ethics Commission January 10, 2014; effective upon Legislature's sine die adjournment May 23, 2014; operative January 1, 2015.

Commission Comment

This Rule provides an absolute prohibition on the acceptance of gifts from a vendor or vendor's agent by a state officer or employee or their family members under specific circumstances. The state officer or employee must be engaged in the purchasing decision, which generally includes factors that may be used to influence the successful award of a contract such as preparation of bid specifications, evaluation of proposals, recommendations for selection or approval of requisitions. In all cases, the amount of the purchase must exceed Fifty Thousand Dollars (\$50,000.00).

"Gift" means property transferred to or service provided for another without compensation of equal value.

"Family member" is defined to include the nuclear family—individual, spouse and children—for two generations: that of the state officer or employee and his or her parents. There is an exception when a gift is given to a family member of a state officer or state employee by a vendor or vendor's agent when the gift is unrelated to the state officer or state employee's status and the state officer or employee receives no direct benefit.

Example: *Mayes is a state employee drafting a request for proposals on which Ajax Corporation is expected to submit a proposal. Mayes' spouse works for a company that does business with Ajax Corporation. Each year at Christmas Ajax Corporation provides boxes of candy for some of its customers. Mayes' spouse receives a box of candy while Mayes is engaged in drafting the RFP. Mayes' spouse passes the candy around to her associates at the office. There is no violation of this Rule.*

Rule 4.9. Gifts from Successful Vendors.

No state officer or state employee shall accept any gift for himself or herself or his or her family member from any vendor or vendor's agent at any time the vendor is doing business with the state officer or state employee's agency through a contract involving property or services, subject to the following exceptions:

1. A state officer or employee may accept meals having an aggregate market value of Twenty Dollars (\$20.00) or less per occasion, provided that the aggregate market value of individual gifts received from any individual or other entity does not exceed Fifty Dollars (\$50.00) during any calendar year. Where the market value of a meal exceeds Twenty Dollars (\$20.00) on a single occasion, the state officer or employee may not pay the excess value over Twenty Dollars (\$20.00) in order to accept that portion of the gift worth Twenty Dollars (\$20.00). The value of a meal shall include its price, plus any applicable tax but shall not include a gratuity.
2. A state officer or employee may accept a gift given under circumstances that make it clear that the gift is motivated by a family relationship or a personal relationship rather than the state officer or employee's status as a state officer or employee. Relevant factors in making such a determination include, but are not limited to, the history and nature of the relationship and whether the family member or friend personally pays for the gift.
3. A state officer or employee may accept a gift given to all state employees or to all employees of his or her agency provided the gifts are customary within the industry and the costs of the gifts do not significantly exceed amounts that are customary within the industry.
4. A state officer or employee may accept a book, written materials, audio tapes, videotapes and other informational or promotional material related to the performance of the state officer or employee's official duties.
5. A state officer or employee may accept opportunities and benefits available to the public generally and on the same terms available to the public.

History

Promulgated by Ethics Commission January 10, 2014; effective upon Legislature's sine die adjournment May 23, 2014; operative January 1, 2015.

Commission Comment

This Rule recognizes that business relationships often develop between vendors and officers and employees of state agencies with whom the vendors are engaged in business. This Rule permits limited meals to be purchased for a state officer or employee by a vendor, not exceeding Twenty Dollars (\$20.00) for any individual meal or Fifty Dollars (\$50.00) in the aggregate for any calendar year. There are exceptions when the gift is given under circumstances that make it clear that a family relationship or personal relationship rather than the state officer or state employee's status as a state officer or employee is the reason for the gift. There also is an exception for gifts given to all agency employees when such gifts are customary within the industry and for materials that relate to the performance of the state officer or employee's duties.

Example: *Davis is assigned by his company to work on a project under contract with Agency A. Over time, Davis becomes acquainted with Edwards, an employee of Agency A, and they begin dating. Gifts appropriate to their dating and paid for by Davis personally would be subject to the exception.*

Example: *Davis and Edwards are married when Davis is assigned by his company to work on a project under contract with Agency A, which employs Edwards. Gifts between the two would be excepted from the Rule.*

Example: *Ajax Corporation holds a state contract with Agency Z. Typically at Christmas, Ajax Corporation gives a small bag of mixed nuts to employees of its customers. The bags are relatively inexpensive, and such seasonal gifts are common but not universal in the industry. Ajax Corporation gives a small bag of nuts to each employee of Agency Z. These gifts would be subject to the exception.*

Staff Memorandum 2015-02: Gifts to the state are categorically different than gifts to individual state officers and employees referenced in the Ethics Rules; consequently, any gifts given to the state fall outside the scope of the Ethics Rules.

Rule 4.10. Gifts to State Officers or Employees from Regulated and Licensed Entities.

Except as permitted by these Rules, no state officer or employee shall accept any gift for himself or herself or for his or her family member from any person or entity or agent of any person or entity that is regulated or licensed by the state officer or employee's agency; provided, however, this prohibition shall not apply to gifts that are made by the employer of the state officer or employee or his or her family member under circumstances that make it clear that the gift is not motivated by the state officer or employee's status as a state officer or employee.

History

Promulgated by Ethics Commission January 10, 2014; effective upon Legislature's sine die adjournment May 23, 2014; operative January 1, 2015.

Commission Comment

This Rule prohibits officers and employees of state regulatory and licensing agencies, as well as their family members, from accepting gifts from any person or entity regulated by the agency. This prohibition applies to all employees of the agency.

"Gift" means property transferred to or service provided for another without compensation of equal value.

"Family member" is defined to include the nuclear family—individual, spouse and children—for two generations: that of the state officer or employee and his or her parents.

There is an exception when the gift is made under circumstances that make it clear that giving of the gift is not motivated by the state officer or employee's status as a state officer or employee and when the gift comes from an employer of the state officer or employee or his or her family member.

Example: *Tyler is employed by Agency A. Tyler's father is employed by Ajax Corporation. Ajax Corporation is regulated by Agency A. Ajax Corporation may give a gift to Tyler's father without violating this Rule if the gift is given for reasons related to his employment by Ajax Corporation and not by Tyler's status as a state employee.*

Example: *Vernon serves on a state board that licenses widget manufacturers. Vernon is a widget worker who is employed by Widget King, a company that is licensed by the board. Widget King gives a year-end bonus to its employees who exceed certain standards. Vernon exceeds those standards. He may accept the bonus without violating this Rule. (Note: As to whether Vernon may consider matters that affect Widget King as a member of the board, see Rule 4.7.)*

Rule 4.11. Gratuities Offered at Seminars, Conferences or Similar Events.

A state officer or employee attending a conference, seminar or similar event related to the performance of his or her official duties may accept gratuities and hospitality made available to all participants in the event.

History

Promulgated by Ethics Commission January 10, 2014; effective upon Legislature's sine die adjournment May 23, 2014; operative January 1, 2015.

Commission Comment

This Rule acknowledges that gratuities and hospitality often are made available to all participants in conferences, seminars and similar meetings that may be attended by a state officer or employee. In those situations, a state officer or employee may accept the gratuity or hospitality without violating these Rules. This applies only when the gratuity or hospitality is available to all participants.

Rule 4.12. Modest Items of Food and Refreshments

A state officer or employee occasionally may accept modest items of food and refreshments, excluding beverages containing alcohol, from vendors or persons regulated or licensed by the state officer or employee's agency when offered other than as part of a meal.

History

Promulgated by Ethics Commission January 10, 2014; effective upon Legislature's sine die adjournment May 23, 2014; operative January 1, 2015.

Commission Comment

This Rule provides a "cup of coffee" exception to restrictions found elsewhere in the Rules. It permits state officers and employees to occasionally accept modest items of food and refreshments from vendors or persons regulated or licensed by the state officer or employee's agency. There are no definitions of "modest" or "occasionally" but state officers and employees are expected to exercise good judgment in taking advantage of this exception.

Rule 4.13. Acceptance of Meals, Lodging, Transportation and Other Benefits as a Result of Spouse's Business Activities.

A state officer or employee may accept meals, lodging, transportation and other benefits resulting from the business or employment activities of the state officer or employee's spouse when it is clear that such benefits have not been offered or enhanced because of the state officer or employee's status as a state officer or employee.

History

Promulgated by Ethics Commission January 10, 2014; effective upon Legislature's sine die adjournment May 23, 2014; operative January 1, 2015.

Commission Comment

Many private employers offer benefits to spouses of their employees, and this Rule allows state officers and employees to participate in certain programs under those circumstances.

Example: *Garrett is a state employee. His wife is employed by Ajax Corporation, which expects his wife to occasionally host dinner meetings with clients. Ajax Corporation expects spouses of its employees to attend such dinner meetings. Garrett may do so without violating a Rule, even if Ajax Corporation otherwise would be prohibited from providing the meal to Garrett.*

Example: *Jackson is a state employee. Her husband is employed by Ajax Corporation, which sends him to a conference. Spouses are welcome to attend the conference, and Ajax Corporation pays the costs of lodging, meals and transportation for spouses who do. Jackson may accept the lodging, meals and transportation for the conference without violating a Rule, even if Ajax Corporation otherwise would be prohibited from providing these items to Jackson.*

Rule 4.14. Acceptance of Meals, Lodging, Transportation and Other Benefits as a Result of Private Business Activities.

A state officer or employee may accept meals, lodging, transportation and other benefits resulting from his or her private business or employment activities when such benefits have not been offered or enhanced because of the state officer or employee's status as a state officer or employee.

History

Promulgated by Ethics Commission January 10, 2014; effective upon Legislature's sine die adjournment May 23, 2014; operative January 1, 2015.

Commission Comment

Many state officers and employees, especially members of state boards, commissions and similar entities, have private employers. When that is the case, state officers and employees may accept benefits resulting from their private employment, provided the benefits are not offered or enhanced by the state officer or employee's status as a state officer or employee.

Staff Memorandum 2015-03: Some of the key facts considered in determining whether private business benefits are being given as a result of the status of the state officer or employee include (1) whether the activity is long-standing or similar prior arrangements have been provided to the individual prior to the individual holding state office or employment; (2) whether the state officer or employee is receiving the same or substantially similar benefits as those employed in that industry; and (3) whether the state officer or employee is a member of the private organization and is employed in that associated industry.

Rule 4.15. Acceptance of Meals and Other Benefits for Conference Presentations; acceptance of scholarships for educational and training events.

- A. A state officer or employee approved by the chief administrative officer of the agency to participate as a speaker or panel participant or otherwise to present information on behalf of the agency at a conference or other event may accept free attendance at the event on the day of his or her presentation when the free attendance is provided by the sponsor of the event. Approval by the chief administrative officer shall not be required for elected officials to participate in such events subject to the terms of this subsection. Free attendance may include meals, refreshments, entertainment, instruction and materials made available to other participants. The sponsor of the event may also provide transportation and lodging to the state officer or employee if transportation and lodging are made available to others participating as speakers, panel participants or presenters. The state officer or employee's spouse may also accept free attendance and participation in the event. The state officer or employee's spouse may also accept lodging but not transportation. The state officer or employee or the state officer or employee's spouse may not accept meals, refreshments, entertainment, transportation or lodging that are collateral to the event or that are not paid for by the sponsor of the event that would otherwise be prohibited by these Rules. No vendor or vendor's agent may pay for, or reimburse the sponsor of the event for, any gifts to the state officer or employee or the state officer or employee's spouse that are part of the free attendance and participation provided to the state officer or employee or the state officer or employee's spouse. However, membership dues or sponsorships customarily and historically paid by a vendor or vendor's agent to a sponsoring organization shall not be considered payment for, or reimbursement for, such costs.
- B. A state officer or employee may accept a scholarship or similar grant or subsidy, including the costs of transportation, lodging, meals, refreshments, entertainment, instruction and materials made available to other participants, to participate in an educational or training event sponsored by a foreign government, the United States government, the government of another state or an organization to which the State of Oklahoma pays membership dues either for the State, a state agency or an individual state officer or employee.

- C. A state officer or employee may accept a scholarship or similar grant or subsidy, including the costs of transportation, lodging, meals, refreshments, entertainment, instruction and materials made available to other participants, to participate in an educational or training event sponsored by a bona fide governmental, professional or business organization other than an organization described in Subsection (B), provided the state officer or employee files a report that includes the date or dates and location of the event, the name of the sponsoring organization or organizations, the name and job title and description of the state officer or employee participating, the subject matter of the event, the approximate value of the scholarship, grant or subsidy and the name of the person providing the scholarship, grant or subsidy. For non-elected state officers, the report shall include a certification by the chief administrative officer of the agency that employs the state officer or employee that the educational or training event will significantly assist the state officer or employee in discharging his or her duties. Forms for the reports shall be prescribed by the Executive Director. Reports shall be filed within thirty (30) days following the last day of the event and shall be displayed on the Commission website.

History

Promulgated by Ethics Commission January 10, 2014; effective upon Legislature's sine die adjournment May 23, 2014; operative January 1, 2015.

Amendment promulgated by Ethics Commission January 9, 2015; effective upon sine die adjournment of the Legislature May 22, 2015; operative May 22, 2015.

The 2015 amendment added Subsections (B) and (C) in their entirety and added the following sentence to Subsection (A): "Approval by the chief administrative officer shall not be required for elected officials to participate in such events subject to the terms of this subsection."

Commission Comment

Often state officers and employees represent their agencies by serving as panelists or speakers for conferences or similar events. State officers and employees who are approved by the chief administrative officer of their agency to do so are authorized to accept free attendance at such events, provided the free attendance is provided by the sponsor of the conference or event. Elected officials are not required to have approval of the "chief administrative officer," as elected officials typically do not report to another officer. Free attendance may include meals, refreshments, entertainment, instruction and materials made available to other participants. The state officer

or employee also may accept transportation and lodging provided by the sponsor if transportation and lodging are provided to others who are speaking or otherwise making presentations. A spouse who accompanies the state officer or employee to participate in such an event also may accept lodging but not transportation.

The state officer or employee or a spouse may not accept meals, refreshments, entertainment, transportation or lodging that are not paid for by the sponsor if receipt of those items is otherwise prohibited by these Rules.

This prohibition may not be circumvented by a vendor or vendor's agent reimbursing the sponsor for the cost of participation by the state officer or employee or a spouse.

Example: Jones, a state employee, is approved by the chief administrative officer of his agency, which regulates widget makers, to represent the agency on a panel at a conference sponsored by the National Widget Makers Association. Jones wants to take his wife to the conference as well. Jones and his wife plan to spend the weekend following the conference doing some sightseeing in the area. The Association is providing meals, refreshments, entertainment, lodging and transportation to all panelists appearing at the conference. Jones may accept these items without violating the Rules. Jones's wife also may accept free lodging. Jones may not accept anything from the sponsor for the weekend following the conference. Ajax Widget Makers, Inc., is a company regulated by Jones's agency. Ajax, which is a member of the association, wants to underwrite the costs of Jones participation at the conference by providing a check to the Association, of which Ajax is a member. This it may not do. However, Ajax may continue paying its normal membership dues to the Association.

Subsections (B) and (C) recognize that state officers and employees may be offered scholarships or similar grants to cover all or part of the costs of participating in educational or training events. If such an event is sponsored by a foreign government, the United States government, the government of another state or an organization to which the State of Oklahoma pays membership dues, the state officer or employee who receives the scholarship or grant is not required to file a report. Dues may be paid either for the State, for a state agency or for an individual state officer or employee. If, however, the scholarship or grant is provided by an entity other than those described above, certain conditions must be met, and a report must be filed. The sponsoring organization must be a bona fide governmental, professional or business organization other than an organization described above; for non-elected state officers, the report must include a certification by the chief administrative officer of the agency that the event will assist the state officer or employee in discharging his or her duties.

Rule 4.16. Acceptance of Meals for Professional, Civic or Community Events; Acceptance of Meals at Political Events.

Any elected state officer or any state officer or employee approved by the chief administrative officer of the agency to represent the agency at a professional, civic or community event may accept a meal at the event provided by the sponsoring organization. In such instances, the state officer or employee also may accept a token or souvenir gift or memento commemorating the occasion provided the item given is of a value commensurate with the occasion and is neither monetary or a cash equivalent. A professional, civic or community event shall not include political events. An employee for an elected state officer may accept a meal at a political event he or she attends with the elected state officer as long as he or she is not on state time.

History

Promulgated by Ethics Commission January 10, 2014; effective upon Legislature's sine die adjournment May 23, 2014; operative January 1, 2015.

Amended by Ethics Commission December 11, 2015; effective upon sine die adjournment of the Legislature May 27, 2016; operative May 27, 2016.

The 2016 amendment inserted the following sentence after the first sentence of the provision: "In such instances, the state officer or employee also may accept a token or souvenir gift or memento commemorating the occasion provided the item given is of a value commensurate with the occasion and is neither monetary or a cash equivalent."

Commission Comment

State officers and employees are often asked to represent their agencies at professional, civic and community events. This Rule makes acceptance of a meal at such events acceptable when the meal is provided by the sponsoring organization. Special provisions apply to political events.

Example: *Lieutenant Governor Jones is asked to attend the annual banquet of the Anytown, Oklahoma, Civic Club. Lieutenant Governor Jones attends, accompanied by her chief of staff, Johnson. Both Lieutenant Governor Jones and Johnson may accept a meal provided by the Civic Club.*

Example: *Lieutenant Governor Jones and her chief of staff, Johnson, attend a political party rally during which a meal is served. Johnson must be beyond normal working hours or take leave time to accept a meal from the political organization.*

"Cash Equivalent" means that the gift is equal to or functions as cash. For instance, a cash equivalent gift would include, but is not limited to, a gift card or similar prepaid cards used to purchase merchandise or services.

Rule 4.17. Gifts to Superiors by State Officers or Employees.

A state officer or employee may not directly or indirectly give a gift or make a donation toward a gift for an official superior in an agency's chain of command or solicit a contribution from another employee for a gift to either his or her own or the other employee's official superior, nor may any state officer or employee receive directly or indirectly a gift from an employee receiving less compensation from the state than himself or herself, subject to the following exceptions:

1. A state officer or employee may make or receive such a gift if there exists a personal relationship between the two that would justify the gift.

2. A state officer or employee may make or receive such a gift on an occasional basis, including an occasion on which gifts are traditionally given or exchanged, provided the gift, which may not be in cash, has an aggregate market value of Twenty Dollars (\$20.00) or less per occasion.

3. A state officer or employee may make or receive such a gift when items such as food or refreshments are to be shared in the agency among several employees.

4. A state officer or employee may make or receive such a gift involving personal hospitality provided at a residence which is of a type and value customarily provided by the state officer or employee to personal friends, or when the gifts consist of items given in connection with the receipt of personal hospitality of a type and value customarily given on such occasions.

5. A state officer or employee may make or receive such a gift appropriate to the occasion in recognition of infrequently occurring occasions of personal significance such as marriage, illness, birth or adoption of a child, retirement, resignation or transfer.

History

Promulgated by Ethics Commission January 10, 2014; effective upon Legislature's sine die adjournment May 23, 2014; operative January 1, 2015.

Commission Comment

This Rule regulates the exchange of gifts between superior and subordinate state officers and employees. Generally, the exchange of gifts from a subordinate to a superior is prohibited unless covered by an exception. There are five exceptions: (1) personal relationship; (2) gifts of no more than Twenty Dollars (\$20.00) in value; (3) shared food or refreshments; (4) personal hospitality at the employee's residence and (5) special occasions.

Example: *Smith and Jones were college roommates and maintain a social relationship in which they visit in one another's homes,*

dine out together and take family trips together. They have been friends for more than fifteen (15) years. Smith is Jones' supervisor. Jones may provide a gift to Smith without violating the Rule.

Example: The employees at Agency A bring covered dishes for an agency-wide lunch every Friday. Supervisors may participate in such events without violating the Rule.

Example: Olson is Morton's supervisor at Agency Z. Morton is hosting a cookout for several agency employees and invites Olson. Olson may attend the cookout without violating the Rule.

Rule 4.18. State Officer or Employee Representation of Others in Transactions involving the State.

No state officer or employee shall receive or agree to receive compensation to represent or assist another individual or other entity in any transaction involving the state or to represent another individual or other entity before any state agency, unless authorized by law. The prohibitions in this section shall not apply to the practice of law before any court, nor shall they apply to members of boards, commissions, authorities and similar public bodies of state agencies for representation before state agencies other than the agency the member serves.

History

Promulgated by Ethics Commission January 10, 2014; effective upon Legislature's sine die adjournment May 23, 2014; operative January 1, 2015.

Commission Comment

Salaried state officers and employees are prohibited by this Rule from representing others for compensation in transactions involving any state agency. The same prohibition applies to representation in matters before state agencies. There are exceptions when such representation is authorized by law and when the representation is in a court. Members of boards, commissions, authorities and similar public bodies may represent others for compensation before agencies other than the agency that the member serves.

Rule 4.19. State Officer or Employee Representation of Others Before Employing Agency.

No state officer or employee shall represent another individual or other entity as an attorney in any matter before the Commission, nor shall any state officer or employee represent another individual or other entity in any matter before the agency that employs the state officer or employee, unless authorized by law.

History

Promulgated by Ethics Commission January 10, 2014; effective upon Legislature's sine die adjournment May 23, 2014; operative January 1, 2015.

Commission Comment

This Rule prohibits state officers and employees from representing others before the Commission and before the agencies that employ the state officer or employee, unless otherwise permitted by law. This Rule does not prohibit state officers or employees from making inquiries about application of the Rules to the Commission or its staff, but applies to formal matters that come before the Commission.

Rule 4.20. Acceptance of Things of Value When Representing the State in an Official Capacity.

The Governor, Lieutenant Governor, President Pro Tempore of the Senate and Speaker of the House of Representatives, or their designees, may accept transportation, lodging, meals and other things of value related to the purpose of an event when representing the State of Oklahoma in an official capacity at the event, whether within or outside the geographical boundaries of the State of Oklahoma, provided they receive no other personal benefits.

History

Promulgated by Ethics Commission January 10, 2014; effective upon Legislature's sine die adjournment May 23, 2014; operative January 1, 2015.

Commission Comment

This Rule acknowledges the special role that the state's top elected officials play in representing the State at events both inside and outside the State. It establishes the premise that these officials should not be required to make personal expenditures to pay for the costs of such official representation. It is not intended to provide an opportunity for sham designation of representation at events, but rather to allow these officials to be compensated when there is bona fide representation.

Rule 4.21. Representation of Constituents by Governor and Legislature.

Neither the Governor nor any member of the Legislature, nor any employee of the Governor acting at the direction of and on behalf of the Governor or any employee of the Legislature acting at the direction of and on behalf of a member of the Legislature shall be in violation of these Rules by engaging in activities inherent in representing constituents, gathering information or advocating policy positions, provided none of these activities include illegal threats, intimidation, coercion or promises of actions inconsistent with the Constitution or statutes of the State of Oklahoma or with these Rules.

History

Promulgated by Ethics Commission January 10, 2014; effective upon Legislature's sine die adjournment May 23, 2014; operative January 1, 2015.

Commission Comment

This Rule recognizes that the Governor and members of the Legislature should not be prevented by the Rules from fulfilling their roles in representing constituents, gathering information or advocating policy positions. These functions are inherent in the elected offices these officers hold.

Rule 4.22. Waiver for Preexisting Relationship.

A state officer or employee may apply to the Commission for a waiver of a Rule based on a preexisting relationship between the state officer or employee and a person whose status restricts or prohibits certain activities under these Rules.

The Commission shall have exclusive authority and discretion to grant a waiver on a case-by-case basis, based upon the totality of circumstances and a finding that the purposes of these Rules will not be impeded or hindered by the waiver. A waiver shall have only prospective application.

The Commission may request whatever information it deems appropriate from an applicant, including but not limited to verified statements by the applicant and/or the person with whom a preexisting relationship is claimed. The restrictions between a state officer or employee and a person whose status restricts or prohibits certain activities under these Rules shall not apply when the two are family members.

History

Promulgated by Ethics Commission January 10, 2014; effective upon Legislature's sine die adjournment May 23, 2014; operative January 1, 2015.

Amendment promulgated by Ethics Commission January 9, 2015; effective upon sine die adjournment of the Legislature May 22, 2015; operative May 22, 2015.

The 2015 amendment added the following sentence:

"The restrictions between a state officer or employee and a person whose status restricts or prohibits certain activities under these Rules shall not apply when the two are family members."

Commission Comment

Any state officer or state employee who believes that he or she should be granted an exception to a specific Rule or Rules as applied to another person covered by the Rules may apply to the Commission for a waiver based on a preexisting relationship between the state officer or employee and the other person. Applications are made on a case-by-case basis and should be made before any action that would violate these Rules. There are no specific relationships that are set forth in the Rule, but the Commission will consider each application based on the totality of circumstances. Even if there is a preexisting relationship, the Commission may choose not to grant a waiver if it believes that the purposes of the Rules would be impeded or hindered by doing so.

Rule 4.23. State Officer or Employee Violation of Rules through Indirect Action.

In no event may a state officer or state employee do indirectly, through a third party or through other indirect means, anything that is prohibited by these Rules.

History

Promulgated by Ethics Commission January 10, 2014; effective upon Legislature's sine die adjournment May 23, 2014; operative January 1, 2015.

Commission Comment

This Rule sets forth the principle that one cannot do indirectly what is prohibited directly.

Rule 5

Lobbyist Registration and Reporting

Rule 5.1. Purpose of Rule 5.

The purpose of Rule 5 is to establish rules for lobbyist registration and reporting of expenditures for state officers and employees.

History

Promulgated by Ethics Commission January 10, 2014; effective upon Legislature's sine die adjournment May 23, 2014; operative January 1, 2015.

Commission Comment

Article XXIX, Section 3(B) of the Oklahoma Constitution requires the Commission to "promulgate rules of ethical conduct for state officers and employees." As one way to address this requirement, the Commission requires the registration of lobbyists, restricts the exchange of gifts and other things of value between lobbyists and state officers and employees and requires periodic reports of expenditures by lobbyists that benefit state officers and employees.

Rule 5.2. Definitions

As used in Rule 5:

1. "Agency" means any entity in the executive branch of state government created by the Constitution or laws of the State of Oklahoma and supported in whole or in part by state funds or entrusted with the expending of state funds or administering of state property or otherwise exercising the sovereign power of the State of Oklahoma, including but not limited to all such offices, departments, institutions, boards, bureaus, commissions, agencies, authorities and instrumentalities of the State of Oklahoma. "Agency" shall not mean any city, county, rural electric cooperative or tribal housing authority created under the Oklahoma Housing Authorities Act nor any state entity that performs only advisory functions and that cannot independently exercise the sovereign power of the State of Oklahoma;

2. "Commission" shall mean the Oklahoma Ethics Commission;

3. "Executive lobbying" means any oral or written communication with a state officer or employee of an agency, excluding the Governor or a member of the Legislature or with an employee of the Governor or the Legislature, on behalf of a lobbyist principal with regard to the passage, defeat, formulation, modification, interpretation, amendment, adoption, approval or veto of any legislation, rule, rate, regulation, executive order or any other program, policy or position of state government. However, "executive lobbying" shall not mean testimony given at, or submitted in writing to, a public hearing of the agency, nor a speech, article, publication or other material that is widely distributed, published in newspapers, magazines or similar publications or broadcast on radio or television;

4. "Executive lobbyist" means any individual who is employed or retained by another for financial or other compensation to perform services that include executive lobbying, other than an individual whose lobbying activities are only incidental to, and are not a significant part of, the services provided by such individual to the client, except the following individuals shall not be considered lobbyists:

a. an individual appearing before a state officer or employee of an agency who receives no compensation for his or her appearance other than reimbursement from the state for expenses and who engages in no further lobbying;

b. a federal official acting in his or her official capacity;

c. any person exercising his or her constitutional right to petition the government who receives no compensation or anything of value for lobbying;

5. "Family member" shall include spouse, children (including stepchildren), mother, father, sister or brother;

6. "Legislative liaison" means any state officer or employee whose duties in fact include legislative lobbying, regardless of the state officer or employee's title and regardless of whether or not legislative lobbying is included within the state officer or state employee's job description other than an individual whose lobbying activities are only incidental to, and are not a significant part of, the services provided by such individual to the agency. Each agency shall have at least one (1) legislative liaison, unless all officers and employees of the agency provide information to the Governor or a legislator only at the request of the Governor or a legislator or an employee of the Governor or the Legislature or as required by law, and provided further that no officer or employee of the agency has requested legislation, other than an appropriation for the agency, or other legislative action, or unless the agency has a contract with a legislative lobbyist to provide legislative lobbying services;

7. "Legislative lobbying" means any oral or written communication with the Governor or with a member of the Legislature or with an employee of the Governor or the Legislature on behalf of a lobbyist principal with regard to the passage, defeat, formulation, modification, interpretation, amendment, adoption, approval or veto of any legislation, rule, regulation, executive order or any other program, policy or position of state government. As used in this Rule, "employee of the Governor or the Legislature" includes any state officer or employee who advises the Governor, a legislator or the Legislature on legislation other than legislation that affects only his or her agency. However, "legislative lobbying" shall not mean testimony given before, or submitted in writing to, a committee or subcommittee of the Legislature, nor a speech, article, publication or other material that is widely distributed, published in newspapers, magazines or similar publications or broadcast on radio or television;

8. "Legislative lobbyist" means any individual who is employed or retained by another for financial or other compensation to perform services that include legislative lobbying, other than an individual whose lobbying activities are only incidental to, and are not a significant part of, the services provided by such individual to the client, except the following individuals shall not be considered lobbyists:

a. an individual appearing before the Governor or a meeting of a legislative body who receives no compensation for his or her appearance other than reimbursement from the state for expenses and who engages in no further lobbying;

b. a federal official acting in his or her official capacity;

c. any person exercising his or her constitutional right to petition the government who receives no compensation or anything of value for lobbying;

9. "Lobbyist principal" means any person or entity, including an agency, who employs or retains another person for financial or other compensation to conduct executive or legislative lobbying activities on behalf of the lobbyist principal; provided, however, it shall not mean any individual members, partners, officers or shareholders of an agency, a corporation, association, firm, joint venture, joint stock company, syndicate, business trust, estate, trust, company, partnership, limited partnership, organization, committee or club, or a group of persons who are voluntarily acting in concert.

History

Promulgated by Ethics Commission January 10, 2014; effective upon Legislature's sine die adjournment May 23, 2014; operative December 1, 2014.

Commission Comment

The definition of "agency" is intended to encompass all entities that exercise the sovereign power of the State. It does not include entities whose only powers, duties or responsibilities are advisory in nature.

"Family member" is defined to include the nuclear family—individual, spouse and children—for two generations: that of the state officer or employee and his or her parents.

The Rule defines three different groups that engage in lobbying activities: (1) legislative lobbyists, who are private sector or political subdivision lobbyists compensated for representing clients; (2) legislative liaisons, who are state employees that represent their agencies and (3) executive lobbyists, who also are private sector or political subdivision lobbyists. Legislative lobbyists and legislative liaisons lobby the Governor and the Legislature and their staffs. Executive lobbyists lobby executive agency officers and employees.

"Lobbyist principal[s]" are entities, including state agencies that employ or retain legislative lobbyists, legislative liaisons or executive lobbyists.

The definitions of "legislative lobbying" and "executive lobbying" are not limited to verbal communications and do encompass written communication such as hand-delivering or mailing written materials to a legislator or state officer.

Uncompensated Volunteers: A volunteer for a non-profit charitable organization, who is not compensated for lobbying or who otherwise speaks with a legislator or provides written information to a legislator concerning an issue on behalf of the organization, is not considered a legislative lobbyist and is not required to register with the Commission.

Staff Memorandum 2017-01: *The Ethics Rules do not prohibit a state officer or employee from exercising his or her right to petition the government, provided the state officer or employee is doing so on his or her own time while using his or her own resources. If the advocacy occurs during state time, while using state resources, the state officer or employee may be required to register and report with the Ethics Commission as a legislative liaison. Many state agencies have policies governing proper use of agency resources. When an agency has policies more restrictive than the Ethics Rules, the state officer or employee is required to follow those more restrictive policies. The agency, not the Ethics Commission, will enforce the more restrictive policies.*

Rule 5.3. Annual Registration for Legislative Liaison and Legislative Lobbyist.

Each legislative liaison or legislative lobbyist shall be required to register with the Ethics Commission each year that the legislative liaison or legislative lobbyist engages in lobbying. Each legislative liaison or legislative lobbyist shall register or renew his or her registration with the Commission and pay any applicable fees no earlier than December 1 of each year nor later than January 15 of the following year for the calendar year beginning January 1 or within five (5) days after engaging in lobbying on behalf of one or more lobbyist principals. Registration by legislative liaisons or legislative lobbyists shall be filed electronically, unless otherwise ordered by the Commission or the Executive Director of the Commission. Information on the registration shall include the legislative liaison or legislative lobbyist's name, business address, including electronic mail address and business telephone numbers, the name and address of each lobbyist principal by whom the liaison or lobbyist is employed or retained and the date of the registration.

History

Promulgated by Ethics Commission January 10, 2014; effective upon Legislature's sine die adjournment May 23, 2014; operative December 1, 2014.

Amendment promulgated by Ethics Commission January 27, 2017; effective upon sine die adjournment of the Legislature May 26, 2017; operative May 26, 2017.

The 2017 amendment added "and pay any applicable fees" in the second sentence between "the Commission" and "no earlier than," and it added "of each year" in the second sentence between "December 1" and "nor later than." Also in the second sentence, the 2017 amendment replaced "December 31" with "January 15," deleted "each" between "of" and "year," and moved "the following" from between "beginning" and "January 1" to between "of" and "year." The 2017 amendment removed the following language at the end of sentence two after "lobbyist principals": "and pay a registration fee of One Hundred Dollars (\$100.00) and an additional processing fee for using a credit card. Each legislative liaison or legislative lobbyist may be reimbursed for the registration fee and service fee by a lobbyist principal." The sentences read: "Each legislative liaison or legislative lobbyist shall register or renew his or her registration with the Commission no earlier than December 1 nor later than December 31 of each year for the calendar year beginning the following January 1 or within (5) five days after engaging in lobbying on behalf of one or more lobbyist principals and pay a registration fee of One Hundred Dollars (\$100.00) and an additional processing fee for using a credit card. Each legislative liaison or legislative lobbyist may be reimbursed for the registration fee and service fee by a lobbyist principal."

Commission Comment

This Rule acknowledges that legislative liaisons and legislative lobbyists often work year-round and on a continuing basis. It also recognizes the fact that some legislative lobbying is done on an ad hoc basis. This Rule provides for registration of lobbyists under both sets of circumstances.

A lobbyist or legislative liaison must register even if they will only be lobbying part of one day in a calendar year.

By having the registration deadline include the period for filing the final report for the prior registration year, a lobbyist or liaison is able to both file the final report for the prior year and renew the registration for the upcoming year on the same day

A registration filed by January 15th is prospective only and registers a liaison or lobbyist for the entire calendar year, which begins January 1st.

**Rule 5.4. Expiration or Termination of Registration for
Legislative Liaison and Legislative Lobbyist.**

The registration of each legislative liaison or legislative lobbyist shall expire on December 31 of each year unless renewed for the following year as required by Rule 5.3. A legislative liaison or legislative lobbyist may terminate his or her registration sooner than December 31 by electronically filing a notice of termination on a form provided by the Commission and filing a final Legislative Lobbyist Report.

History

Promulgated by Ethics Commission January 10, 2014; effective upon Legislature's sine die adjournment May 23, 2014; operative December 1, 2014.

Commission Comment

This Rule automatically terminates legislative liaison and legislative lobbyist registrations at the end of each calendar year without action by the liaison or lobbyist. It permits lobbyists to terminate their registrations earlier provided they file a final report.

Rule 5.5. Annual Registration and Termination of Registration for Executive Lobbyist.

Each executive lobbyist shall be required to register with the Ethics Commission. An executive lobbyist may register and pay any applicable fees no earlier than December 1 of each year nor later than January 15 of the following year for the calendar year beginning January 1 or within five (5) days after engaging in lobbying on behalf of one or more lobbyist principals. Registration by executive lobbyists shall be filed electronically, unless otherwise ordered by the Commission or the Executive Director of the Commission. Information on the registration shall include the executive lobbyist's name, business address, including electronic mail address and business telephone numbers, the name and address of each lobbyist principal by whom the lobbyist is employed or retained, the agency or agencies before which the lobbyist is lobbying and the date of the registration. The executive lobbyist may terminate his or her registration at any time by electronically filing a notice of termination on a form provided by the Commission and filing a final Executive Lobbyist Report. An executive lobbyist whose registration has not been terminated by November 30 of any year shall be required to register as provided in this subsection for the calendar year beginning the following January 1. Until terminated, the registration shall remain effective, and the executive lobbyist shall be required to file Executive Lobbyist Reports as provided by these Rules.

History

Promulgated by Ethics Commission January 10, 2014; effective upon Legislature's sine die adjournment May 23, 2014; operative December 1, 2014.

Amendment promulgated by Ethics Commission January 27, 2017; effective upon sine die adjournment of the Legislature May 26, 2017; operative May 26, 2017.

The 2017 amendment added "and pay any applicable fees" in the second sentence between "register" and "no earlier," and it added "of each year" between "December 1" and "nor later" to the second sentence. Also in the second sentence, the 2017 amendment replaced "December 31" with "January 15," deleted "each" between "of" and "year," and moved "the following " from between "beginning" and "January 1" to between "of" and "year." The second sentence read: "An executive lobbyist may register no earlier than December 1 nor later than December 31 of each year for the calendar year beginning the following January 1 or within five (5) days after engaging in lobbying on behalf of one or more lobbyist principals."

The 2017 amendment removed the language "no earlier than December 1 nor later than December 31 of that year to continue his or her registration through December and" from the sixth sentence, and it added "as provided in this subsection" to the sixth sentence between "register" and "for the

calendar year." The sentence read: "An executive lobbyist whose registration has not been terminated by November 30 of any year shall be required to register no earlier than December 1 nor later than December 31 of that year to continue his or her registration through December and for the calendar year beginning the following January 1."

Commission Comment

This Rule acknowledges that executive lobbyists often work year-round and on a continuing basis. It also recognizes the fact that some executive lobbying is done on an ad hoc basis. This Rule provides for registration of lobbyists under both sets of circumstances. It permits lobbyists to terminate their registrations at any time provided they file a final report. It requires lobbyists to continue filing reports until their registration has been terminated.

By having the registration deadline include the period for filing the final report for the prior registration year, a lobbyist is able to both file the final report for the prior year and renew the registration for the upcoming year on the same day.

A registration filed by January 15th is prospective only and registers a liaison or lobbyist for the entire calendar year, which begins January 1st.

Rule 5.6. Prohibition on Things of Value Provided to or Accepted by Governor, Legislative Officers and Employees.

Except as provided in these Rules, a legislative liaison, a legislative lobbyist or a lobbyist principal by whom the legislative liaison or legislative lobbyist is employed or retained shall provide no gift to the Governor, a legislator or any employee of the Governor or the Legislature. The Governor, a legislator or any employee of the Governor or the Legislature shall not knowingly accept anything of value from a legislative liaison, a legislative lobbyist or a lobbyist principal by whom the legislative liaison or legislative lobbyist is employed or retained except as permitted by these Rules. Except as provided in these Rules, an executive lobbyist or a lobbyist principal by whom the executive lobbyist is employed or retained shall provide nothing of value to any officer or employee of an agency that is the subject of the executive lobbyist's lobbying activities. No officer or employee of an agency that is subject to an executive lobbyist's lobbying activities shall knowingly accept anything of value from an executive lobbyist or a lobbyist principal by whom an executive lobbyist is employed except as permitted by these Rules. In no event shall a legislative liaison, a legislative lobbyist, an executive lobbyist or a lobbyist principal indirectly provide anything of value to any state officer or employee by providing a thing of value to a family member of the state officer or employee, other than as permitted by these Rules. In no event shall the costs of a thing of value provided by a legislative liaison or legislative lobbyist to the Governor, a legislator or any employee of the Governor or the Legislature permitted by these Rules be divided or shared with other legislative liaisons or legislative lobbyists in filing a report required by these Rules unless otherwise provided by these Rules. Agencies may provide two (2) tickets or admissions to any conference, seminar, lecture or similar event held within the boundaries of the State of Oklahoma and sponsored in whole or in part by the agency to the Governor, any legislator or any employee of the Governor or Legislature, provided the tickets or admissions are used by the recipient and a family member of the recipient. For all other gifts provided by a legislative liaison, legislative lobbyist or executive lobbyist that include meals or attendance at an event, the lobbyist or legislative liaison must attend the meal or event with the recipient.

History

Promulgated by Ethics Commission January 10, 2014; effective upon Legislature's sine die adjournment May 23, 2014; operative January 1, 2015.

Amendment promulgated by Ethics Commission January 9, 2015; effective upon sine die adjournment of the Legislature May 22, 2015; operative May 22, 2015.

The 2015 amendment changed the words "nothing of value" in the first sentence to "no gift" and added the following sentence at the end of the Section: "Agencies may provide two (2) tickets or admissions to any conference, seminar, lecture or similar event held within the boundaries of the State of Oklahoma and sponsored in whole or in part by the agency to the Governor, any legislator or any employee of the Governor or Legislature, provided the tickets or admissions are used by the recipient and a family member of the recipient."

Amendment promulgated by the Ethics Commission January 27, 2017; effective January 1, 2018; operative January 1, 2018.

The 2017 amendment added the following sentence to the end of the provision: "For all other gifts provided by a legislative liaison, legislative lobbyist or executive lobbyist that include meals or attendance at an event, the lobbyist or legislative liaison must attend the meal or event with the recipient."

Commission Comment

This Rule absolutely prohibits the giving of a thing of value by a legislative liaison, a legislative lobbyist or a lobbyist principal to the Governor, legislators or members of their staffs unless otherwise permitted by the Rules. Both the giving of a thing of value by a liaison, lobbyist or lobbyist principal and the receiving by the Governor, a legislator or their staff members is prohibited. In other words, unless there is a specific authorization for the giving of such a thing of value elsewhere in the Rules, this Rule prohibits it. The same prohibition applies to transactions between an executive lobbyist and state officers and employees in the agency that is the subject of the executive lobbyist's lobbying activities. Further, the Rule bars attempted circumvention of the prohibition by the giving of a gift to a family member of a state officer or employee when the giving of a thing of value is prohibited for the state officer or employee. The Rule also prohibits lobbyist ticket splitting unless specifically authorized elsewhere in these Rules.

The Rule recognizes that state agencies that are lobbyist principals may sponsor conferences, seminars, lectures and similar events that are useful in the discharge of duties by state officers and employees and provides a limited exception for tickets or admissions to such events.

The Rule prohibits providing a meal or a ticket to an event to a state officer or employee unless the lobbyist or liaison accompanies the state officer or employee to the meal or event.

Staff Memorandum 2015-05: If a meal is provided by a lobbyist to a legislator and a family member, such as a spouse, only the meal provided to the legislator is reportable and counts against the lobbyist's monetary limit for meals. This only applies to meals, not gifts, such as a gift for an "infrequently occurring occasion of personal significance."

Staff Memorandum 2015-02: Gifts to the state are categorically different than gifts to individual state officers and employees referenced in the Ethics Rules; consequently, any gifts given to the state fall outside the scope of the Ethics Rules.

Rule 5.7. Meal Limits for Legislative Liaisons or Legislative Lobbyist.

A legislative liaison or a legislative lobbyist shall pay no more than Five Hundred Dollars (\$500.00) per calendar year for meals for the Governor, for any individual legislator or for any individual employee of the Governor or the Legislature, regardless of the source of funds used for payment.

History

Promulgated by Ethics Commission January 10, 2014; effective upon Legislature's sine die adjournment May 23, 2014; operative January 1, 2015.

Commission Comment

This Rule establishes an aggregate limit of Five Hundred Dollars (\$500.00) per calendar year on the cost of meals that may be provided by a legislative liaison or legislative lobbyist to the Governor, any legislator or a staff member of the Governor or the Legislature. The Rule sets no limit on an individual meal. It further makes no distinction as to the source of funds used for payment. The limit applies to each liaison or lobbyist, not to the lobbyist principal.

Rule 5.8. Gift Limits for Legislative Liaison or Legislative Lobbyist.

A legislative liaison or a legislative lobbyist may make a gift to the Governor or any legislator or any employee of the Governor or the Legislature in recognition of infrequently occurring occasions of personal significance. The gift shall be given and received contemporaneously with the occasion or at times when such gifts are traditionally given. Such gifts may be made to a family member of the Governor or any legislator or any employee of the Governor or the Legislature, provided such family member is a party to a marriage, serious illness, birth or adoption of a child or retirement. Such gifts to any individual recipient may not exceed One Hundred Dollars (\$100.00) in the aggregate in any calendar year from any legislative liaison or legislative lobbyist. Any such gifts shall be reported to the Commission and aggregated with meals, and the aggregate total of meals and other gifts provided to an individual recipient by a legislative liaison or legislative lobbyist may not exceed Five Hundred Dollars (\$500.00).

History

Promulgated by Ethics Commission January 10, 2014; effective upon Legislature's sine die adjournment May 23, 2014; operative January 1, 2015.

Amendment promulgated by Ethics Commission January 27, 2017; effective January 1, 2018; operative January 1, 2018.

The 2017 amendment added the following sentence as the second sentence in the provision: "The gift shall be given and received contemporaneously with the occasion or at times when such gifts are traditionally given." The 2017 amendment replaced "Two Hundred Dollars (\$200.00)" with "One Hundred Dollars (\$100.00)" and added "reported to the Commission and" between "Any such gifts shall be" and "aggregated with" in the last sentence.

Commission Comment

This Rule allows a gift or gifts of up to the specified dollar limit in value to be given by a legislative liaison or legislative lobbyist to the Governor, a legislator or an employee of the Governor or the Legislature for "infrequently occurring occasions of personal significance." Gifts may be given to family members of the Governor or a legislator or employees of the Governor or the Legislature subject to certain limitations. While the term "infrequently occurring occasions of personal significance" is not defined, it is reasonable to assume that the events to which a family member must be "a party" would qualify. Those events include marriage, serious illness, birth or adoption of a child or retirement. Because there is no definition of the term, it is reasonable to assume there may be other events that meet the criterion. Any such gifts are aggregated

with meals given to the recipient so that the total for a calendar year may not exceed Five Hundred Dollars (\$500.00). See Rule 5.7.

A legislative liaison or legislative lobbyist should ensure a recipient of a gift is an individual who accepts gifts from liaisons or lobbyists prior to providing the gift. Typically, gifts may be returned to a lobbyist or legislative liaison to negate the gift if the recipient does not accept gifts. However, flowers, and other perishable gifts are difficult, if not impossible to return. In the event an unwanted and perishable gift is provided, the recipient of the gift should contact Ethics Commission staff as soon as practicable for advice.

Advisory Opinion 2018-01: A gift given for an infrequently occurring occasion of personal significance is valued at fair market value. Such gifts may be given on an occasion that is both infrequent and in recognition of a major life event that is personally significant to the recipient. Events which are annually occurring, such as birthdays, anniversaries, and holidays, are not infrequently occurring occasions of personal significance within the meaning of Ethics Rules 5.8 and 5.11.

Rule 5.9. Meals Provided by Non-Lobbyist Employee of Lobbyist Principal.

An employee of a lobbyist principal who is not a legislative liaison, a legislative lobbyist or an executive lobbyist may provide a meal no more than twice a year to a legislator at the expense of the lobbyist principal, provided (1) the employee is not acting at the direction of a legislative liaison, a legislative lobbyist or an executive lobbyist, (2) the employee is not engaging in lobbying of any kind, (3) the employee is a constituent of the legislator or is engaged in providing goods or business services for the lobbyist principal within the legislator's district and (4) the employee typically engages in similar activities with other public officials in a geographical area within which the goods or business services are provided.

History

Promulgated by Ethics Commission January 10, 2014; effective upon Legislature's sine die adjournment May 23, 2014; operative January 1, 2015.

Commission Comment

Some lobbyist principals have statewide or regional organizations and require "community relations" personnel to maintain relationships with elected officials in a geographical region of the state. This Rule recognizes that situation and permits limited meals to be provided to a legislator in such situations, provided all four conditions are met.

Staff Memorandum 2015-04: A lobbyist must report any meals given to a legislator, regardless of whether personal funds or client funds are used to pay for the meal.

Rule 5.10. Meal Limits for Executive Lobbyist.

An executive lobbyist shall pay no more than Five Hundred Dollars (\$500.00) per calendar year for meals for an individual state officer or employee of an agency for which he or she is registered or should be registered as an executive lobbyist, regardless of the source of funds used for payment.

History

Promulgated by Ethics Commission January 10, 2014; effective upon Legislature's sine die adjournment May 23, 2014; operative January 1, 2015.

Commission Comment

This Rule establishes an aggregate limit of Five Hundred Dollars (\$500.00) per calendar year on the cost of meals that may be provided by an executive lobbyist to any officer or employee of the agency for which the lobbyist is registered to lobby. The Rule sets no limit on an individual meal. It further makes no distinction as to the source of funds used for payment. The limit applies to a lobbyist, not to the lobbyist principal.

Rule 5.11. Gift Limits for Executive Lobbyist.

An executive lobbyist may make a gift to a state officer or employee of an agency for which he or she is registered or should be registered as an executive lobbyist in recognition of infrequently occurring occasions of personal significance. The gift shall be given and received contemporaneously with the occasion or at times when such gifts are traditionally given. Such gifts may be made to a family member of a state officer or employee of an agency for which he or she is registered or should be registered as an executive lobbyist, provided such family member is a party to a marriage, serious illness, birth or adoption of a child or retirement. Such gifts to any individual recipient may not exceed One Hundred Dollars (\$100.00) in the aggregate in any calendar year from any executive lobbyist. Any such gifts shall be reported to the Commission and aggregated with meals, and the aggregate total of meals and other gifts provided to an individual recipient by an executive lobbyist may not exceed Five Hundred Dollars (\$500.00).

History

Promulgated by Ethics Commission January 10, 2014; effective upon Legislature's sine die adjournment May 23, 2014; operative January 1, 2015.

Amendment promulgated by Ethics Commission January 27, 2017; effective January 1, 2018; operative January 1, 2018.

The 2017 amendment added the following sentence as the second sentence in the provision: "The gift shall be given and received contemporaneously with the occasion or at times when such gifts are traditionally given."

The 2017 amendment replaced "Two Hundred Dollars (\$200.00)" with "One Hundred Dollars (\$100.00)" and added "reported to the Commission and" between "Any such gifts shall be" and "aggregated with" in the last sentence.

Commission Comment

The Rule allows a gift or gifts of up to in the specific dollar amount in value to be given by an executive lobbyist to any officer or employee of the agency for which the lobbyist is registered to lobby for "infrequently occurring occasions of personal significance." Gifts may be given to family members of such officers or employees subject to certain limitations. While the term "infrequently occurring occasions of personal significance" is not defined, it is reasonable to assume that the events to which a family member must be "a party" would qualify. Those events include marriage, serious illness, birth or adoption of a child or retirement. Because there is no definition of the term, it is reasonable to assume there may be other events that meet the criterion. Any such gifts are aggregated with meals given to the recipient so that the total

for a calendar year may not exceed Five Hundred Dollars (\$500.00). See Rule 5.10.

An executive lobbyist should ensure an intended recipient of a gift is an individual who accepts gifts from liaisons or lobbyists. Typically, gifts may be returned to a lobbyist prior to the end of the reporting period to negate the gift if the recipient does not accept gifts. However, flowers, and other perishable gifts are difficult, if not impossible to return. In the event an unwanted and perishable gift is provided, the recipient of the gift should contact Commission staff as soon as practicable for advice.

Advisory Opinion 2018-01: A gift given for an infrequently occurring occasion of personal significance is valued at fair market value. Such gifts may be given on an occasion that is both infrequent and in recognition of a major life event that is personally significant to the recipient. Events which are annually occurring, such as birthdays, anniversaries, and holidays, are not infrequently occurring occasions of personal significance within the meaning of Ethics Rule 5.8 and 5.11.

Rule 5.12. Modest Items of Food and Refreshments.

A legislative liaison, legislative lobbyist, executive lobbyist or lobbyist principal may provide modest items of food and refreshments to any state officer or employee when offered other than as part of a meal.

History

Promulgated by Ethics Commission January 10, 2014; effective upon Legislature's sine die adjournment May 23, 2014; operative January 1, 2015.

Commission Comment

When offered other than as part of a meal, this Rule allows modest items of food and refreshments such as coffee, soft drinks, doughnuts or similar items to be provided to state officers or employees by legislative liaisons, legislative lobbyists, executive lobbyists and lobbyist principals. These items are not reported. These exempted items do not include alcoholic beverages, including low-point beer, or such substantive items as hors d'oeuvres and similar fare. This exclusion is not intended to apply to such formal events as a reception nor to regular repeated events, but rather to occasional random events.

Rule 5.13. Lobbyist Principal Gifts for Public Service to Individual State Officer or Employee.

A lobbyist principal may give a plaque, trophy or similar item suitable for display no more than once per year to a state officer or employee in acknowledgement of the officer or employee's public service, provided the value of the item is no more than Two Hundred Dollars (\$200.00), and the gift is reported on the Legislative Lobbyist Report. No state officer or employee may accept more than one (1) such gift during any calendar year from the same lobbyist principal. A legislative liaison, legislative lobbyist, executive lobbyist or lobbyist principal may provide a gift of any single item with a fair market value not exceeding Ten Dollars (\$10.00) to any state officer or employee, provided that a legislative liaison, legislative lobbyist, executive lobbyist or lobbyist principal shall not make more than one such gift during any calendar year to any state officer or employee.

History

Promulgated by Ethics Commission January 10, 2014; effective upon Legislature's sine die adjournment May 23, 2014; operative January 1, 2015.

Amended by Ethics Commission December 11, 2015; effective upon sine die adjournment of the Legislature May 27, 2016; operative May 27, 2016.

The 2016 amendment added the following sentences at the beginning of the provision: "A lobbyist principal may give a plaque, trophy or similar item suitable for display no more than once per year to a state officer or employee in acknowledgment of the officer or employee's public service, provided the value of the item is no more than Two Hundred Dollars (\$200.00), and the gift is reported on the Legislative Lobbyist Report. No State officer or employee may accept more than one (1) such gift during any calendar year from the same lobbyist principal."

Commission Comment

This Rule permits providing a plaque, trophy, or similar item for display in acknowledgement of the state officer or employee's public service, provided the value does not exceed \$200. There is a limit of one such gift per year, and these gifts must be reported by the lobbyist.

This Rule also permits legislative liaisons, legislative lobbyists, executive lobbyists and lobbyist principals to provide mementoes, e.g., desk calendars, paper weights, small boxes of candy and similar low cost items to state officers and employees. There is a limit of one such gift during a calendar year. These gifts are not reported. This Rule recognizes the distribution by some liaisons, lobbyists and lobbyist principals of such items for goodwill purposes to members of the Legislature and other state officers and employees.

Rule 5.14. Food and Beverage Provided by a Lobbyist Principal to an Event to Which All Members of Legislature are Invited.

A lobbyist principal that employs or retains a legislative liaison or legislative lobbyist may provide food and beverage for any event to which all members of the Legislature are invited no more than once per calendar year, provided the event is reported as provided by these Rules. More than one lobbyist principal may provide food and beverage for such an event, but no lobbyist principal shall participate in more than one such event per calendar year.

History

Promulgated by Ethics Commission January 10, 2014; effective upon Legislature's sine die adjournment May 23, 2014; operative January 1, 2015.

Commission Comment

This Rule applies only to lobbyist principals that employ a legislative liaison or legislative lobbyist. The lobbyist principal may provide food and beverage for one event per calendar year to which all members of the Legislature are invited. The cost for food and beverage may be divided between multiple lobbyist principals for the same event, provided no lobbyist principal engages in this practice more than one time per calendar year. The cost of food and beverage for such an event must be reported by the liaison or lobbyist. See Rule 5.21. The cost of food and beverage is not counted as part of the limits provided for liaisons and lobbyists in Rule 5.7.

Lobbyist principals that share the cost of a meal provided at one of these events must share the cost with other lobbyist principals who are also sponsoring meals that will be reported as a lobbyist principal meal.

Staff Memorandum 2015-04: There are no rules allowing a lobbyist principal to expend funds on a meal for an individual legislator; lobbyist principals may only expend funds for food and beverages at (1) events to which all the members of the Legislature are invited, (2) recognized caucus meetings, (3) legislative committee or subcommittee meetings, and (4) out-of-state events. Instead, a lobbyist must report any meals given to a legislator, regardless of the source of funds used to pay for the meal.

Rule 5.15. Food and Beverage Provided by a Lobbyist Principal to a Political Caucus.

A lobbyist principal that employs or retains a legislative liaison or legislative lobbyist may provide food and beverage for a meeting of a political caucus of either House of the Legislature no more than once per calendar year, provided the event is reported as provided by these Rules. More than one lobbyist principal may provide food and beverage for such an event, but no lobbyist principal shall participate in more than one such event per calendar year for any caucus. As used in this section, "political caucus" shall mean only a caucus of legislators of a political party recognized under the laws of this state.

History

Promulgated by Ethics Commission January 10, 2014; effective upon Legislature's sine die adjournment May 23, 2014; operative January 1, 2015.

Commission Comment

This Rule applies only to lobbyist principals that employ a legislative liaison or legislative lobbyist. The lobbyist principal may provide food and beverage for one meeting in any calendar year for a meeting of the Republican or Democrat caucuses of either the Senate or House of Representatives. The cost for food and beverage may be divided between multiple lobbyist principals for the same meeting, provided no lobbyist principal engages in this practice more than one time per calendar year per political caucus. The cost of food and beverage for such an event must be reported by the liaison or lobbyist. See Rule 5.21. The cost of food and beverage is not counted as part of the limits provided for liaisons and lobbyists in Rule 5.7. This provision does not apply to "caucuses" other than the political party caucuses. It does not apply to the full body of either the Senate or House of Representatives, either jointly or separately. But see Rule 5.14.

The presence of all members of a caucus at the same time and place will not meet the requirements of this exception if the political caucus is not engaging in caucus business.

Lobbyist principals that share the cost of a caucus meal provided at a meeting must share the cost with other lobbyist principals who are also sponsoring meals that will be reported as a lobbyist principal meal.

Staff Memorandum 2015-04: There are no rules allowing a lobbyist principal to expend funds on a meal for an individual legislator; lobbyist principals may only expend funds for food and beverages at (1) events to which all the members of the Legislature are invited, (2) recognized caucus meetings, (3) legislative committee or subcommittee meetings, and (4) out-of-state events. Instead, a lobbyist must report any meals given to a legislator, regardless of the source of funds used to pay for the meal.

Rule 5.16. Food and Beverage Provided by a Lobbyist Principal to a Legislative Committee or Subcommittee.

A lobbyist principal that employs or retains a legislative liaison or legislative lobbyist may provide food and beverage for any event held within the Capitol building to which all members of a committee or subcommittee of either House of the Legislature identified in the Rules or Journal of the respective House are invited and which is attended by a majority of members of the committee or subcommittee no more than once per calendar year for any such committee or subcommittee, provided the event is reported as provided by these Rules. More than one lobbyist principal may provide food and beverage for such an event, but no lobbyist principal shall participate in more than one such event per calendar year for any committee or subcommittee. The reporting provision of this section shall not include legislators who are not members of the committee or subcommittee, nor shall it include legislative staff members who do not officially or regularly provide staff services for the committee or subcommittee.

History

Promulgated by Ethics Commission January 10, 2014; effective upon Legislature's sine die adjournment May 23, 2014; operative January 1, 2015.

Amendment promulgated by Ethics Commission January 9, 2015; effective upon sine die adjournment of the Legislature May 22, 2015; operative May 22, 2015.

The 2015 amendment added the following sentence: "The reporting provision of this section shall not include legislators who are not members of the committee or subcommittee, nor shall it include legislative staff members who do not officially or regularly provide staff services for the committee or subcommittee."

Commission Comment

This Rule applies only to lobbyist principals that employ a legislative liaison or legislative lobbyist. The lobbyist principal may provide food and beverage for one meeting in any calendar year for a meeting of a committee or subcommittee of the Senate or House of Representatives. The meeting must be held within the State Capitol building. The committee or subcommittee must be identified as such in either the Rules of the respective House or in the official Journal of the respective House. To qualify, a majority of members of the committee or subcommittee must attend. For that reason, an attendance record should be maintained. The cost for food and beverage may be divided between multiple lobbyist principals for the same meeting, provided no lobbyist principal engages in this practice more than one time per calendar year per committee or subcommittee. The cost of food and beverage for such an event must be reported by the liaison or lobbyist. See Rule 5.21. The cost of food

and beverage is not counted as part of the limits provided for liaisons and lobbyists in Rule 5.7.

Unlike events to which all members of the Legislature are invited, this exception is limited to members of the committee or subcommittee and legislative staff members who officially or regularly provide staff services for the committee or subcommittee. Other legislators or legislative staff must be reported by the lobbyist as recipients of individual gifts.

Lobbyist principals that share the cost of a meal provided at a meeting must share the cost with other lobbyist principals who are also sponsoring meals that will be reported as a lobbyist principal meal.

Staff Memorandum 2015-04: There are no rules allowing a lobbyist principal to expend funds on a meal for an individual legislator; lobbyist principals may only expend funds for food and beverages at (1) events to which all the members of the Legislature are invited, (2) recognized caucus meetings, (3) legislative committee or subcommittee meetings, and (4) out-of-state events. Instead, a lobbyist must report any meals given to a legislator, regardless of the source of funds used to pay for the meal.

Rule 5.17. Food and Beverage Provided by a Lobbyist Principal for Out of State Events.

A lobbyist principal that employs or retains a legislative liaison or legislative lobbyist may provide food and beverage for any event at a professional conference, seminar or other similar meeting conducted outside the geographical boundaries of the State of Oklahoma to which only Oklahoma state officers or employees participating in the event are invited, provided a minimum of five state officers or employees participate and provided the event is reported as provided by these Rules. More than one lobbyist principal may provide food and beverage for such an event, but no lobbyist principal shall participate in more than one such event per calendar year.

History

Promulgated by Ethics Commission January 10, 2014; effective upon Legislature's sine die adjournment May 23, 2014; operative January 1, 2015.

Commission Comment

This Rule applies only to lobbyist principals that employ a legislative liaison or legislative lobbyist. The lobbyist principal may provide food and beverage at a professional conference, seminar or other similar meeting conducted outside of Oklahoma, subject to certain limitations. Only Oklahoma state officers and employees may be invited to such an event. There must be a minimum of five state officers and employees who participate. For that reason, an attendance record should be maintained. This Rule acknowledges that state officers and employees often attend national and regional conferences and seminars for professional education and development purposes. Often, the sponsors of such events designate a "state night" at which participants from the various states join together for dinner. The cost for food and beverage on such occasions may be divided between multiple lobbyist principals for the same meeting, provided no lobbyist principal engages in this practice more than one time per calendar year. The cost of food and beverage for such an event must be reported by the liaison or lobbyist. See Rule 5.21. The cost of food and beverage is not counted as part of the limits provided for liaisons and lobbyists in Rule 5.7. However, food and beverage purchased at such an event do count against the limits provided for liaisons and lobbyists in Rule 5.7 if there are fewer than five state officers or employees. Family members who are not state officers or employees are not counted.

Lobbyist principals that share the cost of a meal must share the cost with other lobbyist principals who are also sponsoring meals that will be reported as a lobbyist principal meal.

Staff Memorandum 2015-04: There are no rules allowing a lobbyist principal to expend funds on a meal for an individual legislator; lobbyist principals may only expend funds for food and beverages at (1) events to which all the members of the Legislature are invited, (2) recognized caucus meetings, (3) legislative committee or subcommittee meetings, and

(4) out-of-state events. Instead, a lobbyist must report any meals given to a legislator, regardless of the source of funds used to pay for the meal.

Rule 5.18. Lobbyist Principal Purchase of Tickets or Sponsorship of Bona Fide Community, Civic, or Charitable Event.

A lobbyist principal may purchase tickets for or otherwise provide sponsorship for a bona fide community, civic or charitable reception, breakfast, luncheon or dinner attended by state officers and employees who are guests of the sponsoring organization, provided the lobbyist principal may not designate state officers or employees to be guests and provided the purchase or sponsorship is customary for the lobbyist principal and other similar entities.

History

Promulgated by Ethics Commission January 10, 2014; effective upon Legislature's sine die adjournment May 23, 2014; operative January 1, 2015.

Commission Comment

Often community, civic and charitable organizations invite state officers and employees to be the guests of the organization for dinners, receptions and similar events. The costs of these events often are paid by individuals and entities that purchase tickets or sponsorships. This Rule permits lobbyist principals to help pay the costs of such events provided they do not designate state officers or employees to be guests.

Although the title to the Rule refers to an "Event", the title is not part of the Rule and the Rule is limited to breakfasts, lunches, dinners, and receptions. See Rule 1.9.

Example: *A charitable organization that is a lobbyist principal sponsors a night at a professional basketball game and as part of that sponsorship receives basketball tickets, which includes a buffet before the game. The charitable organization may not give tickets to [employees or officers of the state agency it is registered to lobby](#) because the tickets are not for a breakfast, lunch, dinner, or reception. In this scenario, the buffet is merely incidental to the basketball game and is not within the intent of Rule 5.18.*

Staff Memorandum 2015-01: *If a ticket to a reception, breakfast, luncheon, or dinner at a bona fide community, civic, or charitable event is provided by a lobbyist directly to a legislator or other state officer or employee, then the lobbyist must report the face value of the ticket as a meal given and shall deduct the face value of the ticket from the limit on meals allowed in Ethics Rule 5.7.*

Rule 5.19. Legislative Liaison and Legislative Lobbyist Report Deadlines.

Each legislative liaison and legislative lobbyist shall file a Legislative Lobbyist Report on the following dates for the following time periods:

1. Before the sixteenth day of January for the period beginning July 1 and ending December 31 of the preceding year.
2. Before the sixth day of February, March, April, May and June and before the sixteenth day of July for the preceding month.

Except for good cause shown, any legislative liaison or legislative lobbyist who, during a calendar year, files more than one Legislative Lobbyist Report after the date it is due shall be deemed to have intentionally failed to file the report in violation of these Rules.

History

Promulgated by Ethics Commission January 10, 2014; effective upon Legislature's sine die adjournment May 23, 2014; operative February 1, 2015.

Amendment promulgated by Ethics Commission January 27, 2017; effective upon sine die adjournment of the Legislature May 26, 2017; operative May 26, 2017.

The 2017 amendment replaced "sixth" with "sixteenth" in subsection number one. The sentence read: "1. Before the sixth day of January for the period beginning July 1 and ending December 31 of the preceding year."

The 2017 amendment deleted the comma after "May" and added "and" between "May" and "June" in subsection number two. The 2017 amendment added "before the sixteenth day of" between "June and" and "July" in subsection number two. The sentence read: "2. Before the sixth day of February, March, April, May, June and July for the preceding month."

Commission Comment

This Rule provides the reporting schedule for Legislative Lobbyist Reports by legislative liaisons and legislative lobbyists. Reports are mandatory, whether or not there have been expenditures. The schedule is designed to require monthly reporting during regular legislative sessions and a single report for the interim between regular sessions. An extraordinary session does not change the reporting schedule. Monthly reports for the preceding calendar month are due by February 5th, March 5th, April 5th, May 5th, June 5th and July 15th. An interim report is due by January 15th for the period July 1-December 31 of the preceding calendar year. The default determination of intentionally failing to file a report for a second late report during a calendar year is intended to discourage chronic or deliberate late filing.

Rule 5.20. Executive Lobbyist Report Deadlines.

Each executive lobbyist shall file an Executive Lobbyist Report before the sixteenth day of January, April, July and October for the preceding calendar quarter. Except for good cause shown, any executive lobbyist who, during a calendar year, files more than one Executive Lobbyist Report after the date it is due shall be deemed to have intentionally failed to file the report in violation of these Rules. An executive lobbyist who also is registered as a legislative lobbyist may choose to file reports as an executive lobbyist on the same dates that he or she files reports as a legislative lobbyist.

History

Promulgated by Ethics Commission January 10, 2014; effective upon Legislature's sine die adjournment May 23, 2014; operative February 1, 2015.

Amendment promulgated by Ethics Commission January 27, 2017; effective upon sine die adjournment of the Legislature May 26, 2017; operative May 26, 2017.

The 2017 amendment replaced "sixth" with "sixteenth" in the first sentence. The sentence read: "Each executive lobbyist shall file an Executive Lobbyist Report before the sixth day of January, April, July and October for the preceding calendar quarter."

Commission Comment

This Rule provides the reporting schedule for Executive Lobbyist Reports by executive lobbyists. Reports are mandatory, whether or not there have been expenditures. Unlike legislative lobbying, the level of executive lobbying activity does not necessarily correlate to any particular time period. Therefore, quarterly reports are due on January 15th, April 15th, July 15th and October 15th for the preceding three calendar months. The default determination of intentionally failing to file a report for a second late report during a calendar year is intended to discourage chronic or deliberate late filing. Executive lobbyists who also are legislative lobbyists have an option to either file reports under the different deadlines for legislative lobbying and executive lobbying or, alternatively, to file reports of both legislative lobbying and executive lobbying activities on the dates prescribed for legislative lobbying. See Rule 5.19. For those choosing the latter option, the deadlines would be the same for reports filed on January 15th and July 15, although the time periods covered would be different in the two reports. Also, the October 15th report would be required for executive lobbying activities, even though it is not required for legislative lobbying.

Rule 5.21. Legislative Lobbyist Report Required Information.

Each Legislative Lobbyist Report shall include, but not be limited to, information contained on the registration of the legislative liaison or legislative lobbyist and the following information:

1. The cost of each meal provided during the reporting period for the Governor, for any legislator or for any employee of the Governor or the Legislature and the date on which the meal was provided. The cost shall include the price, plus any applicable tax but shall not include a gratuity. In calculating the price of the meal, items such as appetizers or hors d'oeuvre or beverages may be apportioned by dividing the total cost of the item equally by the number of participants, where the individual cost per participant is difficult or impossible to ascertain; provided, however, the individual price of other items, such as salads, entrees, or individual beverages shall be attributed to individual participants. Any food and beverages provided other than as part of a meal and valued at more than Ten Dollars (\$10.00) in the aggregate during a calendar year shall be reported separately.
2. The aggregate total number and cost of items reported in subsection 1 of this Rule, including any during this reporting period for the Governor, for any legislator or for any employee of the Governor or the Legislature.
3. The date, location and cost of food and beverage paid by a lobbyist principal of the legislative liaison or legislative lobbyist for any event to which all members of the Legislature were invited and the percentage of the total cost of food and beverage provided by the lobbyist principal for the event if less than one hundred percent (100%).
4. The date, location and cost of food and beverage paid by a lobbyist principal of the legislative liaison or legislative lobbyist for a meeting of a political caucus of either House of the Legislature and the percentage of the total cost of food and beverage provided by the lobbyist principal for the meeting if less than one hundred percent (100%).
5. The date, location and cost of food and beverage paid by a lobbyist principal of the legislative liaison or legislative lobbyist for a meeting of a committee or subcommittee of either House of the Legislature identified in the Rules or Journal of the respective House to which all members of the committee or subcommittee were invited and which a majority of members attended and the percentage of the total cost of food and beverage for the meeting if less than one hundred percent (100%).

6. The cost of food and beverage paid by a lobbyist principal of the legislative liaison or legislative lobbyist for an event at a bona fide national or multistate regional professional conference, seminar or other similar meeting conducted outside the geographical boundaries of the State of Oklahoma to which only Oklahoma state officers or employees participating in the event are invited, provided a minimum of five state officers and employees participate, a description of the event, the date of the event and the percentage of the total cost of food and beverage for the meeting if less than one hundred percent (100%).

Nominal costs of transportation by private motor vehicle or similar public transportation such as a taxi provided by a legislative liaison or legislative lobbyist to and from the location of a meal or event within the State of Oklahoma or within the vicinity of the meal if outside the geographical boundaries of the State of Oklahoma shall be permitted but shall not be reported. Reports by legislative liaisons or legislative lobbyists shall be filed electronically, unless otherwise ordered by the Commission or the Executive Director of the Commission. Expenditures made by a lobbyist principal that is represented by more than one legislative liaison or legislative lobbyist shall be reported on only one Legislative Lobbyist Report by a legislative liaison or legislative lobbyist; any other legislative liaison or legislative lobbyist representing the same lobbyist principal shall indicate on the Legislative Lobbyist Report the name of the legislative liaison or legislative lobbyist reporting the expenditure on behalf of the lobbyist principal.

History

Promulgated by Ethics Commission January 10, 2014; effective upon Legislature's sine die adjournment May 23, 2014; operative January 1, 2015.

Commission Comment

This Rule provides the information required on the Legislative Lobbyist Report and provides guidance on how certain expenditures should be calculated. The report includes expenditures by legislative liaisons, legislative lobbyists and lobbyist principals for the benefit of the Governor, members of the Legislature and their staffs. Each meal must be listed separately. The price of each meal must be calculated separately. The cost can be divided equally by the number of participants for items such as appetizers or hors d'oeuvres or beverages when the individual cost per participant is difficult or impossible to ascertain. The cost of other items, however, must reflect the actual cost of the item.

Example: *Legislative lobbyist Zane pays for dinner for legislators Able, Baker and Charles. Appetizers are ordered for all four diners at a cost of Forty Dollars (\$40.00). Two bottles of wine are*

provided at a total cost of One Hundred Dollars (\$100.00). Able orders a steak at a cost of Thirty Dollars (\$30.00). Baker orders chicken for Twenty Dollars (\$20.00) and a dessert for Seven Dollars (\$7.00). Charles orders a salad for Ten Dollars (\$10.00), a steak for Forty Dollars (\$40.00) and a dessert for Fifteen Dollars (\$15.00). Zane's food cost Thirty Dollars (\$30.00). The tax was eight percent (8%) for a total of Twenty-three Dollars and thirty-six cents (\$23.36).

Zane may divide the cost of the appetizer and wine by four (4), the total number of participants.

The cost for Able's meal should be reported as Seventy Dollars and twenty cents (\$70.20), calculated as follows:

Cost of appetizers: $\$40.00/4=\10.00
Cost of wine: $\$100.00/4=\25.00
Cost of entrée: $\$30.00$
Total cost: $\$10.00 + \$25.00 + \$30.00 = \$65.00 + \$5.20$ tax

The cost for Baker's meal should be reported as Sixty-Six Dollars and Ninety-Six Cents (\$66.96), calculated as follows.

Cost of appetizers: $\$40.00/4=\10.00
Cost of wine: $\$100.00/4=\25.00
Cost of entrée: $\$20.00$
Cost of dessert: $\$7.00$
Total cost: $\$10.00 + \$25.00 + \$20.00 + \$7.00 = \$62.00 + \4.96
tax = \$66.96

The cost for Charles' meal should be reported as One Hundred Eight Dollars (\$108.00), calculated as follows.

Cost of appetizers: $\$40.00/4=\10.00
Cost of wine: $\$100.00/4=\25.00
Cost of salad: $\$10.00$
Cost of entrée: $\$40.00$
Cost of dessert: $\$15.00$
Total cost: $\$10.00 + \$25.00 + \$10.00 + \$40.00 + \$15.00 =$
 $\$100.00 + \8.00 tax = \$108.00.

For convenience, the total cost of an individual meal may be rounded to the next highest dollar amount. In that case, Able's meal would be reported at Seventy-One Dollars (\$71.00), Baker's meal at Sixty-Seven Dollars (\$67.00) and Charles' meal at One Hundred Eight Dollars (\$108.00).

Example: Legislative lobbyist Yarnell buys five pizzas and soft drinks for himself and legislators Davis, Edwards, Finch, Grant and Hood to share. The total cost of the pizzas and soft drinks, tax included, is Eighty-two Dollars and Fifty Cents (\$82.50). The cost of the meal for Davis, Edwards, Finch, Grant and Hood may be calculated as Thirteen Dollars and Seventy-five Cents (\$13.75), or, by rounding, Fourteen Dollars (\$14.00), since it would be difficult to ascertain the cost for each individual.

Example: Legislative liaison Woodward buys a box lunch for legislators Inkster, Jackson, Kent, Lemon and Marx. Each box lunch costs Twelve Dollars (\$12.00). Total tax is Four Dollars and Eighty Cents (\$4.80). Woodward does not order a box lunch for herself. The cost of the meal for Inkster, Jackson, Kent, Lemon and Marx may be calculated as Twelve Dollars and Ninety-six Cents (\$12.96), or, by rounding, Thirteen Dollars (\$13.00).

When food and beverage are provided by legislative liaisons or legislative lobbyists but are not part of a meal, this Rule exempts reporting for the first Ten Dollars (\$10.00) in the aggregate during a calendar year. After the maximum of Ten Dollars (\$10.00) is exceeded, these items are reported.

Example: Legislative lobbyist Vickers buys legislator Nelson two beers during happy hour at a local bar one afternoon. The beers cost a total of Four Dollars (\$4.00). Vickers did not buy any other such food or beverage for Nelson the balance of the calendar year. This expenditure does not need to be reported.

Example: Legislative lobbyist Unger treats legislator Olson to beer at happy hour at a local bar every Monday during the legislative session. The beer costs Four Dollars (\$4.00). After the third week, the total expenditure by Unger is Twelve Dollars (\$12.00), exceeding the Ten Dollar (\$10.00) threshold. Unger reports Two Dollars (\$2.00) for that expenditure and reports every such expenditure thereafter.

Gifts provided on "infrequently occurring occasions of personal significance" under Rule 5.8 must be reported in sufficient detail that a reasonable person would understand what was given. See Rule 5.24.

The legislative liaison or legislative lobbyist also reports on behalf of the lobbyist principal for events to which all members of the Legislature are invited, political caucus meetings and meetings of legislative committees or subcommittees. In each of these situations, the total cost of food and beverage spent by the lobbyist principal is reported. Because more than one lobbyist principal may divide the total cost of food and beverage on these occasions, the Report includes not just the cost of food and beverage provided by the lobbyist principal, but the percentage of the total cost that the lobbyist principal assumed.

Example: Ajax Corp., a lobbyist principal, and Allied Widgets, Inc., a lobbyist principal, jointly sponsor an event to which all members of the Legislature are invited. The total cost of food and beverage for the event is Two Thousand Dollars (\$2,000.00). Ajax and Allied Widgets each pay half of the cost. The Reports filed by their lobbyists should show a cost of One Thousand Dollars (\$1,000.00) for food and beverage and that this amount represented fifty percent (50%) of the total cost. For this event, Ajax and Allied also provided entertainment, which cost an additional Three Thousand Dollars (\$3,000.00) and rented a facility for Five Hundred Dollars (\$500.00). Neither the cost of the entertainment nor the cost of rent is reported.

Locations must be reported for events to which all members of the Legislature are invited and for political caucus meetings, events which may be held outside the capitol building. However, meetings of committees

or subcommittees must be in the capitol building, so no location is required to be reported.

Caucuses based on common interests other than the two recognized political parties with elected members of the Legislature are not eligible for the caucus event provision, so meals provided for members of a caucus other than the Republican or Democrat caucuses of either House are reported individually.

Example: Thompson, a legislative lobbyist, hosts a buffet dinner on behalf of his lobbyist principal, Ajax Corp., for eight members of the Agriculture Caucus, a group of legislators who meet periodically to discuss agricultural issues. The cost of the buffet, with taxes, is Fifteen Dollars (\$15.00) per person. Thompson must report an individual meal for each of the eight legislators. The cost applies to Thompson's annual limit of Five Hundred Dollars (\$500.00) for each legislator.

Committee and subcommittee meetings must be attended by a majority of members of the committee or subcommittee, so it is necessary that a lobbyist principal providing food and beverage for a meeting keep a list of committee members or subcommittee members who participate. All members of the committee or subcommittee must be invited to participate.

For food and beverage provided for out-of-state national or regional professional conferences, seminars and similar meetings, a sponsoring lobbyist principal should be prepared to produce evidence that the event was a bona fide professional affair. Since at least five state officers or employees must participate, a record of participants should be maintained.

All of the "once per calendar year events" sponsored by lobbyist principals—vents to which all members of the Legislature are invited, caucus meetings, meetings of committees and subcommittees, out-of-state conferences—must be scheduled in advance to be considered within the Rule. Each of these events must be supported by evidence indicating the basis for meeting the requirement, such as written invitations, electronic mail or other similar documentation.

Reports must be filed electronically unless otherwise ordered by the Commission or by the Executive Director. Other means may be ordered in case of unexpected events, such as a power failure or natural disasters.

The provision requiring that activities on behalf of a lobbyist principal represented by more than one legislative liaison or legislative lobbyist be reported only once is designed to prevent the same event from being replicated on reports and causing a distortion in the perceived amount of the expenditure.

Rule 5.22. Executive Lobbyist Report Required Information.

Each Executive Lobbyist Report shall include, but not be limited to, the following information:

1. The cost of each meal provided during the reporting period for a state officer or employee of an agency for which he or she is registered and the date on which the meal was provided. The cost shall include the price, plus any applicable tax but shall not include a gratuity. In calculating the price of the meal, items such as appetizers or hors d'oeuvre or beverages may be apportioned by dividing the total cost of the item equally by the number of participants, where the individual cost per participant is difficult or impossible to ascertain; provided, however, the individual price of other items, such as salads, entrees or individual beverages shall be attributed to individual participants. Any food and beverages provided other than as part of a meal and valued at more than Ten Dollars (\$10.00) in the aggregate during a calendar year shall be reported separately.
2. The aggregate total number and cost of items reported in subsection 1 of this Rule, including any during this reporting period, for a state officer or employee of an agency for which he or she is registered.

Nominal costs of transportation by private motor vehicle or similar public transportation such as a taxi provided by an executive lobbyist to and from the location of a meal or event shall be permitted but shall not be reported. Reports by executive lobbyists shall be filed electronically, unless otherwise ordered by the Commission or the Executive Director of the Commission. Expenditures made by a lobbyist principal that is represented by more than one executive lobbyist shall be reported on only one Executive Lobbyist Report by an executive lobbyist; any other executive lobbyist representing the same lobbyist principal shall indicate on the Executive Lobbyist Report the name of the executive lobbyist reporting the expenditure on behalf of the lobbyist principal.

History

Promulgated by Ethics Commission January 10, 2014; effective upon Legislature's sine die adjournment May 23, 2014; operative January 1, 2015.

Commission Comment

This Rule provides the information required to be provided on the Executive Lobbyist Report and provides guidance on how certain expenditures should be calculated. The report includes expenditures by executive lobbyists and lobbyist principals for the benefit of state officers or employees of an agency for which the executive lobbyists are

registered. Each meal must be listed separately. The price of each meal must be calculated separately. The cost can be divided equally by the number of participants for items such as appetizers or hors d'oeuvres or beverages when the individual cost per participant is difficult or impossible to ascertain. The cost of other items, however, must reflect the actual cost of the item.

Example: Executive lobbyist Zane pays for dinner for Able, Baker and Charles, members of the Good Policy Board, which is considering rules that are the subject of Zane's lobbying efforts. Appetizers are ordered for all four diners at a cost of Forty Dollars (\$40.00). Two bottles of wine are provided at a total cost of One Hundred Dollars (\$100.00). Able orders a steak at a cost of Thirty Dollars (\$30.00). Baker orders chicken for Twenty Dollars (\$20.00) and a dessert for Seven Dollars (\$7.00). Charles orders a salad for Ten Dollars (\$10.00), a steak for Forty Dollars (\$40.00) and a dessert for Fifteen Dollars (\$15.00). Zane's food cost Thirty Dollars (\$30.00). The tax was eight percent (8%) for a total of Twenty-three Dollars and thirty-six cents (\$23.36).

Zane may divide the cost of the appetizer and wine by four (4), the total number of participants.

The cost for Able's meal should be reported as Seventy Dollars and twenty cents (\$70.20), calculated as follows:

Cost of appetizers: $\$40.00/4=\10.00
Cost of wine: $\$100.00/4=\25.00
Cost of entrée: $\$30.00$
Total cost: $\$10.00 + \$25.00 + \$30.00 = \$65.00 + \$5.20$ tax

The cost for Baker's meal should be reported as Sixty-Six Dollars and Ninety-Six Cents (\$66.96), calculated as follows.

Cost of appetizers: $\$40.00/4=\10.00
Cost of wine: $\$100.00/4=\25.00
Cost of entrée: $\$20.00$
Cost of dessert: $\$7.00$
Total cost: $\$10.00 + \$25.00 + \$20.00 + \$7.00 = \$62.00 + \4.96
tax = \$66.96

The cost for Charles' meal should be reported as One Hundred Eight Dollars (\$108.00), calculated as follows.

Cost of appetizers: $\$40.00/4=\10.00
Cost of wine: $\$100.00/4=\25.00
Cost of salad: $\$10.00$
Cost of entrée: $\$40.00$
Cost of dessert: $\$15.00$
Total cost: $\$10.00 + \$25.00 + \$10.00 + \$40.00 + \$15.00 =$
 $\$100.00 + \8.00 tax = \$108.00.

For convenience, the total cost of an individual meal may be rounded to the next highest dollar amount. In that case, Able's meal would be reported at Seventy-One Dollars (\$71.00), Baker's meal at Sixty-Seven Dollars (\$67.00) and Charles' meal at One Hundred Eight Dollars (\$108.00).

Example: Executive lobbyist Yarnell, who lobbies the Good Policy Department, buys five pizzas and soft drinks for himself and Davis, Edwards, Finch, Grant and Hood, employees of the Good Policy Department, to share. The total cost of the pizzas and soft drinks, tax included, is Eighty-two Dollars and Fifty Cents (\$82.50). The cost of the meal for Davis, Edwards, Finch, Grant and Hood may be calculated as Thirteen Dollars and Seventy-five Cents (\$13.75), or, by rounding, Fourteen Dollars (\$14.00), since it would be difficult to ascertain the cost for each individual.

Example: Executive lobbyist Woodward, who also lobbies the Good Policy Department, buys a box lunch for Inkster, Jackson, Kent, Lemon and Marx, officers and employees of the Good Policy Department. Each box lunch costs Twelve Dollars (\$12.00). Total tax is Four Dollars and Eighty Cents (\$4.80). Woodward does not order a box lunch for herself. The cost of the meal for Inkster, Jackson, Kent, Lemon and Marx may be calculated as Twelve Dollars and Ninety-six Cents (\$12.96), or, by rounding, Thirteen Dollars (\$13.00).

When food and beverage are provided by executive lobbyists but are not part of a meal, this Rule exempts reporting for the first Ten Dollars (\$10.00) in the aggregate during a calendar year. After the maximum of Ten Dollars (\$10.00) is exceeded, these items are reported.

Example: Executive lobbyist Vickers buys Good Policy Department director Nelson two beers during happy hour at a local bar one afternoon. The beers cost a total of Four Dollars (\$4.00). Vickers did not buy any other such food or beverage for Nelson the balance of the calendar year. This expenditure does not need to be reported.

Example: Executive lobbyist Unger treats Good Policy Department general counsel Olson to beer at happy hour at a local bar every Monday one summer. The beer costs Four Dollars (\$4.00). After the third week, the total expenditure by Unger is Twelve Dollars (\$12.00), exceeding the Ten Dollar (\$10.00) threshold. Unger reports Two Dollars (\$2.00) for that expenditure and reports every such expenditure thereafter.

Gifts provided on "infrequently occurring occasions of personal significance" under Rule 5.8 must be reported in sufficient detail that a reasonable person would understand what was given. See Rule 5.24.

Reports must be filed electronically unless otherwise ordered by the Commission or by the Executive Director. Other means may be ordered in case of unexpected events, such as a power failure or natural disasters.

The provision requiring that activities on behalf of a lobbyist principal represented by more than one legislative liaison or legislative lobbyist be reported only once is designed to prevent the same event from being replicated on reports and causing a distortion in the perceived amount of the expenditure.

Rule 5.23. Legislative Liaison, Legislative Lobbyist, Executive Lobbyist Amended Reports.

A legislative liaison or legislative lobbyist may file an Amended Legislative Lobbyist Report and an executive lobbyist may file an Amended Executive Lobbyist Report at any time to correct a bona fide oversight or error in the previously filed Legislative Lobbyist Report or Executive Lobbyist Report, provided the legislative liaison, legislative lobbyist or executive lobbyist certifies that the filing of an Amended Legislative Lobbyist Report or Amended Executive Lobbyist Report is not made for the purpose of reporting information that was intentionally omitted or misstated on the previously filed Legislative Lobbyist Report or Executive Lobbyist Report. If a legislative liaison, legislative lobbyist or executive lobbyist files a certified Amended Legislative Lobbyist Report or Amended Executive Lobbyist Report that is not in fact made for the purpose of reporting information that was intentionally omitted or misstated, the legislative liaison, legislative lobbyist or executive lobbyist shall not be deemed to have violated these Rules by having made an erroneous prior filing.

History

Promulgated by Ethics Commission January 10, 2014; effective upon Legislature's sine die adjournment May 23, 2014; operative January 1, 2015.

Commission Comment

This Rule permits legislative liaisons, legislative lobbyists and executive lobbyists to amend their reports for the purpose of correcting legitimate errors. It also provides that when an amended report is filed for other purposes, e.g., intentional omissions or misstatements, the prior filing shall be deemed to have been in violation of the Rules.

Rule 5.24. Executive Director Authority to Require Additional Information.

The Executive Director of the Commission shall be authorized to require additional information on the Legislative Lobbyist Report and Executive Lobbyist Report consistent with the intention of the Commission to provide disclosure of expenditures identified in these Rules.

History

Promulgated by Ethics Commission January 10, 2014; effective upon Legislature's sine die adjournment May 23, 2014; operative January 1, 2015.

Commission Comment

This provision simply allows the Executive Director to require information on the reports that is consistent with the intention of the Commission to provide disclosure of expenditures by legislative liaisons, legislative lobbyists and executive lobbyists.

Rule 5.25. Waiver for Preexisting Relationship.

A state officer or employee may apply to the Commission for a waiver of a Rule based on a preexisting relationship between the state officer or employee and a legislative liaison, legislative lobbyist or executive lobbyist. The Commission shall have exclusive authority and discretion to grant a waiver on a case-by-case basis, based upon the totality of circumstances and a finding that the purposes of these Rules will not be impeded or hindered by the waiver. A waiver shall have only prospective application. The Commission may request whatever information it deems appropriate from an applicant, including but not limited to verified statements by the applicant and/or the legislative liaison, legislative lobbyist or executive lobbyist with whom a preexisting relationship is claimed. The restrictions between a state officer or employee and a legislative liaison, legislative lobbyist or executive lobbyist shall not apply when the two are family members.

History

Promulgated by Ethics Commission January 10, 2014; effective upon Legislature's sine die adjournment May 23, 2014; operative January 1, 2015.

Amendment promulgated by Ethics Commission January 9, 2015; effective upon sine die adjournment of the Legislature May 22, 2015; operative May 22, 2015.

The 2015 amendment added the following sentence: "The restrictions between a state officer or employee and a legislative liaison, legislative lobbyist or executive lobbyist shall not apply when the two are family members."

Commission Comment

Any state officer or state employee who believes that he or she should be granted an exception to a specific Rule or Rules as applied to another person covered by the Rules may apply to the Commission for a waiver based on a preexisting relationship between the state officer or employee and the other person. Applications are made on a case-by-case basis and should be made before any action that would violate these Rules. There are no specific relationships that are set forth in the Rule, but the Commission will consider each application based on the totality of circumstances. Even if there is a preexisting relationship, the Commission may choose not to grant a waiver if it believes that the purposes of the Rules would be impeded or hindered by doing so.

Rule 5.26. Legislative Liaison, Legislative Lobbyist or Executive Lobbyist Required to Retain Records.

A legislative liaison, legislative lobbyist or executive lobbyist shall be required to retain records necessary to substantiate any registrations or reports or other requirements of these Rules for a period of not less than four (4) years.

History

Promulgated by Ethics Commission January 10, 2014; effective upon Legislature's sine die adjournment May 23, 2014; operative January 1, 2015.

Commission Comment

The Commission may require production of records or other evidence to support filings by legislative liaisons, legislative lobbyists or executive lobbyists. This may come about as a result of a formal investigation or a routine review or audit. In all cases, records necessary to substantiate registration and reports must be retained for four (4) years. This includes, but is not limited to, contracts, receipts, credit card receipts and similar evidence of arrangements or expenditures. When events are sponsored by a lobbyist principal, the responsibility for maintaining records resides with the liaison or lobbyist. When there is more than one liaison or lobbyist employed by the lobbyist principal, the one who reports an expenditure is required to maintain the records.

Rule 5.27. Lobbying Activity Disclosure Requirements.

When engaged in lobbying activities, either orally or in writing, any legislative liaison, legislative lobbyist or executive lobbyist shall identify the lobbyist principal or lobbyist principals on whose behalf the lobbying activities are being conducted. Any state officer or state employee who is being lobbied may request such information from the person engaged in lobbying activities.

History

Promulgated by Ethics Commission January 10, 2014; effective upon Legislature's sine die adjournment May 23, 2014; operative January 1, 2015.

Commission Comment

Some lobbyists represent many different lobbyist principals. State officers and employees who are being lobbied may see many liaisons and lobbyists in a day. This Rule is designed to assist the person being lobbied to identify the organization that arranged for the lobbying. The liaison or lobbyist should volunteer the information, and any person being lobbied may request that information.

Rule 5.28. State Officer or Employee Prohibition on Legislative or Executive Lobbying.

No state officer or employee, including members of boards, commissions, authorities and similar public bodies of state agencies, shall be either a legislative lobbyist or an executive lobbyist.

History

Promulgated by Ethics Commission January 10, 2014; effective upon Legislature's sine die adjournment May 23, 2014; operative January 1, 2015.

Commission Comment

This Rule ensures that state officers or employees will not have a possible conflict of interest by representing a lobbyist principal that is not a state agency.

Rule 5.29. Lobbyist or Legislative Liaison Violation of Rules through Indirect Action

In no event may a legislative liaison, a legislative lobbyist, an executive lobbyist or a lobbyist principal do indirectly, through a third party or through other indirect means, anything that is prohibited by these Rules.

History

Promulgated by Ethics Commission January 10, 2014; effective upon Legislature's sine die adjournment May 23, 2014; operative January 1, 2015.

Commission Comment

This Rule clearly makes it a violation of the Rules whether the prohibited action is direct or indirect.

Rule 6

Investigations, Prosecutions and Penalties

Rule 6.1. Purpose of Rule 6

The purpose of Rule 6 is to set forth the procedures for investigating and prosecuting alleged violations of these Rules and prescribing penalties for violations of these Rules, as provided by Article XXIX, Section 4 of the Constitution of the State of Oklahoma.

History

Promulgated by Ethics Commission January 10, 2014; effective upon Legislature's sine die adjournment May 23, 2014; operative January 1, 2015.

Commission Comment

Article XXIX, Section 3(A) and (B) of the Oklahoma Constitution require the Commission to "promulgate rules of ethical conduct for campaigns for elective state office and for campaigns for initiatives and referenda, including civil penalties for violation of these rules" and to "promulgate rules of ethical conduct for state officers and employees, including civil penalties for violation of these rules." Article XXIX, Section 4(A) requires the Commission to "investigate and, when it deems appropriate, prosecute in the District Court of the County where the violation occurred, violations of its rules governing ethical conduct of campaigns, state officers, and state employees." Section 4(A) also permits the Commission to "settle investigations and accept payment of fines without Court order." Article XXIX, Section 4(C) provides that the Commission "shall have subpoena power" for its investigations. The purpose of Rule 6 is to establish civil penalties as provided in Section 3 and to establish procedures for investigations as provided in Section 4.

Rule 6.2. Definitions

As used in Rule 6:

- 1. "Commission" shall mean the Oklahoma Ethics Commission; and**
- 2. "Complaint" shall mean an allegation of a violation of these Rules.**

History

Promulgated by Ethics Commission January 10, 2014; effective upon Legislature's sine die adjournment May 23, 2014; operative January 1, 2015.

Commission Comment

The definition of "complaint" is to align the Rules with the commonly-understood term for an allegation of a violation of the Rules.

Rule 6.3. Complaints.

A. A member of the Commission or an employee of the Commission may accept a complaint from any source; provided, however, no complaint shall be accepted from an anonymous source.

B. Any person other than a member or an employee of the Commission who files a written complaint alleging a violation of any Rule shall (1) cite the Rule or Rules alleged to have been violated, (2) describe in detail the facts alleged to have caused a violation of a Rule to occur and the name of any individual involved in the alleged violation, (3) certify that he or she has personal knowledge of the facts alleged. It shall be a violation of these Rules for any person to willfully, knowingly and without probable cause make a false complaint alleging a violation of these Rules. A frivolous complaint shall be deemed to be a violation of these Rules by the person making the complaint. A frivolous complaint means the complaint was knowingly asserted in bad faith, was unsupported by any credible evidence, was not grounded in fact, or was unwarranted by existing law. Any person who files a written complaint shall, by doing so, submit to the jurisdiction of the Commission for purposes of this paragraph. It shall be a violation of these Rules for any state officer or employee to take retaliatory action against any subordinate state officer or employee because the subordinate state officer or employee filed a complaint other than a false complaint or a frivolous complaint.

History

Promulgated by Ethics Commission January 10, 2014; effective upon Legislature's sine die adjournment May 23, 2014; operative January 1, 2015.

Amendment promulgated by Ethics Commission January 9, 2015; effective upon sine die adjournment of the Legislature May 22, 2015; operative May 22, 2015.

The 2015 amendment added Subsection (A) and (B) in its entirety.

Commission Comment

This Rule permits acceptance of a complaint from any source except an anonymous source. The prohibition against acceptance of anonymous complaints is to prevent the abuse of the complaint process in a way that wastes the Commission's resources.

Subsection (B) sets forth the procedure for written complaints filed by others. Such complaints must cite a specific Rule or Rules alleged to have been violated and the factual details of such alleged violation(s). Importantly, the individual(s) making such written complaints submit themselves to the jurisdiction of the Commission by doing so and must certify that they have personal knowledge of the

facts alleged in the complaint. A frivolous complaint is deemed a violation of the Rules.

Subsection (B) is intended to protect state officers or employees who make non-frivolous complaints from retaliation for having done so.

Rule 6.4. Blackout Period.

The Commission shall not accept a complaint from any person alleging a violation of these Rules by a candidate or candidate committee during a period beginning the first day that the State Election Board may accept Declarations of Candidacy for the office sought by the candidate or candidates and ending on the day of the General Election during the same year. However, this section shall not prohibit acceptance of a complaint from a member or employee of the Commission.

History

Promulgated by Ethics Commission January 10, 2014; effective upon Legislature's sine die adjournment May 23, 2014; operative January 1, 2015.

Commission Comment

This Rule establishes a "blackout period" for acceptance of complaints alleging campaign finance violations to prevent abuse of complaints filed with the Commission. This provision is intended to prevent the complaint process from being used for political purposes during a campaign. The Commission may engage in its own investigations during the blackout period.

Rule 6.5. Preliminary Investigation of Complaint.

The Executive Director may conduct or authorize any Commission employee to conduct a preliminary inquiry into any allegations contained in a complaint for the purpose of assisting the Commission in determining whether to begin a formal investigation. All documents relating to complaints shall be confidential records unless released by the Commission as provided hereafter.

History

Promulgated by Ethics Commission January 10, 2014; effective upon Legislature's sine die adjournment May 23, 2014; operative January 1, 2015.

Commission Comment

This Rule allows for a preliminary inquiry to be made by the Commission staff to assist the Commission in determining the merits of a complaint without opening a formal investigation.

Rule 6.6. Commission Review of Complaint or Investigation.

The Executive Director shall advise or authorize the General Counsel or other employees to advise the Commission, in executive session, of any complaints received together with the results of any preliminary inquiry. In addition, the Executive Director may advise or authorize any Commission employee to advise the Commission of any alleged violations of these Rules based on a review by Commission employees of registrations, reports and statements required to be filed under these Rules or based upon independent research or inquiry by Commission employees.

History

Promulgated by Ethics Commission January 10, 2014; effective upon Legislature's sine die adjournment May 23, 2014; operative January 1, 2015.

Commission Comment

Formal investigations are authorized and directed by the Commission, not by its staff. This Rule provides a requirement that the staff apprise the Commission of all complaints that are received. If a preliminary inquiry has been conducted concerning a complaint, the results of that inquiry must be reported to the Commission.

Possible violations of the Rules based upon the staff's independent research or inquiry also may be presented to the Commission.

Rule 6.7. Formal Investigation.

The Commission, upon determining that there is reasonable cause to believe that the person or persons named in the complaint have violated these Rules, may authorize a formal investigation. The Executive Director shall cause a unique number to be assigned to identify each formal investigation. The unique identifying number shall be followed by reference to the specific Rule or Rules alleged to have been violated and language to indicate whether the Rule is a campaign finance, financial disclosure, conflict of interest or lobbying Rule.

History

Promulgated by Ethics Commission January 10, 2014; effective upon Legislature's sine die adjournment May 23, 2014; operative January 1, 2015.

Commission Comment

This Rule establishes a "reasonable cause" standard upon which the Commission may authorize a formal investigation. "Reasonable cause," also called "probable cause," is a standard used in civil cases to find a reasonable belief in the existence of facts to support a claim.

The identification requirement is to indicate the nature of the alleged violation and to protect the identity of the persons involved when that is deemed appropriate.

Rule 6.8. Subpoena Power.

When the Commission authorizes a formal investigation, the Executive Director is authorized or may authorize any Commission employee to exercise subpoena power as provided by Article XXIX, Section 4 of the Constitution of the State of Oklahoma and pay witness fees as provided by law.

History

Promulgated by Ethics Commission January 10, 2014; effective upon Legislature's sine die adjournment May 23, 2014; operative January 1, 2015.

Commission Comment

This provision simply makes subpoena power automatic any time a formal investigation is authorized by the Commission.

Rule 6.9. Confidentiality of Complaint or Investigation.

Unless the Commission determines that a complaint or a formal investigation should be made public, all complaints and formal investigations, including documents and discussions in executive session, shall remain confidential and shall not be disclosed by a Commissioner, by the Commission or by its employees except to the extent necessary to facilitate or conduct a preliminary inquiry or a formal investigation. However, the Executive Director may confirm or deny the existence of a complaint or formal investigation alleging a violation of these Rules by any individual upon the written request of that individual. A settlement agreement executed under these Rules shall be public record. The Commission may make a complaint or formal investigation and any documents relating thereto public at any time it deems release of that information to be in the public interest.

History

Promulgated by Ethics Commission January 10, 2014; effective upon Legislature's sine die adjournment May 23, 2014; operative January 1, 2015.

Commission Comment

Complaints and formal investigations shall be kept confidential except in an unusual case where the Commission determines that the public interest would be served otherwise.

A routine exception is within the discretion of the Executive Director, who may confirm or deny that an individual making a written request is accused of a violation.

Settlement agreements are required to be public records both in the interests of transparency and for whatever deterrent effect and/or educational service the settlement agreements may provide.

Rule 6.10. Commission Action During Formal Investigation.

At any time during a formal investigation or at the conclusion of a formal investigation, the Commission may:

- (1) Terminate the investigation and take no further action;
- (2) Authorize the Executive Director to cause the individual or individuals or entity alleged to have violated these Rules to be prosecuted in the District Court of the county where the violation of these Rules is alleged to have occurred by filing a civil petition as provided by the Constitution and laws of the State of Oklahoma; or
- (3) Offer a settlement agreement as provided by Article XXIX, Section 4 of the Constitution of the State of Oklahoma. Should a settlement agreement not be consummated, the Commission may authorize a prosecution to be commenced as provided in Subsection (2) of this Rule.

If a prosecution or a settlement agreement is authorized prior to conclusion of a formal investigation, the Commission may continue the investigation. Termination of a formal investigation as provided in Subsection (1) of this Rule shall not bar reopening the same investigation based upon newly discovered evidence or other good cause. In no event shall the Commission authorize the prosecution of a civil lawsuit in the District Court until any person who is alleged to have violated these Rules has had an opportunity to respond in writing to allegations of any violation. Such person shall be given notice of the allegations in writing and shall have twenty (20) days in which to file a written response. Upon application, such person shall be granted no more than one extension of twenty (20) additional days in which to file a response. Any additional response shall be granted at the exclusive discretion of the Commission. Failure to respond shall be deemed an admission of the allegations. Such person and/or an attorney representing such person also shall be granted an opportunity to personally appear before the Commission to make an oral response, provided such response is within the time frame provided for a written response.

History

Promulgated by Ethics Commission January 10, 2014; effective upon Legislature's sine die adjournment May 23, 2014; operative January 1, 2015.

Commission Comment

This Rule describes the options available to the Commission once a formal investigation is authorized. Those options basically are (1) to terminate the investigation without further action; (2) to offer a settlement

agreement and (3) to prosecute the alleged violation through a civil action in the District Court.

The Commission also provides significant procedural protection for persons accused of violations. Before the Commission may authorize a civil lawsuit against a person alleged to have violated a Rule, the Commission must give that person notice of the allegations in writing and offer an opportunity to respond in writing and orally before the Commission.

Rule 6.11. Commission Transmittal of Information to Appropriate Authorities.

The Commission may at any time transmit to appropriate civil or criminal law enforcement authorities any information received by the Commission or its employees as the result of a complaint or a formal investigation.

History

Promulgated by Ethics Commission January 10, 2014; effective upon Legislature's sine die adjournment May 23, 2014; operative January 1, 2015.

Commission Comment

This Rule makes clear the Commission's policy to cooperate with other civil and criminal law enforcement authorities in investigating alleged violations of its Rules. Some Rule violations also are criminal violations of the law. In other instances, an investigation of violation of the Rules may uncover other civil or criminal violations of the law that are under the jurisdiction of others.

Rule 6.12. Civil Lawsuits for Violation of Rules.

If authorized by the Commission as provided in Rule 6.10(2) of these Rules, a civil lawsuit shall be filed in the District Court no more than four (4) years after the date the violation of these Rules is alleged to have occurred. Provided, however, that a civil lawsuit shall be filed in the District Court no more than four (4) years from the date any document required to be filed with the Commission was required or the date the document was in fact filed, whichever period expires later. Provided further, there shall be no time limitation if fraud or concealment prevents discovery of the alleged violation.

History

Promulgated by Ethics Commission January 10, 2014; effective upon Legislature's sine die adjournment May 23, 2014; operative January 1, 2015.

Commission Comment

This Rule establishes a four (4) year period of limitations during which a lawsuit may be filed by the Commission alleging a violation of its Rules. The period begins on the date the violation is alleged to have occurred. The date also may be the date that a document was required to be filed with the Commission or the date the document was in fact filed. The period of limitations does not apply to situations in which fraud or concealment prevents the Commission from discovering evidence of the alleged violation.

Rule 6.13. Civil Penalties for Violation of Rules.

Monetary penalties that may be assessed by the District Court for violation of these Rules include the following:

- (1) Not less than Five Thousand Dollars (\$5,000.00) nor more than Twenty-five Thousand Dollars (\$25,000.00) for a single violation;
- (2) Not less than Ten Thousand Dollars (\$10,000.00) nor more than Fifty Thousand Dollars (\$50,000.00) for multiple violations in one lawsuit; and
- (3) Not less than Twenty-five Thousand Dollars (\$25,000.00) nor more than One Hundred Thousand Dollars (\$100,000.00) for a subsequent violation of any Rule after having been determined by a Court or a settlement agreement to have previously violated any Rule.

History

Promulgated by Ethics Commission January 10, 2014; effective upon Legislature's sine die adjournment May 23, 2014; operative January 1, 2015.

Commission Comment

This Rule establishes monetary penalties that may be assessed in the most egregious cases, i.e., those that result in judgments in the District Court. Stiffer penalties are provided for those who violate multiple Rules and for repeat offenders.

Rule 6.14. Other Remedies.

In addition to the monetary penalties provided in Rule 6.13, the District Court may, where the Court deems appropriate, require restitution, disgorgement of things of value received as a result of a violation of the Rules and an additional monetary penalty of up to three times the amount of an unlawful campaign contribution. Additionally, the Court shall order the payment of the Commission's attorney fees, costs and other expenses of litigation from any individual or individuals or entity found to have violated any Rule or statute over which the Commission has jurisdiction.

History

Promulgated by Ethics Commission January 10, 2014; effective upon Legislature's sine die adjournment May 23, 2014; operative January 1, 2015.

Commission Comment

Monetary penalties alone may not be sufficient or appropriate when a District Court determines a person has violated the Rules. This provision allows the District Court great latitude in making the punishment fit the violation.

In addition, this Rule requires the Court to award attorney fees, costs and other expenses of litigation to the Commission when a person is found to have violated the Rules or a statute over which the Commission has jurisdiction.

Rule 6.15. Monetary Liability for Violation of Rules.

Liability for payment of a monetary penalty, fees, costs and other expenses of litigation assessed for violation of a campaign finance Rule, other than late filing fees, shall be as follows:

- (1) A monetary penalty, fees, costs and other expenses of litigation assessed against a political party committee shall be paid from the political party committee's funds or by the political party committee's officers, or by both, as determined by the District Court.
- (2) A monetary penalty, fees, costs and other expenses of litigation assessed against an affiliated political action committee shall be paid by the entity with which the political action committee is affiliated or by officers of the political action committee, or both, as determined by the District Court.
- (3) A monetary penalty, fees, costs and other expenses of litigation assessed against an unaffiliated political action committee shall be paid from political action committee funds or by officers of the political action committee, or both, as determined by the District Court.
- (4) A monetary penalty, fees, costs and other expenses of litigation assessed against a candidate or a candidate committee shall be paid from campaign funds of the candidate or candidate committee, by officers of the candidate committee or by the candidate from funds other than campaign funds, or any combination thereof, as determined by the District Court.

History

Promulgated by Ethics Commission January 10, 2014; effective upon Legislature's sine die adjournment May 23, 2014; operative January 1, 2015.

Commission Comment

Once a violation of the campaign finance Rules has been determined by the District Court, this Rule allows the Court discretion in determining liability for payment of any penalties, fees, costs and other expenses of litigation. Where possible, the Rule permits the Court to shield "innocent" parties from payment of these monetary costs. For example, contributors to a political party committee, a political action committee or a candidate committee may be completely blameless, so the Court could order monetary costs paid from other sources.

Rule 6.16. Monetary Liability Assessed by District Court.

Liability for payment of a monetary penalty, fees, costs and other expenses of litigation assessed for violation of a financial disclosure, conflict of interest or lobbying Rule shall be determined by the District Court.

History

Promulgated by Ethics Commission January 10, 2014; effective upon Legislature's sine die adjournment May 23, 2014; operative January 1, 2015.

Commission Comment

Once a violation of the financial disclosure, conflict of interest or lobbying Rules has been determined by the District Court, this Rule allows the Court complete discretion in determining liability for payment of any penalties, fees, costs and other expenses of litigation.

Rule 6.17. Separate Liability Assessed by District Court.

In the event the District Court finds more than one person liable for a violation of these Rules, those persons shall be separately assessed monetary penalties.

History

Promulgated by Ethics Commission January 10, 2014; effective upon Legislature's sine die adjournment May 23, 2014; operative January 1, 2015.

Commission Comment

This Rule is intended to ensure that a violator of the Rules is only liable for his or her violation, not for that of other persons.

Rule 6.18. Settlement Agreements.

Irrespective of any penalties provided in these Rules, any monetary penalties, fees, costs or other penalties provided in a settlement agreement shall be in amounts and from sources to be agreed upon by the parties.

History

Promulgated by Ethics Commission January 10, 2014; effective upon Legislature's sine die adjournment May 23, 2014; operative January 1, 2015.

Commission Comment

This Rule allows the Commission and violators of the Rules to reach settlement agreements on terms other than those provided by other Rules.

Rule 6.19. Registration and Administration Fees; Compliance Fees.

Beginning July 1, 2015, and annually thereafter, the Commission shall publish on its website any registration and administration fees to be charged by the Commission for legislative liaisons, legislative lobbyists, executive lobbyists, lobbyist principals, political party committees, political action committees and candidate committees. In determining the fees to be charged, the Commission shall endeavor to partially recover costs incurred in processing and maintaining registrations and reports. The Executive Director is authorized to issue compliance orders for the purpose of obtaining compliance with these Rules. Compliance orders may include non-monetary orders and orders for compliance fees, including late filing fees, in order to partially recover costs to the Commission incurred in obtaining compliance with these Rules. No fee shall exceed One Thousand Dollars (\$1,000.00) per violation. Compliance orders shall be in writing. Before a final order is issued, any affected party shall be afforded an opportunity for hearing after reasonable notice. The notice shall be in writing and shall advise the parties of the time for the hearing, their obligation to file an answer and appear and the effect of their failure to respond. The hearing shall be conducted by an administrative law judge under applicable provisions of the Oklahoma Administrative Procedures Act, Title 75 of the Oklahoma Statutes, Sections 250-323, or its successor statutes, and shall be open to the public. The administrative law judge may set aside or modify the Executive Director's order for good cause shown. In the absence of good cause shown, the administrative law judge shall affirm the order. After the hearing, the Executive Director shall issue a final order. A final order may be appealed to the District Court of Oklahoma County under applicable provisions of the Oklahoma Administrative Procedures Act, Title 75 of the Oklahoma Statutes, Sections 250-323, or its successor statutes. Late filing fees authorized by statute or these Rules shall not be a part of or affected by any monetary penalties, attorney fees, costs, other expenses of litigation or other fees provided by these Rules.

History

Promulgated by Ethics Commission January 10, 2014; effective upon Legislature's sine die adjournment May 23, 2014; operative January 1, 2015.

Amendment promulgated by Ethics Commission January 9, 2015; effective upon sine die adjournment of the Legislature May 22, 2015; operative May 22, 2015.

The 2015 amendment added the following new language:

"Beginning July 1, 2015, and annually thereafter, the Commission shall publish on its website any registration and administration fees to be charged by the Commission for legislative liaisons, legislative lobbyists, executive lobbyists, lobbyist principals, political party committees, political action committees and candidate committees. In determining the fees to be charged, the Commission shall endeavor to partially recover costs incurred in processing and maintaining registrations and reports. The Executive Director is authorized to issue compliance orders for the purpose of obtaining compliance with these Rules. Compliance orders may include non-monetary orders and orders for compliance fees, including late filing fees, in order to partially recover costs to the Commission incurred in obtaining compliance with these Rules. No fee shall exceed One Thousand Dollars (\$1,000.00) per violation. Compliance orders shall be in writing. Before a final order is issued, any affected party shall be afforded an opportunity for hearing after reasonable notice. The notice shall be in writing and shall advise the parties of the time for the hearing, their obligation to file an answer and appear and the effect of their failure to respond. The hearing shall be conducted by an administrative law judge under applicable provisions of the Oklahoma Administrative Procedures Act, Title 75 of the Oklahoma Statutes, Sections 250-323, or its successor statutes, and shall be open to the public. The administrative law judge may set aside or modify the Executive Director's order for good cause shown. In the absence of good cause shown, the administrative law judge shall affirm the order. After the hearing, the Executive Director shall issue a final order. A final order may be appealed to the District Court of Oklahoma County under applicable provisions of the Oklahoma Administrative Procedures Act, Title 75 of the Oklahoma Statutes, Sections 250-323, or its successor statutes."

In the last sentence, the 2015 amendment struck the words "statute or" following the words "authorized by" and "penalties" after the word "other" and inserted the words "attorney" before the word "fees" and the word "fees" before the word "provided."

Commission Comment

If late filing fees are provided by other law or Rule, this provision keeps that assessment separate from any other penalties provided by the Rules. In other words, payment of a late filing fee does not necessarily prevent subsequent assessment of other penalties for the same violation.

This section requires the Commission to publish registration and administration fees and makes clear that the fees are for the purpose of partially recovering the costs incurred in processing and maintaining registrations and reports. The section also sets forth the procedure for assessment of compliance fees, including late filing fees, by the Executive Director.