

## **SUBCHAPTER 23: NEW JERSEY FAIR AND CLEAN ELECTIONS PILOT PROJECT**

### **19:25-23.1 Definitions**

The following words and terms, when used in this subchapter shall have the following meanings unless a different meaning clearly appears from the context.

“Act” means P.L.2007, c.60.

“Campaign Reporting Act” means The New Jersey Campaign Contributions and Expenditures Reporting Act, N.J.S.A. 19:44A-1 et seq.

“Candidate committee” has the same meaning as provided in N.J.S.A. 19:44A-3q.

“Candidate intending to become certified” means a candidate from a participating district, as designated by Section 6 of the Act, who seeks election to the office of member of the Senate or the office of member of the General Assembly pursuant to the Act and is seeking to become a certified candidate pursuant to the requirements of the Act and this subchapter.

“Certified candidate” means a candidate seeking election to the office of member of the Senate or the office of member of the General Assembly who has chosen to seek such office pursuant to the provisions of the Act and is certified by the Commission pursuant to the requirements of the Act and this subchapter.

"Commission" means the Election Law Enforcement Commission.

“Continuing political committee” has the same meaning as provided in N.J.S.A. 19:44A-3n.

“Department” means the Department of the Treasury.

"Fund" means the New Jersey Fair and Clean Elections Fund established pursuant to the Act.

“Joint candidates committee” has the same meaning as provided in N.J.S.A. 19:44A-3r.

“Legislative leadership committee” has the same meaning as provided in N.J.S.A. 19:44A-3s.

“New Jersey Fair and Clean Elections candidate” or “Clean Elections candidate” means a candidate who is a certified candidate.

“Noncertified candidate” means a candidate seeking election to the office of member of the Senate or member of the General Assembly who does not seek office pursuant to the provisions of the Act and is not certified as a New Jersey Fair and Clean Elections candidate pursuant to the Act and this subchapter.

“Political committee” has the same meaning as provided in N.J.S.A. 19:44A-3i.

“Political party committee” has the same meaning as provided in N.J.S.A. 19:44A-3p.

"Qualifying contribution" means a contribution of \$10.00 given to a candidate intending to become certified:

1. That is a contribution from an individual who is a voter registered to vote in and residing in the legislative district the candidate seeks to represent;

2. That is contributed during the qualifying period;

3. That is accompanied by a form, as provided in N.J.A.C. 19:25-23.16, to serve as the acknowledgement of the contribution by the candidate intending to become certified; and

4. That is in the form of currency, check, money order, electronic check, debit card, or credit card and payable to the candidate intending to become certified.

"Qualifying period" means the period of time during which both seed money contributions and qualifying contributions can be collected by a candidate intending to become certified, beginning on April 23, 2007 and ending on September 30, 2007.

“Rescue money” means the following:

1. As provided by N.J.A.C. 19:25-23.20, funds that a certified candidate may receive when a noncertified opponent has received an excess amount of contributions; and

2. As provided by N.J.A.C. 19:25-23.21, funds that a certified candidate may receive when an independent expenditure or expenditures has or have been made.

“Seed money contribution” means a contribution of money of no more than \$500 from any individual registered to vote in this State, including the candidate intending to become certified and his or her immediate family, but not from a candidate committee, joint candidates committee, political committee, continuing political committee, political party committee, or legislative leadership committee, up to a limit of \$10,000 in the aggregate. For the purpose of “seed money,” the term “immediate family” shall mean a candidate’s spouse, child, parent or sibling.

### **19:25-23.2 Application of the Act in the 2007 general election**

The New Jersey Fair and Clean Elections Pilot Project, established pursuant to the Act, shall be open to candidates seeking election to the office of member of the Senate and member of the General Assembly in the 2007 general election in the three legislative districts selected pursuant to P.L.2007, c.60, §6. The pilot project shall be open to candidates for those offices in those districts who are candidates for nomination in the 2007 primary election and candidates who are nominated directly by petition. Candidates participating in the New Jersey Fair and Clean Elections Pilot Project shall comply with all applicable provisions of the Campaign Reporting Act unless otherwise provided by the Act or this subchapter.

### **19:25-23.3 The New Jersey Fair and Clean Elections Fund**

Moneys from the following sources shall be deposited into the "New Jersey Fair and Clean Elections Fund," which Fund is administered by the Department:

- (a) Voluntary donations made directly to the fund;
- (b) All earnings received from the investment of money in the fund;
- (c) Fines and penalties collected by the State Treasurer or by the Commission, pursuant to Section 19 of the Act;
- (d) Money returned to the Fund by candidates who withdraw from being certified candidates, pursuant to Section 10 of the Act and this subchapter;
- (e) Other money returned to the Fund pursuant to the Act and this subchapter; and
- (f) Money appropriated to the fund, pursuant to the Section 22 of the Act.

### **19:25-23.4 Notification to candidates**

Upon receipt of notification of the three legislative districts selected pursuant to Section 6 of the Act for the 2007 New Jersey Fair and Clean Elections Pilot Project, the Commission shall notify each candidate for the office of member of the Senate or member of the General Assembly in the three legislative districts of the provisions of the Act and this subchapter.

### **19:25-23.5 Computation of time**

(a) For the purposes of this subchapter, the terms "24 hours" or "48 hours" shall mean one day or two days, respectively. The terms "business day" or "day" shall mean a day on which the offices of the Commission are open for business.

(b) In computing any period of time set forth in this subchapter, the day of the act or event from which the designated period of time begins to run is not included. The last day of the period of time is to be included, unless it is a Saturday, Sunday, legal holiday, or any day on which offices of the State of New Jersey are closed, in which case the period of time runs until the end of the next day that the Commission is open for the conduct of its business.

### **19:25-23.6 Requirements for a candidate intending to become certified**

(a) A candidate for the office of member of the Senate or member of the General Assembly in the 2007 general election, except a candidate who is nominated by direct petition filed with the Attorney General, who intends to be a certified candidate shall:

1. Certify and file with the Commission a Declaration of Intent to be a Certified Candidate during the period of time beginning on April 23, 2007, and ending at 4:00 p.m. on September 28, 2007;
2. Upon filing the Declaration of Intent to be a Certified Candidate collect seed money contributions and qualifying contributions for the remainder of the qualifying period; and
3. Except as provided in N.J.A.C. 19:25-23.11(g), on or after the date of filing the Declaration of Intent to be a Certified Candidate suspend all access to existing candidate committee and joint candidates committee funds which have been raised prior to becoming a candidate intending to become certified.

(b) A candidate intending to become certified who is nominated by direct petition filed with the Attorney General is subject to the requirements of (a) above, except that such a candidate may not start to collect seed money and qualifying contributions until after his or her petitions of nomination are filed with the Attorney General and after filing the Declaration of Intent to be a Certified Candidate with the Commission.

(c) Seed money and qualifying contributions collected by a candidate after he or she has filed a Declaration of Intent to be a Certified Candidate in the 2007 general election shall be separate from and in no way infringe upon the collection of money by the candidate for his or her 2007 primary election in the legislative district the candidate seeks to represent.

(d) Candidates intending to become certified who are seeking election to the office of member of the General Assembly from the same legislative district and who are members of the same political party shall seek election together and shall become certified candidates together.

(e) No candidate intending to become certified and seeking election to the office of member of the General Assembly shall be found to be a certified candidate by the Commission and no moneys from the Fund shall be distributed to such a candidate until both candidates for election to the office of member of the General Assembly from the same legislative district and who are members of the same political party have met the requirements to become a certified candidate.

(f) A candidate intending to become certified who is seeking election to the office of member of the Senate shall not be required to become certified at the same time as candidates for election to the office of member of the General Assembly from the same political party and in the same legislative district, nor shall candidates for the office of member of the General Assembly be required to seek election together with a candidate for the office of member of the Senate from the same political party and in the same legislative district.

(g) Notwithstanding any provision of the Campaign Reporting Act, a candidate who has filed a Declaration of Intent to be a Certified Candidate may not participate in a joint candidates committee as his or her 2007 Clean Elections candidate committee.

(h) A candidate intending to become certified who does not file a Declaration of Intent to be a Certified Candidate before 4:00 p.m. on September 28, 2007, shall be considered a noncertified candidate and shall be precluded from becoming a certified candidate in the 2007 general election.

### **19:25-23.7 Contents of the Declaration of Intent to be a Certified Candidate**

(a) A candidate for the office of member of the Senate or member of the General Assembly in the 2007 general election who intends to be a certified candidate shall certify in the Declaration of Intent to be a Certified Candidate:

1. That he or she will comply with the requirements of the Act and this subchapter;
2. That on or after the date of filing of the Declaration of Intent to be a Certified Candidate he or she shall suspend all access to the funds in any existing candidate committee and joint candidates committee that he or she established for the 2007 general election or any prior election, except as provided in N.J.A.C. 19:25-23.11(g);
3. That he or she agrees not to use existing candidate committee or joint candidates committee funds in any way that would assist in his or her general election candidacy as a certified candidate;
4. That on and after the date of filing of the Declaration of Intent to be a Certified Candidate and until being certified by the Commission, he or she shall accept:
  - a. Seed money contributions, not to exceed \$10,000 in the aggregate, with each seed money contribution from an individual registered to vote in this State and each in an amount not to exceed \$500.00; and
  - b. Qualifying contributions, with each qualifying contribution from an individual registered to vote in the legislative district the candidate seeks to represent, and each qualifying contribution in an amount not to exceed \$10.00.
5. That upon receipt of notification by the Commission that he or she is a certified candidate who has received 400 qualifying contributions on or before September 30, 2007, he or she shall limit the total amount of expenditures and obligations in the 2007 general election, including outstanding obligations, to only the moneys distributed from the Fund, qualifying contribution amounts, and seed money contributions received;
6. That upon receipt of notification by the Commission that he or she is a certified candidate who has received 800 qualifying contributions on or before September 30, 2007, he or she shall not accept or spend any further seed money, and shall limit the total amount of expenditures and obligations in the 2007 general

election, including outstanding obligations, to only the moneys distributed from the Fund and qualifying contribution amounts;

7. That he or she shall comply with the Clean Elections Candidate debate requirement by making arrangements for and participating in two debates among candidates in his or her legislative district and by notifying the Commission on or before October 3<sup>rd</sup> of the arrangements for the two debates, unless a debate is scheduled to occur between October 1 and October 3, 2007, in which case the plans shall be submitted to the Commission at least five days before the scheduled date of the debate; and
8. That if the candidate is a certified candidate in the 2007 general election, he or she shall, upon filing a final 2007 general election report, return to the Commission for deposit into the Fund all unspent moneys.

(b) Except in the case of a candidate for the office of member of the General Assembly in the 2007 general election who is seeking election by means of direct nomination by petition, a candidate for the office of member of the General Assembly who intends to be a certified candidate shall certify in the Declaration of Intent to be a Certified Candidate that he or she understands that he or she will not be certified by the Commission unless the other candidate in his or her legislative district for election to the office of member of the General Assembly in the 2007 general election in his or her political party meets the criteria for and is eligible for certification as a Clean Elections candidate.

#### **19:25-23.8 Contributions by an individual**

An individual shall be permitted to make both seed money and qualifying contributions, up to the maximum amounts permitted by the Act and this subchapter, to one or more candidates intending to become certified.

#### **19:25-23.9 Fundraising events; limitation**

Notwithstanding any law, rule or regulation to the contrary, no candidate intending to become certified shall collect contributions or make expenditures as part of the candidate's campaign for nomination for election and election at the general election in 2007 at the same event where the candidate intending to become certified is seeking to collect seed money or qualifying contributions.

#### **19:25-23.10 Recordkeeping**

Each candidate intending to become certified and each certified candidate shall comply with the recordkeeping requirements of the Campaign Reporting Act and N.J.A.C. 19:25-7 for all contributions and expenditures, unless otherwise provided by the Act or this subchapter.

### **19:25-23.11 Receipt and use of seed money contributions**

(a) A candidate intending to become certified shall establish a separate depository account in the name of the candidate in a banking institution holding a State or federal charter for the deposit only of seed money contributions.

(b) A candidate or an individual associated with his or her campaign shall deposit all seed money contributions into the depository account established pursuant to (a) above as soon as possible, but in no case more than 10 days after receipt of the contribution.

(c) No seed money shall be transferred at any time from the depository account established pursuant to (a) above into an investment account of any type or used for the purpose of gambling.

(d) A candidate intending to become certified shall obtain seed money contributions in amounts of no more than \$500 per individual registered to vote in New Jersey, up to a maximum of \$10,000 in the aggregate.

(e) A candidate shall raise and spend seed money contributions during the qualifying period while the candidate seeks the required number of qualifying contributions.

(f) Except as provided in (g) below, a candidate shall accept a seed money contribution only from an individual who is a registered voter in this State, and shall not accept a seed money contribution from a candidate committee, joint candidates committee, political committee, continuing political committee, or legislative leadership committee.

(g) A candidate intending to become certified may use funds raised and reported to the Commission pursuant to the Campaign Reporting Act prior to becoming such a candidate as part of the seed money collected by the candidate, but only to the extent that such money can be attributable to contributions of \$500 or less from individuals who are registered to vote in this State.

(h) A seed money contribution shall be in the form of currency, in an amount not to exceed \$200.00, or in the form of a check, money order, electronic check, debit card, or credit card payable to the candidate intending to become certified.

(i) A candidate shall report seed money contributions to the Commission at the same time as the candidate files submissions, as required by the Act and this subchapter, to report qualifying contributions.

### **19:25-23.12 Seed money contribution form**

(a) Each seed money contribution received by a candidate intending to become certified shall be accompanied by a form developed by the Commission, and the candidate shall maintain the forms received for all seed money contributions as part of the records required to be made and maintained pursuant to N.J.A.C. 19:25-23.10.

(b) The seed money contribution form shall serve as an acknowledgement of one or more seed money contributions made by one or more individuals to a single candidate.

(c) The seed money contribution form for a contribution made by means of a check, money order, electronic check, debit card, or credit card shall contain contributor's name and mailing address, the contribution amount, and contribution date, and, if the contributor has made seed money contributions to the candidate in the aggregate in excess of \$300.00, the contributor's occupation and employer information, as required by N.J.A.C. 19:25-10.2A.

(d) The seed money contribution form for a contribution made by means of currency shall be signed by the individual contributor, and shall contain the following information:

1. The contributor's name, mailing address, and contact telephone number, and the contribution amount, and contribution date;
2. Occupation and employer information, as required by N.J.A.C. 19:25-10.2A; and
3. An affirmation by the contributor that the contribution is made without knowing intention to commit fraud.

#### **19:25-23.13 *De minimis* seed money contributions**

(a) A candidate intending to become certified may accept from an individual *de minimis*, in-kind contributions, as defined in (b) below, that have a total aggregate fair market value of \$200 or less per individual per election, and such *de minimis* in-kind contributions shall not count toward the \$500 limit applicable to seed money contributions from an individual and shall not count toward the \$10,000 per candidate seed money maximum.

(b) *De minimis* in-kind contributions shall include only the following that are voluntarily provided by an individual who is volunteering his or her personal services:

1. Costs paid for by an individual for invitations, food, and beverages for an event held in the individual's home to raise qualifying contributions for a candidate intending to become certified; and
2. Costs paid for by an individual to produce and distribute a flyer, handout, or other printed material for a candidate intending to become certified.

#### **19:25-23.14 Seed money; exempt activity**

(a) The following activities shall be permitted and shall not count as an in-kind contribution on behalf of a candidate intending to become certified or on behalf of a certified candidate:

1. Personal services performed by an individual, a political party committee, or another association, organization, or group on a voluntary, non-compensated basis for the purpose of collecting seed money contributions, qualifying contributions, or both, and the collection of signatures on petitions of nomination;
2. Communications in writing, or delivered via telephone or the Internet, in support of or in opposition to the election of any candidate by a labor organization or membership organization or other such association to its members and their families, or by any association, group or organization, other than a labor organization, to its members and their families; and
3. Communications to the general public in any form by any means undertaken by any organization, group, association or business that seeks to disseminate information in any form about the Act that is neither in support of, or in opposition to, the election of any candidate.

### **19:25-23.15 Receipt and use of qualifying contributions**

(a) A candidate intending to become certified shall establish a separate depository account in the name of the candidate in a banking institution holding a State or federal charter for the deposit of qualifying contributions.

(b) A candidate or an individual associated with his or her campaign shall deposit all qualifying contributions into the depository account established pursuant to (a) above as soon as possible, but in no case more than 10 days after receipt of the contribution.

(c) No qualifying contribution shall be transferred at any time from the depository account established pursuant to (a) above into an investment account of any type or used for the purpose of gambling.

(d) A candidate intending to become certified or a certified candidate shall obtain qualifying contributions in amounts of no more than \$10 per individual who is a voter registered to vote in and residing in the legislative district the candidate seeks to represent.

(e) A candidate shall raise qualifying contributions during the qualifying period, but no qualifying contributions shall be spent during the qualifying period until approved for certification by the Commission.

(f) A candidate shall accept a qualifying contribution only from an individual who is a voter registered to vote in and residing in the legislative district the candidate seeks to represent, but shall not accept a qualifying contribution from a candidate committee, joint candidates committee, political committee, continuing political committee, or legislative leadership committee.

(g) Qualifying contributions shall be in the form of currency, or check, money order, electronic check, debit card, or credit card payable to the candidate intending to become certified.

(h) No qualifying contribution shall be in the form of an in-kind contribution.

(i) A candidate shall notify the Commission in writing within three business days of the date on which he or she has received at least 400 qualifying contributions. A candidate may use a fax transmission to the Commission at 609-292-4238 for the limited purpose of filing this notification.

(j) After notifying the Commission, pursuant to (i) above, that at least 400 qualifying contributions have been received, a candidate shall file a submission, pursuant to N.J.A.C. 19:25-23.21, on the next following submission date and each week thereafter to report the seed money and qualifying contributions received to date. Submission dates are set forth in N.J.A.C. 19:25-23.23.

#### **19:25-23.16 Qualifying contribution form**

(a) Each qualifying contribution received by a candidate intending to become certified or by a certified candidate shall be accompanied by a form developed by the Commission, or as permitted in (b) below, and the candidate shall maintain the forms received for all qualifying contributions as part of the records required to be made and maintained pursuant to N.J.A.C. 19:25-23.10.

(b) Each candidate intending to become certified may create and use a qualifying contribution form, based on the requirements established by the Act and this subchapter, to mail to potential contributors, provided that the candidate submits a draft of the form to the Commission and the Commission does not disapprove of the draft form within 24 hours of its receipt.

(c) The qualifying contribution form shall serve as an acknowledgement of one or more qualifying contributions made by one or more individuals to a single candidate.

(d) The qualifying contribution form for a contribution made by means of currency shall be signed by the individual contributor, and shall contain the following information:

1. The contributor's name, mailing address, and contact telephone number, and the date of the contribution; and
2. An affirmation by the contributor that the contribution is made without knowing intention to commit fraud.

(e) The qualifying contribution form for a contribution made by means of a check, money order, electronic check, debit card, or credit card shall contain the contributor's name and mailing address, the contribution amount, and contribution date.

### **19:25-23.17 Seed money and qualifying contributions by means of the Internet**

If a candidate has established an Internet website for his or her 2007 general election candidacy, an individual shall be permitted to use the candidate's website to make a seed money contribution, a qualifying contribution, or both. Each such contribution shall be accompanied by an electronic version of the seed money contribution form, required by N.J.A.C. 19:25-23.12 or the qualifying contribution form, required by N.J.A.C. 19:25-23.16.

### **19:25-23.18 Currency contributions**

Except as provided otherwise by the Act or this subchapter, all currency contributions shall be subject to the requirements of the Campaign Reporting Act.

### **19:25-23.19 Contributions by means of a check drawn on a joint checking account**

(a) Two or more individuals who are joint owners of a checking account may make seed money contributions by means of a single check payable to a candidate intending to become certified if:

1. The signature of each joint owner of the account who is making a seed money contribution by means of the check appears on the check; and
2. Each joint owner of the account who is making a seed money contribution by means of the check signs the seed money contribution form required pursuant to this subchapter.

(b) Two or more individuals who are joint owners of a checking account may make qualifying contributions by means of a single check payable to a candidate intending to become certified if:

1. The signature of each joint owner of the account who is making a qualifying contribution by means of the check appears on the check; and
2. Each joint owner of the account who is making a qualifying contribution by means of the check signs the qualifying contribution form required pursuant to this subchapter.

### **19:25-23.20 Coordination of campaigns; penalty**

(a) Certified candidates for the office of member of the General Assembly from the same legislative district who are members of the same political party are permitted to coordinate their campaigns.

(b) Certified candidates for the office of member of the General Assembly from the same legislative district who are members of the same political party are permitted to coordinate their

campaigns with the certified candidate for the member of the Senate from the same legislative district who is a member of the same political party.

(c) In the event that either the candidates for the office of member of the General Assembly in a legislative district or the candidate for the member of the Senate in that district does not become certified, the certified candidate or candidates shall not be permitted to coordinate his or her campaign with the noncertified candidate or candidates.

(d) The failure by either the certified candidates or the noncertified candidates to comply with the restriction in (c) above shall constitute an illegal contribution and both candidates shall be liable a penalty of not more than \$6,000 for the first offense and not more than \$12,000 for the second and each subsequent offense.

### **19:25-23.21 Submission of qualifying and seed money contributions; candidate in the 2007 primary election**

(a) Unless a candidate who is or was a candidate for nomination for election in the 2007 primary election has received 400 qualifying contributions and has already begun to file weekly submissions, as required by this subchapter, starting on May 23, 2007, and continuing each week thereafter, until the candidate has been certified by the Commission and is no longer accepting seed money or qualifying contributions, each candidate who is intending to become certified, who is or was a candidate for nomination for election in the 2007 primary election, and who has signed and filed a Declaration of Intent to be a Certified Candidate, shall file with the Commission a submission on a form provided by the Commission which contains the following statements:

1. That since filing the Declaration of Intent to be a Certified Candidate he or she has accepted only seed money and qualifying contributions as permitted by the Act and this subchapter;
2. That a seed money contribution form was received for each seed money contribution reported in the submission, and that each seed money contribution reported in the submission was received during the qualifying period from a voter registered to vote in the State; and
3. That a qualifying contribution form was received for each qualifying contribution reported in the submission, and that each qualifying contribution reported in the submission was received during the qualifying period from a voter registered to vote in and residing in the legislative district the candidate seeks to represent.

(b) A candidate shall file weekly submissions, as required by this subchapter, until such time as the candidate has been certified by the Commission, has received 800 or more qualifying contributions, and is no longer accepting seed money or qualifying contributions.

(c) On each submission, a candidate shall report seed money contributions as follows:

1. On the first submission, a list of all seed money contributions received since the candidate filed the Declaration of Intent to be a Certified Candidate;
  2. On each submission after the first submission, a list of all seed money contributions received since the last such submission;
  3. The list of seed money contributions required by paragraphs 1 and 2 above shall disclose for each seed money contribution the contributor's full name and mailing address, the date of receipt of the contribution, the amount of the contribution, and if the contributor has made seed money contributions to the candidate in the 2007 general election in the aggregate in excess of \$300.00, occupation and employer information, as required by N.J.A.C. 19:25-10.2A; and
  4. The list of seed money contributions described above shall include for each seed money contribution received by means of currency the contributor's occupation and employer information as required by N.J.A.C. 19:25-10.2A.
- (d) On each submission, a candidate shall report qualifying contributions as follows:
1. On the first submission, a list of all qualifying contributions received since the candidate filed the Declaration of Intent to be a Certified Candidate;
  2. On each submission after the first submission, a list of all qualifying contributions received since the last such submission; and
  3. The list of qualifying contributions described above shall disclose for each qualifying contribution the contributor's full name, mailing address, and the date of receipt of the contribution..

#### **19:25-23.22 Submission of qualifying and seed money contributions by a candidate for nomination by direct petition**

Unless a candidate for nomination by direct petition has received 400 qualifying contributions and has begun to file weekly submissions on an earlier date, as required by this subchapter, each such candidate shall starting on the 30<sup>th</sup> day after the candidate files his or her Declaration of Intent to be a Certified Candidate and weekly thereafter, file with the Commission a submission on a form provided by the Commission which contains the information required by N.J.A.C. 19:25-23.21 until such time as the candidate has been certified by the Commission, has received 800 or more qualifying contributions, and is no longer accepting seed money or qualifying contributions.

#### **19:25-23.23 Dates of submissions**

(a) To be deemed timely filed, a submission must be received in the Commission's offices before 12:00 noon of a submission filing date.

(b) In event that a date for submission shall fall on a holiday or a day upon which the offices of the State of New Jersey are closed, the submission shall be filed on the next succeeding business day.

(c) Submission filing dates are as follows:

1. May 9, 16, 23, and 30, 2007;
2. June 6, 13, 20, and 27, 2007;
3. July 5, 11, 18, and 25, 2007;
4. August 1, 8, 15, 22, and 29, 2007;
5. September 5, 12, 19, and 26, 2007; and
6. October 3, 2007.

(d) Nothing contained in this section shall relieve any candidate from the preelection or postelection reporting requirements in the Campaign Reporting Act.

#### **19:25-23.24 Rescission of declaration of intent**

(a) A candidate intending to become certified who has filed a Declaration of Intent to be a Certified Candidate and who chooses at any time prior to the last day of the qualifying period not to become certified, and to become instead a noncertified candidate, shall file with the Commission a written letter rescinding the previously filed Declaration of Intent to be a Certified Candidate.

(b) No later than three business days after receipt of the letter rescinding the candidate's Declaration of Intent to be a Certified Candidate, filed pursuant to (a) above, the Commission shall acknowledge in writing the candidate's rescission of his or her Declaration of Intent to be a Certified Candidate.

(c) Upon receipt of the Commission's acknowledgement, issued pursuant to (b) above, that the candidate has rescinded his or her Declaration of Intent to be a Certified Candidate, the candidate shall:

1. Be permitted to raise and spend campaign contributions pursuant to the provisions of the Campaign Reporting Act; and
2. No later than three business days following receipt of the Commission's acknowledgement, remit to the Commission for deposit into the Fund all qualifying contributions in the account of such a candidate.

### **19:25-23.25 Failure to qualify**

If a candidate intending to become certified fails to qualify as a Clean Elections candidate because he or she did not receive at least 400 qualifying contributions by the last date of the qualifying period for the 2007 general election, the candidate shall be permitted to retain and spend his or her qualifying contributions as well as any remaining seed money.

### **19:25-23.26 Certification; notification to candidate**

(a) The Commission shall certify a candidate as a 2007 New Jersey Fair and Clean Elections candidate if the candidate has:

1. Signed and filed a Declaration of Intent to be a Certified Candidate;
2. Filed a submission or submissions as required by this subchapter which report that the candidate has received at least 400 qualifying contributions of \$10.00 each from registered voters residing within the candidate's legislative district;
3. Accepted and spent during the qualifying period only seed money contributions, not to exceed \$10,000 in the aggregate, with each seed money contribution from an individual in an amount not to exceed \$500.00; and
4. In the case of a candidate seeking election to the office of member of the Senate or the office of member of the General Assembly by direct nomination has submitted to the Attorney General a petition of nomination with the required number of valid signatures, as required by N.J.S.A. 19:13-5.

(b) Except in the case of a candidate seeking office by means of direct nomination by petition, the Commission shall not certify a candidate for the General Assembly as a 2007 New Jersey Fair and Clean Elections candidate pursuant to (a) above unless both candidates for election to the office of member of the General Assembly in the 2007 general election who are members of the same political party in the legislative district the candidates seek to represent, meet the criteria established by this subchapter and are otherwise eligible to be certified as New Jersey Fair and Clean Elections candidates.

(c) No later than three business days after receipt of a submission upon which a candidate intending to become certified reports that he or she has received at least 400 qualifying contributions from registered voters residing within the candidate's legislative district, the Commission shall notify the candidate in writing whether or not he or she has been certified as a 2007 New Jersey Fair and Clean Elections candidate.

(d) If the Commission determines that a candidate intending to become certified has not received at least 400 qualifying contributions from registered voters residing within the candidate's legislative district, as reported on a submission filed pursuant to (a) above, the Commission shall provide written notification within three business days to the candidate

intending to become certified that he or she has been denied certification and shall advise the candidate of the reasons for the denial.

(e) The Commission shall immediately notify the Department that a candidate has been certified as a 2007 New Jersey Fair and Clean Elections candidate and shall notify the Department of the amount of Clean Elections funds for that candidate. The Commission shall forward immediately to a certified candidate the Clean Elections funds received from the Department.

(f) A candidate who has been certified as a New Jersey Fair and Clean Elections candidate shall deposit the Clean Elections funds only into the separate depository established pursuant to N.J.A.C. 19:25-23.15 for receipt of qualifying contributions.

### **19:25-23.27 Appeal of certification decision**

(a) To appeal a Commission decision to deny his or her certification as a Clean Elections candidate, a candidate shall within three days of receipt of written notification of the Commission's denial of certification file a written notice of appeal with the Commission which specifically responds to the reasons for non-certification provided to the candidate pursuant to N.J.A.C. 19:25-23.26 and sets forth a detailed statement of facts and information, including copies of documents such as contribution receipts, to support the candidate's claim that he or she should be granted certification as a 2007 Fair and Clean Elections candidate.

(b) To appeal a decision by the Commission to grant certification as a Fair and Clean Elections candidate to an opposing 2007 general election candidate, a candidate shall within three days of the Commission's decision, file a written notice of appeal with the Commission which contains a detailed statement of facts and information to support the candidate's claim that his or her opponent should not have been certified as a 2007 Fair and Clean Elections candidate.

(c) Service of a written notice of appeal pursuant to (a) or (b) above shall be made by the appellant by personal service or by certified mail, return receipt requested, upon the respondent candidate, the Commission, and any person named in the written notice of appeal. An appeal shall not be considered filed until it has been served upon the respondent candidate, the Commission, and any person named in the written notice of appeal.

(d) Within five days after a written notice of appeal is filed, the Commission shall hold a hearing on the appeal after notice of the hearing is given to the challenger. The appellant has the burden of providing evidence to demonstrate that the Commission's decision to deny his or her certification or to certify an opposing candidate was improper. The Commission shall rule on the appeal within three days after the completion of the hearing.

(e) The Commission may refer an appeal filed pursuant to this section to the Office of Administrative Law for hearing as a contested case pursuant to the provisions of the New Jersey Administrative Procedure Act, N.J.S.A. 52:14B-1 et seq., and the New Jersey Uniform Administration Procedure Rules, N.J.A.C. 1:1.

(f) The decision on an appeal rendered by the Commission pursuant to this section may be appealed to the Appellate Division of Superior Court, and the Court shall hear the appeal and render a decision thereon in an expedited manner.

(g) Any candidate whose certification by the Commission as a Clean Elections candidate is revoked as a result of an appeal to the Appellate Division of Superior Court shall return to the Commission for deposit into the Fund any unspent moneys received from the Fund.

(h) If the Commission or the court finds that an appeal was made frivolously or to cause delay or hardship, the Commission or court may require the appellant to pay the expenses of the Commission, the court and the challenged candidate, if any such expenses have been incurred.

### **19:25-23.28 Grant amounts; opposed candidate**

(a) A candidate seeking election in either District 24 or 37 to either the office of member of the Senate or the office of member of the General Assembly who is or was a candidate for nomination for election in the 2007 primary election and who will be opposed by any other candidate for that office in the 2007 general election, shall be eligible to receive Clean Elections grant amounts as follows:

1. Upon collecting and depositing at least 400 qualifying contributions prior to the end of the qualifying period, and upon certification by the Commission in a submission filed pursuant to the requirements of this subchapter that 400 qualifying contributions have been received by a candidate, a certified candidate shall receive a grant amount of \$46,000 from the Fund, which is the \$50,000 amount provided at P.L.2007, c.60, §11, less the \$4,000 value of the 400 qualifying contributions which the candidate is permitted to retain and spend; and
2. For each additional qualifying contribution collected and deposited by the candidate and certified by the Commission in a submission filed pursuant to the requirements of this subchapter, as provided at P.L.2007, c.60, §11, a certified candidate shall receive a grant amount of \$115 from the Fund. The \$115 amount is derived by subtracting the \$10 amount of the qualifying contribution, which the candidate is permitted to retain and spend, from the \$125 proportional amount of each remaining qualifying contribution above the 400 qualifying contributions required for a candidate to be certified, up to the maximum number of 800 qualifying contributions in the 2007 general election.

(b) A candidate seeking election in District 14 to either the office of member of the Senate or the office of member of the General Assembly who is or was a candidate for nomination for election in the 2007 primary election and who will be opposed by any other candidate for that office in the 2007 general election, shall be eligible to receive Clean Elections grant amounts as follows:

1. Upon collecting and depositing at least 400 qualifying contributions prior to the end of the qualifying period, and upon certification by the Commission in a submission filed pursuant to the requirements of this subchapter that 400 qualifying contributions have been received by a candidate, a certified candidate shall receive a grant amount of \$46,000 from the Fund, which is the \$50,000 amount provided at P.L.2007, c.60, §11, less the \$4,000 value of the 400 qualifying contributions which the candidate is permitted to retain and spend; and
2. For each additional qualifying contribution collected and deposited by the candidate and certified by the Commission in a submission filed pursuant to the requirements of this subchapter, as provided at P.L.2007, c.60, §11, a certified candidate shall receive a grant amount of \$1,200.94 from the Fund. The \$1,200.94 amount is derived by subtracting the \$10 amount of the qualifying contribution, which the candidate is permitted to retain and spend, from the \$1,210.94

proportional amount of each remaining qualifying contribution above the 400 qualifying contributions required for a candidate to be certified, up to the maximum number of 800 qualifying contributions in the 2007 general election.

(c) A candidate seeking election in District 14, 24, or 37 to either the office of member of the Senate or the office of member of the General Assembly who is nominated by direct nomination by petition and who will be opposed by any other candidate for that office in the 2007 general election, shall be eligible to receive Clean Elections grant amounts as follows:

1. Upon collecting and depositing at least 400 qualifying contributions prior to the end of the qualifying period, and upon certification by the Commission in a submission filed pursuant to the requirements of this subchapter that 400 qualifying contributions have been received by a candidate, a certified candidate shall receive a grant amount of \$21,000 from the Fund, which is the \$25,000 amount provided at P.L.2007, c.60, §11, less the \$4,000 value of the 400 qualifying contributions which the candidate is permitted to retain and spend; and
2. For each additional qualifying contribution collected and deposited by the candidate and certified by the Commission in a submission filed pursuant to the requirements of this subchapter, as provided at P.L.2007, c.60, §11, a certified candidate shall receive a grant amount of \$52.50 from the Fund. The \$52.50 amount is derived by subtracting the \$10 amount of the qualifying contribution, which the candidate is permitted to retain and spend, from the \$62.50 proportional amount of each remaining qualifying contribution above the 400 qualifying contributions required for a candidate to be certified, up to the maximum number of 800 qualifying contributions in the 2007 general election.

(d) The grant amounts described above shall be in addition to the rescue money amounts provided to candidates pursuant to the Act and this subchapter.

(e) The Commission shall determine the grant amounts described above, calculated to the nearest dollar, for a certified candidate no later than three days after receipt of a candidate submission filed pursuant to this subchapter and shall authorize the Department to transmit that amount to the certified candidate as soon as possible.

(f) A certified candidate shall deposit the grant amounts received pursuant to this section into the separate depository established for qualifying contributions pursuant to N.J.A.C. 19:25-23.15.

### **19:25-23.29 Grant amounts; unopposed candidate**

(a) A candidate seeking election in either District 24 or 37 to either the office of member of the Senate or the office of member of the General Assembly who is or was a candidate for nomination for election in the 2007 primary election and who will not be opposed by any other candidate for that office in the 2007 general election, shall be eligible to receive Clean Elections grant amounts as follows:

1. Upon collecting and depositing at least 400 qualifying contributions prior to the end of the qualifying period, and upon certification by the Commission in a submission filed pursuant to the requirements of this subchapter that 400 qualifying contributions have been received by a candidate, a certified candidate shall receive a grant amount of \$21,000 from the Fund, which is the \$25,000 amount provided at P.L.2007, c.60, §11, less the \$4,000 value of the 400 qualifying contributions which the candidate is permitted to retain and spend; and
2. For each additional qualifying contribution collected and deposited by the candidate and certified by the Commission in a submission filed pursuant to the requirements of this subchapter, as provided at P.L.2007, c.60, §11, a certified candidate shall receive a grant amount of \$52.50 from the Fund. The \$52.50 amount is derived by subtracting the \$10 amount of the qualifying contribution, which the candidate is permitted to retain and spend, from the \$62.50 proportional amount of each remaining qualifying contribution above the 400 qualifying contributions required for a candidate to be certified, up to the maximum number of 800 qualifying contributions in the 2007 general election.

(b) A candidate seeking election in District 14 to either the office of member of the Senate or the office of member of the General Assembly who is or was a candidate for nomination for election in the 2007 primary election and who will not be opposed by any other candidate for that office in the 2007 general election, shall be eligible to receive Clean Elections grant amounts as follows:

1. Upon collecting and depositing at least 400 qualifying contributions prior to the end of the qualifying period, and upon certification by the Commission in a submission filed pursuant to the requirements of this subchapter that 400 qualifying contributions have been received by a candidate, a certified candidate shall receive a grant amount of \$21,000 from the Fund, which is the \$25,000 amount provided at P.L.2007, c.60, §11, less the \$4,000 value of the 400 qualifying contributions which the candidate is permitted to retain and spend; and
2. For each additional qualifying contribution collected and deposited by the candidate and certified by the Commission in a submission filed pursuant to the requirements of this subchapter, as provided at P.L.2007, c.60, §11, a certified candidate shall receive a grant amount of \$595.47 from the Fund. The \$595.47 amount is derived by subtracting the \$10 amount of the qualifying contribution, which the candidate is permitted to retain and spend, from the \$605.47 proportional amount of each remaining qualifying contribution above the 400 qualifying contributions required for a candidate to be certified, up to the maximum number of 800 qualifying contributions in the 2007 general election.

(c) A candidate seeking election in District 14, 24, or 37 to either the office of member of the Senate or the office of member of the General Assembly who is nominated by direct

nomination by petition and who will not be opposed by any other candidate for that office in the 2007 general election, shall be eligible to receive Clean Elections grant amounts as follows:

1. Upon collecting and depositing at least 400 qualifying contributions prior to the end of the qualifying period, and upon certification by the Commission in a submission filed pursuant to the requirements of this subchapter that 400 qualifying contributions have been received by a candidate, a certified candidate shall receive a grant amount of \$8,500 from the Fund, which is the \$12,500 amount provided at P.L.2007, c.60, §11, less the \$4,000 value of the 400 qualifying contributions which the candidate is permitted to retain and spend; and
2. For each additional qualifying contribution collected and deposited by the candidate and certified by the Commission in a submission filed pursuant to the requirements of this subchapter, as provided at P.L.2007, c.60, §11, a certified candidate shall receive a grant amount of \$21.25 from the Fund. The \$21.25 amount is derived by subtracting the \$10 amount of the qualifying contribution, which the candidate is permitted to retain and spend, from the \$31.25 proportional amount of each remaining qualifying contribution above the 400 qualifying contributions required for a candidate to be certified, up to the maximum number of 800 qualifying contributions in the 2007 general election.

(d) The grant amounts described above shall be in addition to the rescue money amounts provided to candidates pursuant to the Act and this subchapter.

(e) The Commission shall determine the grant amounts described above, calculated to the nearest dollar, for a certified candidate no later than three days after receipt of a candidate submission filed pursuant to this subchapter and shall authorize the Department to transmit that amount to the certified candidate as soon as possible.

(f) A certified candidate shall deposit the grant amounts received pursuant to this section into the separate depository established for qualifying contributions pursuant to N.J.A.C. 19:25-23.15.

### **19:25-23.30 Rescue money; excess contribution amounts**

(a) A certified candidate shall file a claim with the Commission, on a form provided by the Commission, to receive funds in addition to the candidate's grant amount if a 2007 general election report filed with the Commission by a noncertified candidate for the same office in the same legislative district reports that the noncertified candidate received an aggregate amount of contributions which exceeds the grant amount, pursuant to Section 11 of the Act, for an opposing certified candidate in that legislative district.

(b) Within 24 hours of receipt of the claim filed pursuant to (a) above, the Commission shall authorize the issuance by the Department of money from the Fund, known as "rescue money," to each opposing certified candidate for the same office in the same legislative district as the noncertified candidate, as follows:

1. If a claim filed pursuant to (a) above establishes that the total amount of contributions received by a noncertified candidate exceeds the grant amount for that legislative district, pursuant to P.L.2007, c.60, §11, by at least \$1,000, a certified candidate nominated at the 2007 primary election shall receive rescue money equal to the total amount of contributions in excess of the grant amount, not to exceed a total of \$100,000 in the 2007 general election; and
2. If a claim filed pursuant to (a) above establishes that the total amount of contributions received by a noncertified candidate exceeds the grant amount for that legislative district, pursuant to P.L.2007, c.60, §11, by at least \$500, a certified candidate by direct nomination by petition shall receive rescue money equal to the total amount of contributions in excess of the grant amount, not to exceed a total of \$50,000 in the 2007 general election.

(c) The claim for additional funds filed pursuant to (a) above shall include copies of reports filed with the Commission, to establish that the noncertified candidate has received contributions which exceed the grant amount, pursuant to Section 11 of the Act, in that legislative district.

(d) A certified candidate shall deposit the additional funds received pursuant to this section into the separate depository established for qualifying contributions pursuant to N.J.A.C. 19:25-23.15.

(e) The rescue money provided to a certified candidate pursuant to this section shall be in addition to the grant amount provided to a certified candidate pursuant to P.L.2007, c.60, §11.

#### **19:25-23.31 Rescue money; independent expenditures**

(a) A certified candidate may file a certified complaint with the Commission, on a form provided by the Commission, to receive funds in addition to the grant amount, provided pursuant to P.L.2007, c.60, §11, for an independent expenditure or expenditures made by an entity, as follows:

1. Where a noncertified candidate is benefiting from money spent independently on behalf of the noncertified candidate by an entity; or
2. Where a certified candidate is the subject of an independent expenditure or expenditures for unfavorable campaign publicity or advertisements by an entity.

(b) For the purposes of this section, the term “entity” includes a person, political committee, continuing political committee, political party committee, candidate committee, joint candidates committee, or legislative leadership committee not acting in concert with an opposing noncertified candidate.

(c) Within 24 hours of receipt of a complaint filed pursuant to (a) above, the Commission shall determine whether or not an independent expenditure, as described in (a) above, has been made and the amount of the independent expenditure. If the Commission determines that an independent expenditure has been made, it shall authorize the Department to issue money from the Fund, known as “rescue money,” to the complaining certified candidate as follows:

1. For a certified candidate nominated in the 2007 primary election, if the independent expenditure amount exceeds \$1,000, the certified candidate shall receive rescue money in the amount of the independent expenditure, not to exceed a total of \$100,000 in the 2007 general election; and
2. For a certified candidate nominated by direct nomination by petition, if the independent expenditure amount exceeds \$500, the certified candidate shall receive rescue money in the amount of the independent expenditure, not to exceed a total of \$50,000 in the 2007 general election

(d) The complaint for additional funds pursuant to (a) above shall be certified as correct by the certified candidate and shall include evidence of the specific cost or costs associated with the independent expenditure or independent expenditures, which evidence shall include one of the following:

1. A copy of a report filed with the Commission disclosing the amount of the independent expenditure; and
2. A copy of the independent expenditure communication which identifies the newspaper, media outlet, or other source of the communication.

(e) A certified candidate shall deposit the additional funds received pursuant to this section into the separate depository established for qualifying contributions pursuant to N.J.A.C. 19:25-23.15.

(f) The rescue money provided to a certified candidate pursuant to this section shall be in addition to the grant amount provided to a certified candidate pursuant to P.L.2007, c.60, §11.

### **19:25-23.32 Corporate or labor organization communications**

Notwithstanding any law, rule, or regulation to the contrary, for the purposes of N.J.A.C. 19:25-23.31, communications on any subject by a corporation to its stockholders and their families, or by a labor organization, partnership, membership organization, or other association to its members and their families, shall not be considered to be an independent expenditure in aid of, or in opposition to, the candidacy of a certified candidate or a noncertified candidate.

### **19:25-23.33 Post-certification limitation on contributions and expenditures**

(a) A candidate who has been notified by the Commission before September 30, 2007, that he or she is a certified candidate and who has received 400 qualifying contributions:

1. May continue to accept and spend seed money, up to the \$10,000 maximum amount, until September 30, 2007, or until the Commission determines that the candidate has received 800 qualifying contributions, whichever occurs earlier;
2. Shall after being notified by the Commission that he or she is a certified candidate who has received 400 qualifying contributions, limit the total amount of expenditures and obligations in the 2007 general election, including outstanding obligations, to only the moneys distributed from the Fund, seed money contribution amounts not to exceed \$10,000, and qualifying contribution amounts not to exceed an amount calculated as follows: the number of qualifying contributions certified by the Commission multiplied by \$10 each.

(b) A candidate who has been notified by the Commission that he or she is a certified candidate and who has received 800 or more qualifying contributions:

1. Shall not accept or spend any further seed money contributions;
2. Shall after being notified by the Commission that he or she is a certified candidate who has received 800 qualifying contributions, limit the total amount of expenditures and obligations in the 2007 general election, including outstanding obligations, to only the moneys distributed from the Fund and qualifying contributions not to exceed the total amount of \$8,000 in the 2007 general election.

(c) All contributions to a candidate intending to become certified or a certified candidate and all moneys distributed to a certified candidate from the Fund shall be used only for the purposes permitted by N.J.S.A. 19:44A-11.2 and N.J.A.C. 19:25-6.

### **19:25-23.34 Withdrawal; noncertified opponent or candidate no longer seeking election**

(a) A certified candidate who wishes to withdraw from the 2007 Fair and Clean Elections Pilot Project and become a noncertified candidate for either of the following reasons shall file written notification with the Commission by means of a letter specifying which of the following is the reason for the withdrawal:

1. Because his or her noncertified opponent in District 24 or District 37 has spent more than \$600,000.00 in the 2007 general election, or because his or her noncertified opponent in District 14 has spent more than \$1,468,750.00; or
2. Because he or she is no longer seeking election to either the office of member of

the Senate or member of the General Assembly in the 2007 general election.

(b) The Commission shall within 24 hours of receipt of the candidate's written notification required pursuant to (a) above, acknowledge in writing to the withdrawing certified candidate that it has received the notification of withdrawal.

(c) Immediately upon receipt of written acknowledgement from the Commission pursuant to (b) above, the certified candidate shall:

1. Suspend all activity in the qualifying contribution and seed money accounts established pursuant to this subchapter and used by the candidate;
2. Within 24 hours after suspending activity in the qualifying contribution and seed money accounts, make and certify an accounting of the moneys remaining in those accounts, including any money received from the Fund; and
3. Within 24 hours after making the accounting of the qualifying contribution and seed money accounts, return to the Commission for deposit into the Fund all moneys remaining in the qualifying contribution and seed money accounts.

#### **19:25-23.35 Withdrawal; certified opponent or criminal misconduct**

(a) A certified candidate who seeks to withdraw from the 2007 Fair and Clean Elections Pilot Project and become a noncertified candidate under either of the following circumstances shall file written notification with the Commission by means of a letter specifying which of the following is the reason for the withdrawal:

1. The opponent of the certified candidate is a certified candidate who is continuing in the program; or
2. The certified candidate leaves or is forced out of the 2007 Fair and Clean Elections Pilot Project because of his or her criminal misconduct.

(b) The Commission shall within 24 hours of receipt of the candidate's written notification required pursuant to (a) above, acknowledge in writing to the withdrawing certified candidate that it has received the notification of withdrawal.

(c) Immediately upon receipt of written acknowledgement from the Commission pursuant to (b) above, the certified candidate shall:

1. Suspend all activity in the qualifying contribution and seed money accounts established and used by the candidate; and
2. Within 24 hours after suspending activity in the qualifying contribution and seed money accounts, make and certify an accounting of the moneys remaining in those accounts, including any money received from the Fund.

(d) A certified candidate who intends to withdraw from the Pilot Project and become a noncertified candidate, pursuant to (a) above, shall not be permitted to withdraw from the Pilot Project until the written notification filed pursuant to (a) above is reviewed and decided by a special committee established pursuant to P.L.2007, c.60, §6e.

(e) The special committee required by (d) above:

1. Shall be appointed within three days after the candidate informs the Commission that he or she seeks to withdraw and the Commission notifies the President of the Senate, the Minority Leader of the Senate, the Speaker of the General Assembly, and the Minority Leader of the General Assembly that a special committee shall be appointed; and
2. Shall within three days after the appointment of its members notify the certified candidate and the Commission of the committee's decision whether or not to permit the candidate to withdraw from being a certified candidate.

(f) If the special committee determines that the certified candidate is permitted to withdraw from the 2007 Pilot Project, the certified candidate shall:

1. Within 24 hours after the decision by the committee, return to the Commission for deposit into the Fund all moneys remaining in the qualifying contribution account, including moneys received from the Fund, and seed money account; and
2. Return to the Commission for deposit into the Fund an amount equal to all moneys the candidate has spent from public funds he or she received pursuant to Sections 11 and 12 of the Act and this subchapter, as determined by the Commission.

### **19:25-23.36 Unsuccessful 2007 primary election candidate**

(a) If a candidate intending to become certified or a certified candidate is not nominated for election at the 2007 primary election, the candidate shall:

1. Cease collecting seed money and qualifying contributions;
2. Return all seed money and qualifying contributions collected prior to the day of the 2007 primary election to contributors thereof on a *pro-rata* basis or remit remaining seed money and all qualifying contributions to the Commission for return to the Fund; and
3. Remit to the Commission for return to the Fund the full amount of all moneys received from the Fund pursuant to Sections 11 or 12 of the Act.

### **19:25-23.37 Political identification requirements**

(a) A certified candidate shall be subject to the political identification statement requirements of N.J.A.C. 19:25-13.

(b) Whenever any certified candidate makes, incurs, or authorizes an expenditure to finance a communication aiding or promoting the election of the candidate alone or in conjunction with the other certified candidate who is a member of the same political party and seeking the office of member of the Senate or the office of member of the General Assembly from the same legislative district, or the defeat of such candidate's or candidates' opponent or opponents, the communication shall include:

1. In the case of radio, an audio statement in the candidate's own voice, or if in conjunction with the other certified candidate each candidate's own voice, that identifies the candidate, the office the candidate is seeking, and that the candidate has approved the communication;
2. In the case of television, the Internet or any other similar form of communication containing audio and visual formats, a statement in the candidate's own voice, or if in conjunction with the other certified candidate in each candidate's own voice, that identifies the candidate, the office the candidate is seeking, and that the candidate has approved the communication, that is either spoken by the candidate during an unobscured full-screen view of the candidate or through a voice-over by the candidate accompanied by a clearly identifiable photograph or similar image of the candidate that occupies at least eighty percent of the vertical screen height, and includes the candidate's statement at the end of the communication in clearly readable writing in letters equal to at least four percent of the vertical picture height and visible for at least four seconds, except that an Internet communication consisting of printed material only, with or without photographs, shall include the written statement described above; or
3. In the case of any other form of communication, the communication shall include the written statement described in (b)2 above.

(c) A certified candidate alone or in conjunction with any other certified candidate who is seeking election to the office of member of the Senate or member of the General Assembly from the same legislative district may include in any communication made pursuant to this section a statement that he or she is a New Jersey Fair and Clean Elections candidate.

### **19:25-23.38 Candidate 250-word statement**

(a) Each candidate who is a certified candidate no later than August 17, 2007, and who chooses to submit a statement, shall have a statement of no more than 250 words included with

the sample ballot mailed prior to the election to registered voters in the district the candidate is seeking to represent.

(b) A candidate shall submit his or her 250-word statement to the Commission, on a form provided by the Commission, on or before the 80<sup>th</sup> day prior to the date on which the general election is to be held.

### **19:25-23.39 Certified candidate ballot slogan**

Notwithstanding any law, rule or regulation to the contrary, each candidate who is a certified candidate no later than August 17, 2007, shall have included with his or her name on the general election ballot the slogan "Clean Elections Candidate" in such size and type face as to be easily readable to the voter and in addition to the name of the political party of which the candidate is a member.

### **19:25-23.40 Sample ballot statements; reimbursement to clerks**

(a) On or before the 45th day prior to the date on which the general election is to be held, the Commission shall supply the following to the county clerk of each county in which a certified candidate is seeking election:

1. The name of each candidate who is a certified candidate no later than August 17, 2007, and whose name shall be accompanied on the general election ballot by the slogan "Clean Elections Candidate"; and
2. The text of the 250-word statement received from each certified candidate who chooses to have a statement included on the general election ballot.

(b) On or before the 45th day prior to the date on which the general election is to be held, the Commission shall notify the clerk of each county in which a certified candidate is seeking election of the total amount of funds available for reimbursement of the cost of printing and mailing of such ballot statements. Such reimbursement shall be made on a *pro rata* basis if adequate funds are not appropriated to the Commission to reimburse eligible counties fully.

(c) Reimbursement shall be made to a county only for the added sample ballot costs which are attributable directly to the printing and mailing of the certified Clean Elections candidates' ballot statements.

(d) To be eligible for reimbursement of ballot statement costs, no later than December 17, 2007, each county clerk of a county in which a certified candidate statement or statements appeared on the 2007 general election sample ballot shall submit to the Commission on a form provided by the Commission an itemized claim for reimbursement of the sample ballot costs described in (c) above.

### **19:25-23.41 Debate requirement; noncertified candidates**

(a) Each certified candidate shall be required to participate in at least two interactive debates among candidates for the same office in the legislative district in which the candidate is seeking election.

(b) The certified candidate or candidates shall invite all noncertified candidates for the same office in the same legislative district to participate in the two candidates' debates.

(c) Each certified candidate in a legislative district shall cooperate in the selection of debate sponsors, as required pursuant to this subchapter, and in making all arrangements for the two required debates for the office the candidate or candidates seek to represent.

### **19:25-23.42 Debate sponsor criteria**

(a) The certified candidates for the office of member of the Senate or member of the General Assembly in a legislative district shall be responsible for selection of organizations to sponsor each of the two required debates and for conduct of the two debates for the respective office.

(b) The certified candidates shall select as sponsors for the required candidates' debates only those organizations that:

1. Are unaffiliated with any political party or with any holder of or candidate for public office; and
2. Have not endorsed any candidate in the pending general election for the office of member of the Senate or member of the General Assembly in the legislative district which the candidates represent or seek to represent and agree not to make any such endorsement until the completion of any debate sponsored by the organization.

### **19:25-23.43 Conduct of the debates; dates**

(a) Each of the two required candidates' debates shall be of at least one hour's duration, and shall occur as follows:

1. The first debate shall occur on or after October 1, 2007 and on or before October 15, 2007; and
2. The second debate shall occur on or after October 16, 2007 and on or before October 30, 2007.

(b) The certified candidate or candidates shall submit the plans, required by N.J.A.C. 19:25-23.44, for each debate to the Commission, no later October 3, 2007, unless a debate is

scheduled to occur between October 1 and October 3, 2007, in which case the plans shall be submitted to the Commission at least five days before the scheduled date of the debate. In no case shall a debate occur prior to receipt of Commission approval of the debate plans.

(c) During the course of each of the two debates, the sponsor organization shall specifically identify the certified candidates and shall explain the meaning of that certification.

#### **19:25-23.44 Candidate debate plans**

(a) Each certified candidate or candidates shall certify and file with the Commission, on a form provided by the Commission, the following information for each debate required by this subchapter:

1. The time and date of the debate;
2. The names of the candidates who will participate in the debate;
3. Plans for coverage of each debate by media outlets, including radio, television, and newspapers;
4. The location of each debate, including a description of the building or facility, legal seating capacity, and accessibility for persons with physical disabilities;
5. A description of the format of each debate, including whether or not there will be interactive exchanges among the candidates and opportunities for the public to direct questions to the candidates;
6. Plans, including plans for newspaper advertisements, to disseminate information to the public concerning the date, time, location, and media outlets airing or broadcasting each debate;
7. Plans for accessibility of each debate to hearing-impaired persons in the broadcast audience;
8. Arrangements for a debate moderator or moderators; and
9. Sources of financial support to the organization to underwrite costs associated with the debate or debates.

(b) If there will be an audience at a debate, the certified candidates shall, in addition to the information required pursuant to (a) above, report the following information:

1. The number of persons expected in the audience;
2. The method to be used to select the audience, including information on distribution of tickets; and

3. Plans for interaction between the candidates and the audience.

(c) If there will be an admission fee or ticket price for attendance at the debate, the certified candidates shall report, pursuant to (a) above, the amount of the admission fee or ticket price and an explanation of why such an admission fee or ticket price is being charged.

(d) The debate plans filed pursuant to this section shall include the certified candidate's statement that noncertified candidates for the same office in the legislative district have been invited to participate in the debate or debates.

(e) The Commission shall respond in writing to the debate plans required by this section no later than October 7, 2007, and shall advise the certified candidate or candidates who submitted the debate plans whether or not the plans have been accepted. As part of its review of the debate plans filed pursuant to this section, the Commission shall ensure that debates are not scheduled at the same time and on the same date in a legislative district.

**19:25-23.45 Complaint alleging failure to participate in debate**

(a) A complaint filed with the Commission alleging failure of a certified candidate to participate in a required debate shall:

1. Be filed only by a candidate for the same office in the same legislative district;
2. Be in writing and be verified; and
3. Contain a detailed statement alleging with specificity all facts known to the complainant pertinent to the allegation of failure to participate in a debate.

(b) Service of a complaint alleging failure to participate in a general election debate shall be made by the complainant by personal service or by certified mail, return receipt requested upon the respondent candidate, the debate sponsor, and any person named in the complaint.

**19:25-23.46 Candidate response to complaint for failure to participate in a debate or debates**

(a) Within five calendar days of service of the complaint upon the respondent candidate, he or she shall respond to the complaint in a written, verified answer which:

1. Admits or denies each of the factual allegations contained in the complaint; and
2. Sets forth any affirmative defenses to the allegations contained in the complaint including all facts known to the respondent candidate pertinent to any such affirmative defense.

(b) Justification and excuse shall be deemed to be affirmative defenses for the purposes of this section.

(c) Service of an answer shall be made by the respondent candidate in person or by certified mail, return receipt requested, upon the complainant, the Commission, the debate sponsor, and any person named in the complaint or response.

**19:25-23.47 Commission response to complaint for failure to participate in a debate or debates**

(a) Upon receipt by the Commission of a verified complaint alleging failure of a certified candidate to participate in a debate and verified answer, the Commission shall meet as soon as practicable to determine whether there is reasonable cause to believe the respondent candidate may have failed to participate as required in a general election debate.

(b) If it is determined by majority vote of the Commission that there is reasonable cause to believe that a candidate may have failed to participate in a debate as required, the Commission shall:

1. Cease the review of any application from the respondent candidate for moneys from the Fund which application has not previously been approved; and
2. Schedule a hearing on the complaint to determine whether the respondent candidate has failed to participate in a debate as alleged.

(c) The Commission shall as soon as practicable notify the respondent candidate in writing of the actions it has taken pursuant to (b) above.

**19:25-23.48 Conduct of the hearing**

(a) The complainant and the respondent candidate shall appear at the hearing. Other interested persons may appear as permitted by N.J.A.C. 1:1-16 and may be represented as permitted by N.J.A.C. 1:1-5.

(b) The hearing shall be governed by the New Jersey Administrative Procedure Act, N.J.S.A. 52:14B-1 et seq., and the New Jersey Uniform Administration Procedure Rules, N.J.A.C. 1:1.

(c) The complainant shall have the burden of proving non-participation by a preponderance of the credible evidence, and the respondent candidate charged with the failure to participate in a debate shall have the burden of proving justification or excuse by a preponderance of the credible evidence.

(d) At the request of the complainant or respondent candidate, subpoenas shall be issued to compel the attendance of witnesses to testify at the hearing held to determine a candidate's failure to participate in a debate.

(e) The Commission may refer the matter for hearing to the Office of Administrative Law as a contested case pursuant to the provisions of the New Jersey Administrative Procedure Act, N.J.S.A. 52:14B-1 et seq., and the New Jersey Uniform Administration Procedure Rules, N.J.A.C. 1:1.

(f) The Commission shall have the authority to assess the costs associated with a hearing held pursuant to this section against any complainant, respondent or interested person permitted to appear.

#### **19:25-23.49 Final decision of non-participation**

(a) At the conclusion of a hearing, the Commission shall determine by majority vote whether a certified candidate required to participate in a general election debate has failed to do so, and if so, whether the failure to participate occurred under circumstances which were beyond the control of the candidate and of such a nature that a reasonable person would find the failure justifiable or excusable.

(b) The Commission shall serve its written decision upon the participants or upon their legal representatives as soon as practicable.

(c) If the Commission determines that the respondent candidate failed to participate in a general election debate without reasonable justification or excuse, the Commission shall cease the distribution of any further moneys from the Fund to the candidate.

#### **19:25-23.50 Penalty for failure to debate**

(a) A certified candidate who is found by the Commission to have failed to participate in a required candidates' debate shall be liable for the return of moneys received previously from the Fund.

(b) If it is determined by the Commission that the respondent candidate failed to participate in a general election debate without reasonable justification or excuse, the Commission shall:

1. Calculate the total amount of moneys distributed to the respondent candidate by the Commission from the Fund;
2. Notify the respondent candidate in writing of the total dollar amount of the liability of the campaign for repayment and of the interest due upon the amount at the rate of one percent for each month or fractional part of a month during which the liability remains unpaid; and
3. Cease certification of any further moneys from the Fund to the candidate.

(c) Within ten calendar days of receipt of notification of the amount of repayment required to the Commission, the respondent candidate shall submit to the Commission a written schedule for repayment of public funds which specifies dates and amount of repayment installments.

#### **19:25-23.51 Candidate assistance**

(a) A candidate intending to become certified or a certified candidate may contact the Commission and speak with a member of the Special Programs staff, who shall serve as a liaison for that candidate, and who shall provide information to the candidate which includes but is not limited to the following:

1. The requirements of the 2007 Fair and Clean Elections Pilot Project, and the Act and this subchapter;
2. The process by which a candidate may allege that another candidate has violated the provisions of the Act; and
3. The process by which a candidate may file a request for rescue money, as provided in N.J.A.C. 19:25-23.30 and 19:25-23.31.

(b) Any investigation undertaken by the Commission concerning an allegation that there has been a violation of the Act shall be carried out in full compliance with the existing requirements of the Campaign Reporting Act and due process of law.

#### **19:25-23.52 Final report; return of funds**

(a) No candidate who has received moneys from the Fund in the 2007 general election pursuant to this subchapter shall incur any debt or make any expenditure after the date of the 2007 general election for any purpose other than the following:

1. To satisfy outstanding obligations incurred on or before the date of the election made for appropriate campaign purposes, or
2. To pay the reasonable and necessary costs of closing the campaign.

(b) Each certified candidate shall certify his or her 20-day postelection report or first quarterly postelection report as the final report for the 2007 general election.

(c) Each certified candidate shall, upon the filing of a final report for the 2007 general election, but in no case later than March 31, 2008, return to the Commission for deposit into the Fund all unspent seed money and qualifying contributions, and any moneys from the Fund which remain unspent.

(d) Nothing in this subchapter shall prevent a certified candidate from returning unspent grant amounts to the Fund prior to the filing of a final report for the 2007 general election. Any

funds returned prior to the filing of a final report for the 2007 general election shall not be available for use by the certified candidate in the 2007 general election.

### **19:25-23.53 Use of electronic forms**

A candidate shall be permitted to use electronic filing methods provided by the Commission to file the submissions and election fund reports required by the Campaign Reporting Act and this subchapter. A candidate who files submissions and election fund reports shall observe the requirements for electronic filing in N.J.A.C. 19:25-3.

### **19:25-23.54 Monetary penalties**

(a) Any person, including any candidate, treasurer or other official associated with the campaign of a candidate intending to become certified or a certified candidate, with the responsibility for the preparation, certification, filing or retention of any reports, records, notices or other documents in paper or electronic form, who knowingly and willfully fails, neglects or omits to prepare, certify, file or retain any such report, record, notice or document at the time or during the time period, as the case may be, and in the manner prescribed by law, or who knowingly and willfully omits or incorrectly states or certifies any of the information required by law to be included in such report, record, notice or document, and any other person who in any way knowingly and willfully violates any of the provisions of the Act, shall, in addition to any other penalty provided by law, be liable to a penalty of not more than \$6,000 for the first offense and not more than \$12,000 for the second and each subsequent offense.

(b) The Commission shall upon receiving evidence of a violation pursuant to (a) above, use the procedure provided for in N.J.S.A. 19:44A-22 for investigating the violation and assessing a penalty, if a violation is found.

(c) Any fine imposed for a violation pursuant to (a) above shall, upon payment to the Commission, be deposited in the Fund.

### **19:25-23.55 Criminal penalties**

(a) Any individual found to have knowingly and willfully given any amount of money to another person for the purpose of having that other person give such money, or a part thereof, to a candidate intending to become certified as a seed money contribution or qualifying contribution is guilty of a crime of the fourth degree.

(b) Any person, including any candidate, treasurer or other official associated with the campaign of a candidate intending to become certified or a certified candidate, who knowingly and willfully makes a false statement or knowingly and willfully files a false report, record, notice or document in paper or electronic form is guilty of a crime of the third degree.

(c) Any individual found to be in violation of (b) above shall remit in an expedited manner to the Commission for deposit into the Fund all moneys distributed to the candidate since

he or she was certified as a New Jersey Fair and Clean Elections candidate for the election cycle in which the offense occurred.

(d) Upon receipt of evidence of a violation of the Act which may become the subject of criminal prosecution pursuant to (a) or (b) above, the Commission shall forward to the Attorney General information concerning any such violation of the Act.

#### **19:25-23.56 Disqualification as a candidate; forfeiture of office**

In addition to the penalties imposed pursuant to N.J.A.C. 19:25-23.55 and 19:25-23.56 above, candidate intending to become certified or a certified candidate who is investigated and found by the Commission to have purposefully, knowingly, and willfully violated the Act shall be disqualified as a candidate for the public office sought or shall forfeit such office if elected.

#### **19:25-23.57 Additional penalty amounts**

Two hundred and fifty dollars shall be added to each fine and penalty imposed and collected through a court under authority of any law for any violation of the provisions of Chapters 27 or 30 of Title 2C of the New Jersey Statutes, Chapters 34 or 44A of Title 19 of the Revised Statutes, or Chapter 13D of Title 52 of the Revised Statutes and shall be forwarded by the person to whom the same are paid to the State Treasurer. The State Treasurer shall upon receipt deposit those moneys so forwarded into the account of the Commission which is used to effectuate the public information requirements of the Act, up to a maximum of \$600,000. Thereafter, the State Treasurer shall deposit any moneys over that amount received pursuant to this section into the Fund.