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Updated December 2024

**UNOFFICIAL TEXT**

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**CHAPTER 25**  
**REGULATIONS OF THE ELECTION LAW ENFORCEMENT**  
**COMMISSION**

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## **SUBCHAPTER 1. GENERAL PROVISIONS**

### **19:25-1.1 Scope of regulations**

The provisions of this chapter are promulgated pursuant to the New Jersey Campaign Contributions and Expenditures Reporting Act, P.L. 1973, c. 83, as amended, N.J.S.A. 19:44A-1 et seq. (“the Act”); the Gubernatorial Legislative Disclosure Statement Act; N.J.S.A. 19:44B-1 et seq.; the Uniform Recall Election Law, P.L. 1995, c. 105, N.J.S.A. 19:27A-1, the Legislative and Governmental Process Activities Disclosure Act, P.L. 1971, c. 183, as amended, N.J.S.A. 52:13C-18 et seq., the “pay to play” laws, P.L. 2004, c. 19, as amended, N.J.S.A. 19:44A-20.3 et seq., P.L. 2005, c. 51, as amended, N.J.S.A. 19:44A-20.13 et seq., and P.L. 2005, c. 271, as amended, N.J.S.A. 19:44A-20.26 et seq. Such provisions shall constitute the rules and regulations of practice and procedure of the New Jersey Election Law Enforcement Commission (“the Commission”).

### **19:25-1.2 Short title**

The provisions of this chapter shall be known as “Regulations of the New Jersey Election Law Enforcement Commission”.

### **19:25-1.3 Liberal construction of rules**

The provisions of this chapter shall be liberally construed to permit the Commission to discharge its statutory functions and to secure a just and speedy determination of all matters before it.

### **19:25-1.4 Relaxation**

The Commission may, upon notice to all parties or persons in interest, relax the application of this chapter whenever the interest of justice shall so require.

### **19:25-1.5 Amendment of regulations**

The Commission may at any time and from time to time, rescind, alter or amend the provisions of this chapter in the manner prescribed by law as may be necessary to carry out the purposes of the Act. Any new regulation resulting from such action shall be filed with the New Jersey Office of Administrative Law.

### **19:25-1.6 Practice where regulations do not govern**

In any matter not governed by the provisions of this chapter, the Commission shall exercise its discretion so as to carry out the purposes of the Act.

## 19:25-1.7 Definitions

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

“The Act” means The New Jersey Campaign Contributions and Expenditures Reporting Act, P.L. 1973, c. 83, as amended, N.J.S.A. 19:44A-1 et seq.

“Candidate” means:

1. An individual seeking election to a public office of this State or of a county, municipality or school or fire district at any election;
2. An individual who shall have been elected or failed of election to an office, other than a party office, for which he or she sought election and who receives contributions and makes expenditures for any of the purposes authorized by N.J.S.A. 19:44A-11.2; and
3. An individual who has received funds or other benefits or has made payments solely for the purpose of determining whether the individual should become a candidate as defined in paragraphs 1 and 2 above.

This definition does not include an individual seeking Federal elective office, or State, county or municipal political party office.

“Candidate committee” means a committee established by a candidate pursuant to N.J.S.A. 19:44A-9(a) for the purpose of receiving contributions and making expenditures.

“Commission” means the New Jersey Election Law Enforcement Commission.

"Continuing political committee" includes any group of two or more persons acting jointly, or any corporation, partnership, or any other incorporated or unincorporated association, including a political club, political action committee, civic association or other organization, which in any calendar year contributes, or expects to contribute, at least \$8,600 to aid or promote the candidacy of an individual, or the candidacies of individuals, for elective public office, or the passage or defeat of a public question or public questions, and which may be expected to make contributions toward such aid or promotion or passage or defeat during a subsequent election, provided that the group, corporation, partnership, association, or other organization has been determined by the Commission to be a continuing political committee in accordance with N.J.S.A. 19:44A-8.b. A continuing political committee does not include:

1. A candidate committee, joint candidates committee, political committee, political party committee, legislative leadership committee, or an independent expenditure committee.

2. A contributor not involved in fundraising (that is, not soliciting or accepting contributions to aid or promote candidates, or the passage or defeat of public questions), and not conducting any election-related activity other than making contributions from its own funds to a candidate committee, joint candidates committee, political committee, continuing political committee, political party committee, legislative leadership committee, or an independent expenditure committee.

“Contribution” includes every loan, gift, subscription, advance or transfer of money or other thing of value, including any in-kind contribution, made to or on behalf of any candidate, candidate committee, joint candidates committee, political committee, continuing political committee, political party committee or legislative leadership committee and any pledge or other commitment or assumption of liability to make such transfer. For purposes of reports required pursuant to the provisions of the Act, any such commitment or assumption shall be deemed to have been a contribution upon the date when such commitment is made or liability assumed. Funds or other benefits received solely for the purpose of determining whether an individual should become a candidate are contributions.

“Contributor” means an individual, corporation, labor organization, association, group, candidate committee, joint candidates committee, political committee, continuing political committee, political party committee or legislative-leadership committee making a contribution. “Contributor” does not include an unincorporated business entity, a partnership entity as defined in N.J.A.C. 19:25-11.10(b) or a limited liability company as defined in N.J.A.C. 19:25-11.10(c), which entities are not permitted to make contributions.

“Currency” means United States government notes and coins in circulation as a medium of exchange.

“Depository,” “campaign depository,” and “organizational depository” mean any bank account, whether checking, savings, or other, that is established by a candidate, candidate committee, joint candidates committee, political committee, continuing political committee, political party committee, legislative leadership committee, or independent expenditure committee for the purpose of receiving contributions and making expenditures to aid or promote a candidate in an election, or to support or oppose a public question.

“District” means the State, legislative district, county, municipality or part thereof, school district or other district in which a candidate is seeking election to public office.

“ELEC eFile” means the web-based system available on the Commission’s website used to file Forms R-1, R-3, G-1, P-1, and 72/24-HR.

“Election” means any election in which a public question is to be voted upon by the voters of the State or any political subdivision thereof; and any election for any public office of the State or any political subdivision thereof. It does not include Federal elective office, or State, county or municipal political party office.



“Election-related activity” means election activity related to a candidate for public office of the State of New Jersey or its political subdivisions, or public question submitted to the voters of the State of New Jersey or its political subdivisions as set forth in the Act and includes, without limitation, contributions to candidates, expenditures for fundraising, expenditures on behalf of candidates and other related political expenditures.

“Electronic filing system” means all online systems available on the Commission’s website [www.elec.nj.gov](http://www.elec.nj.gov) for electronically filing or electronically submitting reports, notices, forms, applications, and other documents.

“Expenditure” includes every transfer of money or other thing of value, including any item of real or personal property, tangible or intangible, made by any candidate committee, joint candidates committee, political committee, continuing political committee, political party committee or legislative leadership committee and any pledge or other commitment or assumption of liability to make such transfer. For purposes of reports required under the provisions of the Act, any such commitment or assumption shall be deemed to have been an expenditure upon the date when such commitment is made or liability assumed. Payments or commitments made solely for the purpose of determining whether an individual should become a candidate are expenditures.

1. Any cost incurred in covering or carrying a news story, commentary, or editorial by any broadcasting station, newspaper, magazine, or other periodical publication is not an expenditure, unless the facility is owned or controlled by a candidate committee, joint candidates committee, political committee, continuing political committee, political party committee, or legislative leadership committee in which case the cost for a news story which represents a bona fide news account communicated in a publication of general circulation or on a licensed broadcasting facility, and which is part of a general pattern of campaign-related news accounts which give reasonably equal coverage to all opposing candidates in the circulation or listening areas, is not an expenditure.

“Family member” means a spouse, child, parent or sibling.

“File” or “filed” means deposited in the office of the Commission designated in N.J.A.C. 19:25-2.1.

“Independent expenditure committee” means a person or group organized pursuant to Section 527 of the Federal Internal Revenue Code (26 U.S.C. § 527) or pursuant to paragraph (4) or paragraph (6) of subsection (c) of Section 501 of the Federal Internal Revenue Code (26 U.S.C. § 501) that makes independent expenditures in excess of \$7,500, in the aggregate, in an election. An independent expenditure committee does not include:

1. An entity that falls within the definition of a candidate committee, joint candidates committee, political committee, continuing political committee, political party committee, or legislative leadership committee.

2. A contributor not involved in fundraising (that is, not soliciting or accepting contributions to aid or promote candidates, or the passage or defeat of public questions), and not conducting any election-related activity other than making contributions from its own funds to a candidate committee, joint candidates committee, political committee, continuing political committee, political party committee, or legislative leadership committee.
3. A person using the person's own funds to make independent expenditures, as defined at N.J.A.C. 19:25-12.7(b).

“In-kind contribution” means a contribution of goods or services received by a candidate, candidate committee, joint candidates committee, political committee, continuing political committee, political party committee or legislative leadership committee, which contribution is paid for by a person or entity other than the recipient committee, but does not include services provided without compensation by an individual volunteering a part of or all of his or her time on behalf of a candidate or committee.

“Housekeeping account” means a separate organizational depository established by a State political party committee organized pursuant to N.J.S.A. 19:5-4, or a county political party committee organized pursuant to N.J.S.A. 19:5-3, to receive contributions and make expenditures for non-political purposes.

“Joint candidates committee” means a committee established pursuant to N.J.S.A. 19:44A-9(a) by at least two candidates for the same elective public offices in the same election in a legislative district, county, municipality, or school or fire district, but not more candidates than the total number of the same elective public offices to be filled in that election, for the purpose of receiving contributions and making expenditures. For the purposes of this definition, the offices of member of the Senate and members of the General Assembly shall be deemed to be the same elective public offices in a legislative district; the offices of member of the board of county commissioners and county executive shall be deemed to be the same elective public offices in a county; and the offices of mayor and member of the municipal governing body shall be deemed to be the same elective public offices in a municipality. For the purposes of this definition, a candidate committee formed jointly by candidates for the offices of Governor and of Lieutenant Governor of the same party is not a “joint candidates committee.”

“Legal guardian” or “legal guardians” means the person or persons who are the natural or adoptive parents of a minor or the person or persons who have been appointed by a court or other competent authority to act as the guardian of the person or property of a minor.

“Legislative leadership committee” means a committee established, authorized to be established, or designated by the President of the Senate, the Minority Leader of the Senate, the Speaker of the General Assembly, or the Minority Leader of the General Assembly pursuant to N.J.S.A 19:44A-10.1 for the purpose of receiving contributions and making expenditures.

“Minor” means any person under the age of 18 years.

“Minor's earned income” means wages, salaries, and other amounts received by a minor as compensation for personal services actually rendered by the minor in accordance with N.J.S.A. 34:2-21.1 et seq., provided that the minor's earned income shall not include wages, salaries, and other compensation paid to the minor by the legal guardian or legal guardians of the minor.

“National committee of a political party” means the principal organization supporting election activities of a State political party committee, which activities shall include the making of contributions to that State political party committee pursuant to N.J.S.A. 19:44A-11.4a(2). There shall be no more than a single national committee of a political party for each State political party committee.

“Paid personal services” means personal, clerical, administrative or professional services of every kind and nature, including, without limitation, public relations, research, legal, canvassing, telephone, speech writing or other such services performed other than on a voluntary basis, the salary, cost or consideration of which is paid, borne or provided other than by the committee, candidate or organization for whom such services are rendered.

"Political committee" means any group of two or more persons acting jointly, or any corporation, partnership, or any other incorporated or unincorporated association, which is organized to or does aid or promote the nomination, election or defeat of any candidate or candidates for public office, or which is organized to, or does aid or promote the passage or defeat of a public question in any election if the persons, corporation, partnership, or incorporated or unincorporated association raises or expends \$3,800 or more to so aid or promote the nomination, election, or defeat of a candidate or candidates or the passage or defeat of a public question. A group or association organized to promote the candidacy of one or more candidates or aid or defeat the passage of a public question, without a term of existence substantially longer than the campaign, is a political committee. Political committee does not include:

1. A candidate committee, joint candidates committee, continuing political committee, a political party committee, a legislative leadership committee, or an independent expenditure committee.
2. A contributor not involved in fund raising (that is, not soliciting or accepting contributions to aid or promote candidates, or the passage or defeat of public questions), and not conducting other election-related activity other than making contributions from its own funds to a candidate committee, joint candidates committee, political committee, continuing political committee, political party committee, or legislative leadership committee.
3. A municipal or county charter study commission or the members thereof shall not be deemed to be a political committee with respect to the subject matter of such charter study commission at any time prior to the filing of its report. Thereafter such commission or any two or more members, not otherwise excluded by this chapter, may constitute a political committee for such public question.

4. Except as set forth in paragraph 5 below of this definition, no person or persons holding elected or appointed public office in this State or any political subdivision thereof shall be deemed to be a political committee with respect to any public question by virtue of communication with their constituents or with public officials of the Federal government or of this or any other state or political subdivision thereof, or with the general public reasonably related to the duties of his or her public office.
5. Elected or appointed public officials, boards and commissions, and the members thereof, may become political committees with respect to a public question by virtue of fund raising or other election-related activities respecting such public questions.

“Political party committee” means the State committee of a political party, as organized pursuant to N.J.S.A. 19:5-4; any county committee of a political party, as organized pursuant to N.J.S.A. 19:5-3; or any municipal committee of a political party, as organized pursuant to N.J.S.A. 19:5-2.

“Public office” means any elective office of this State or any political subdivision thereof, except that it does not include State, county or municipal political party office.

“Public question” means any question, proposition or referendum (for example, a constitutional amendment, budget adoption or bond issue) required by the legislative or governing body of this State or any of its political subdivisions to be submitted by referendum procedure to the voters of the State or political subdivision for decision at elections.

“Public solicitation” means a solicitation as described in N.J.A.C. 19:25-10.7(a).

“Resident address” means the address at which a person resides. The reporting of a resident address must contain all information necessary to enable service of process of the identified person at the address, including, but not limited to, any apartment, unit, suite, floor, or building number.

“Testimonial affair” means an affair of any kind or nature including, without limitation, cocktail parties, breakfasts, luncheons, dinners, dances, picnics, or similar affairs directly or indirectly intended to raise campaign funds on behalf of a person who holds, or who is or was a candidate for nomination or election to public office in this State, or is directly or indirectly intended to raise funds on behalf of any candidate committee, joint candidates committee, political committee, continuing political committee, political party committee, legislative leadership committee, and independent expenditure committee.

#### **19:25-1.8 Gender, use of masculine to include feminine**

Unless a different meaning clearly appears from the context, the use of a word importing the masculine shall be understood to include and to apply to the feminine as well.

#### **19:25-1.9 Candidates and committees subject to thresholds and limits**

(a) The reporting thresholds and contribution limits for candidates, candidate committees, joint candidates committees, political committees, continuing political committees, political party committees, and legislative leadership committees set forth in the Act and in the provisions of this chapter shall be applicable in any election subject to the Act pursuant to N.J.S.A. 19:44A-4 or in any recall election conducted pursuant to the Uniform Recall Election Law, N.J.S.A. 19:27A-1 et seq.

(b) The reporting thresholds for independent expenditure committees set forth in the Act and in the provisions of this chapter shall be applicable to any election subject to the Act pursuant to N.J.S.A. 19:44A-4 or in any recall election conducted pursuant to the Uniform Recall Election Law, N.J.S.A. 19:27A-1 et seq.

**19:25-1.10 (Reserved)**

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## **SUBCHAPTER 2. ADMINISTRATIVE**

### **19:25-2.1 Office**

The office of the Election Law Enforcement Commission is located at 25 South Stockton Street, Trenton, New Jersey. All correspondence may be sent to the following address only: Election Law Enforcement Commission, PO Box 185, Trenton, New Jersey 08625-0185. The telephone number is: (609) 292-8700. The Commission maintains an Internet site at [www.elec.nj.gov](http://www.elec.nj.gov).

### **19:25-2.2 Access to documents**

(a) Every document accepted for filing by the Commission, including all reports, certified statements, requests for advisory opinions and answers or pleadings relating to a complaint issued by the Commission, shall be maintained with the date of filing noted thereon by the Commission.

(b) Any person shall, upon request, be afforded opportunity to examine a document, or a photocopy of any document so maintained.

### **19:25-2.3 Copies of documents; fees**

Photocopies of documents maintained by the Commission pursuant to N.J.A.C. 19:25-2.2 shall be provided upon payment of the fees established pursuant to the Open Public Records Act (N.J.S.A. 47:1A-1 et seq.). For the purposes of establishing fees under this section, a two-sided photocopy shall be deemed as two pages.

### **19:25-2.4 Release of documents**

(a) A copy of a report filed with the Commission pursuant to the New Jersey Campaign Contributions and Expenditures Reporting Act (N.J.S.A. 19:44A-1 et seq.); the Uniform Recall Election Law (N.J.S.A. 19:27A-1 et seq.); the Gubernatorial Legislative Disclosure Act (N.J.S.A. 19:44B-1 et seq.); and the Legislative and Governmental Process Activities Disclosure Act (N.J.S.A. 52:13C-20 et seq.) shall be made available for public access within seven business days after the date on which that report is required to be filed with the Commission.

(b) No original filed document referred to in N.J.A.C. 19:25-2.3 shall be released from the custody of the Commission except upon express written direction of the Executive Director or upon court order.

### **19:25-2.5 Signatures**

(a) Whenever authorized by the Commission by resolution, the signature of the chair of the Commission on final decisions, orders, subpoenas or other documents issued by the Commission pursuant to N.J.S.A. 19:44A-22 may be a facsimile signature.

(b) Whenever authorized by the Commission by resolution, the executive director, or such employee of the Commission as may be from time to time designated in writing by the executive director, shall be authorized to sign final decisions, orders or other determinations of the Commission pursuant to N.J.S.A. 19:44A-22 in the name of the chair of the Commission, or to affix to such final decisions, orders or other determinations pursuant to N.J.S.A. 19:44A-22 the facsimile signature of the chair.

#### **19:25-2.6 Public hearings for rulemaking**

(a) The Commission shall hold a public hearing on a rulemaking notice of proposal at the request of a committee of the Legislature, or a governmental agency or subdivision, or if sufficient public interest in a public hearing is demonstrated within 30 days of the publication of the notice of proposal in the New Jersey Register, or whenever deemed appropriate by the Commission.

(b) Sufficient public interest in holding a public hearing for rulemaking shall be determined by the Commission based on written requests submitted to the addresses to which comments are to be sent contained in the notice of proposal. Public interest in holding a public hearing shall be sufficient if:

1. At least 20 persons submit written requests for a public hearing to present data, arguments, or views that raise a substantial issue as to the impact of the notice of proposal on the regulated community or the general public that has not been anticipated by the Commission. Such written submission shall include the basis for the hearing request;
2. Written comment submitted pursuant to N.J.A.C. 1:30-5.4 does not constitute a request for a public hearing for purposes of determining sufficient public interest in holding a public hearing, unless such comment specifically contains a request for a hearing pursuant to (b)1 above; and
3. No other public hearing on the notice of proposal has been scheduled or held by the Commission under this rule or other applicable law or rule.

(c) For the purposes of (b)1 above, a professional organization, law firm, corporation, partnership, association, or any other organization or groups of persons that submit(s) a request for a public hearing on behalf of a group of interested parties shall be considered one person.

(d) Any public hearing held under (a) above may be held in conjunction with an open public meeting of the Commission or as otherwise determined by the Commission, consistent with the requirements of N.J.A.C. 1:30-5.5. The Commission shall not be required to hold more than one public hearing on any notice of proposal.



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## **SUBCHAPTER 3. ELECTRONIC FILING**

### **19:25-3.1 Electronically filing reports**

(a) As of January 1, 2021, and thereafter, all individuals and entities required to file reports with the Commission pursuant to the New Jersey Campaign Contributions and Expenditures Reporting Act, N.J.S.A. 19:44A-1 et seq., the Uniform Recall Election Law, N.J.S.A. 19:27A-1 et seq., the Legislative and Governmental Process Activities Disclosure Act, N.J.S.A. 52:13C-18 et seq., and N.J.S.A. 19:44B-1 et seq., referred to as to the Gubernatorial Legislative Disclosure Statement Act, shall file all reports using the electronic filing system available on the Commission's website.

(b) For the purposes of this subchapter, "report" means all reports, statements, certifications, forms, notices, applications, and other documents required to be filed pursuant to the statutes listed at (a) above and at this chapter.

(c) Represented entities and governmental affairs agents shall continue to use the electronic filing system to file all reports required at N.J.A.C. 19:25-20.

(d) Candidates and treasurers for candidate committees, joint candidates committees, political committees, treasurers and chairpersons for continuing political committees, political party committees, and legislative leadership committees are not required to use the electronic filing system to file the quarterly report due January 15, 2021, reporting activity from October 1, 2020 through December 31, 2020.

### **19:25-3.2 Signing electronically filed reports**

All reports filed or submitted using the electronic filing system that require a signature must be electronically signed or signed and certified by entering a registration number and personal identification number (PIN) obtained pursuant to N.J.A.C. 19:25-3.3.

### **19:25-3.3 Registration and personal identification number**

(a) All registration numbers and personal identification numbers (PINs) must be obtained by completing the application form available on the Commission's website and submitting the application using the electronic filing system.

(b) All candidates, treasurers, and chairpersons of candidate committees and joint candidates committees must each obtain a registration number and PIN.

(c) All treasurers and chairpersons of political committees, continuing political committees, political party committees, legislative leadership committees, and independent expenditure committees must each obtain a registration number and PIN.

(d) Any deputy treasurer who intends to sign, or sign and certify, a report must obtain a registration number and PIN.

(e) All professional campaign fund raisers must obtain a registration number and PIN.

(f) All represented entities and governmental affairs agents must obtain a registration number and PIN.

(g) Any person or entity reporting independent expenditures pursuant to N.J.A.C. 19:25-12.8 and 12.8A must obtain a registration number and PIN.

#### **19:25-3.4 Exemption**

(a) An exemption from N.J.A.C. 19:25-3.1(a) may be requested, if filing electronically imposes an undue hardship. Such request shall be in writing and must include the following information:

1. The full name, mailing address, daytime telephone number, and email address (if possible) of the person requesting the exemption and whether that person is a candidate or reporting independent expenditures;
2. If the request is being made on behalf of a committee, provide the full name, mailing address, daytime telephone number, and email address (if possible) of the requestor and the full name and type of committee or entity; and
3. A full and complete statement of all pertinent facts relevant to the basis for requesting an exemption.

(b) The Executive Director of the Commission, or designee, will issue a response to the request within five business days after receipt. The Executive Director may request additional information from the individual or entity.

(c) The request will not be considered received until all information set forth at (a) above, and any additional information requested by the Executive Director, is provided.

(d) If an exemption is granted, that exemption applies only to the election or calendar year set forth in the Executive Director's response.

(e) Exemptions to electronic filing do not affect filing dates or reporting time frames; reports and notices must be filed on the dates established for filing pursuant to Commission rules.

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## **SUBCHAPTER 4. ESTABLISHMENT OF REPORTING COMMITTEES**

### **19:25-4.1 Candidate and joint candidates committees**

(a) A candidate for an office in an election shall establish a candidate committee, a joint candidates committee, or both, for an office sought in an election.

(b) A candidate for two or more offices in an election shall establish a separate candidate committee, or joint candidates committee, or both, for each office sought in that election.

(c) A candidate who has established and is maintaining a candidate committee, or a joint candidates committee, or both, for an office in an election may not establish or maintain another candidate committee, or joint candidates committee, for that office in any other election, with the following exceptions:

1. The candidate is maintaining a committee for that office in a past election for the sole purpose of receiving contributions to satisfy net liabilities of that past election pursuant to N.J.A.C. 19:25-8.7A; or
2. The candidate is maintaining a committee to receive contributions and make expenditures for a recount or election contest pursuant to N.J.A.C. 19:25-11.12 or 12.11 for that office in that election.

(d) No candidate shall establish, authorize the establishment of, maintain, or participate directly or indirectly in the management or control of any political committee or any continuing political committee.

### **19:25-4.1A Establishment of a candidate committee**

(a) A candidate or elected officeholder shall establish a candidate committee by appointing a treasurer and opening a depository for the purpose of receiving contributions and making expenditures no later than the date on which that candidate first receives any contribution or makes or incurs any expenditure in connection with an election.

(b) No later than 10 days after establishing a candidate committee a candidate shall file a certificate of organization and designation of campaign depository (Form D-1) containing the following information for each depository the candidate has established:

1. The full name of the candidate committee, which name must contain the surname of the candidate and the office sought;
2. The name, mailing address and telephone number of the person appointed as chairperson;
3. The name, mailing and resident address and telephone number of the person appointed as treasurer;

4. The name, mailing address and telephone number of the bank at which the campaign depository has been established, the account name and number, and the names, mailing addresses and telephone numbers of all persons authorized to sign checks or otherwise make transactions.

(c) The name of the candidate committee reported in the certificate of organization and designation of campaign depository pursuant to (b) above shall be the sole name under which the committee receives contributions, makes expenditures, provides political identification required pursuant to N.J.A.C. 19:25-13.2, and otherwise does business.

(d) The certificate of organization and designation of campaign depository shall be certified as true and correct by the candidate, chairperson, and treasurer. The candidate shall further certify that the candidate has not, and will not during the existence of the candidate committee, establish, authorize the establishment of, maintain, or participate directly or indirectly in the management or control of any political committee or continuing political committee.

(e) The candidate shall file an amendment to the certificate of organization and designation of campaign depository no later than three days after any of the information required in (b) above changes.

#### **19:25-4.2 Establishment of a joint candidates committee**

(a) Two or more candidates seeking the same elective public offices in the same election shall establish a joint candidates committee for the purpose of receiving joint contributions and making joint expenditures no later than the date on which any of those candidates receives any joint contribution or makes or incurs any joint expenditure in connection with an election, unless the candidates have already established a joint candidates committee which continues under an obligation to file reports.

(b) For the purposes of establishing a joint candidates committee pursuant to this section only, the following offices shall be deemed to be the same elective public offices:

1. The offices of member of the Senate and members of the General Assembly in a legislative district; or
2. The offices of county executive in a county and member of the board of county commissioners; or
3. The offices of mayor and member of the municipal governing body in a municipality.

(c) No later than 10 days after establishing a joint candidates committee the joint candidates committee shall file a certificate of organization and designation of campaign depository (Form D-2) containing the following information for each depository the joint candidates committee has established:

1. The full name of the joint candidates committee, which name must contain the surname of each of the joint candidates, except that the surnames may be omitted provided that:
  - i. The name of the joint candidates committee identifies the legislative district, county, municipality or other jurisdiction in which the candidates jointly seek nomination for election or election and identifies the political party of the candidates; and
  - ii. The name of the joint candidates committee is not the same as that of any political party committee or any other joint candidates committee.
2. The name, mailing address and telephone number of the person appointed as chairperson;
3. The name, mailing and resident address and telephone number of the person appointed as treasurer;
4. The name, mailing address and telephone number of the bank at which the campaign depository has been established, the account name and number, and the names, mailing addresses and telephone numbers of all persons authorized to sign checks or otherwise make transactions.

(d) The name of the joint candidates committee reported in the certificate of organization and designation of campaign depository pursuant to (c) above shall be the sole name under which the committee receives contributions, makes expenditures, provides political identification required pursuant to N.J.A.C. 19:25-13.2 and otherwise does business.

(e) The certificate of organization and designation of campaign depository shall be certified as true and correct by each of the joint candidates, by the chairperson, and by the treasurer. Each joint candidate shall further certify that the joint candidate has not and will not during the existence of the joint candidates committee establish, authorize the establishment of, maintain, or participate directly or indirectly in the management or control of any political committee or continuing political committee.

(f) The joint candidates committee shall file an amendment to the certificate of organization and designation of campaign depository no later than three days after any of the information required in (c) above changes.

### **19:25-4.3 Individual seeking multiple offices**

An individual who is a candidate for two or more offices in an election shall establish separate candidate committees, or separate joint candidates committees, or both, for each office sought.

#### **19:25-4.4 Establishment of a political committee**

(a) A political committee shall be established by appointing a treasurer and establishing a depository no later than the date on which the political committee first receives any contribution or makes or incurs any expenditure that, when combined with other contributions received in an election, or expenditures made or incurred in an election, totals \$3,800 or more.

(b) No later than 10 days after a political committee is established, the political committee shall file a registration statement and designation of campaign depository (Form PC) containing the following information for each depository the political committee has established:

1. The full name of the political committee and identifying title, if different, which name or identifying title may not currently be in use by another political committee;
2. The mailing address of the political committee, and the name and resident address of a resident of New Jersey who is designated by the committee as the agent of the political committee to receive service of legal process;
3. The name, mailing address and telephone number of the person appointed as chairperson, if any;
4. The name, mailing and resident address and telephone number of the person appointed as treasurer;
5. The name, mailing address and telephone number of the bank at which the campaign depository has been established, the account name and number, and the names, mailing addresses and telephone numbers of all persons authorized to sign checks or otherwise make transactions;
6. The general organizational category or affiliation of the political committee, including, but not limited to: supporting or opposing a candidate or public officeholder, supporting or opposing a public question, or support of or affiliation with a business, union, professional or trade association, ideological group, civic association, or other entity; and
7. A descriptive statement prepared by the organizers or officers that identifies:
  - i. The names and mailing addresses of the persons having control over the affairs of the political committee, including but not limited to persons in whose name or at whose direction or suggestion the committee solicits funds or makes contributions;
  - ii. The names and mailing addresses of persons not previously identified under subparagraph i. above who, directly or through an agent, participated in the initial organization of the committee;



- iii. In the case of any identified person who is an individual, the occupation of that individual, home address, and name and mailing address of the individual's employer;
- iv. In the case of any identified person that is a corporation, partnership, unincorporated association, or other organization, the name and mailing address of the organization; and,
- v. The economic, political or other particular interests and objectives which the political committee has been organized to or does advance.

(c) The registration statement and designation of campaign depository shall be certified as true and correct by the chairperson and treasurer, and they shall further certify that no candidate has established, authorized the establishment of, maintained or participated directly or indirectly in the management or control of the political committee, and no candidate shall be permitted to do so during the existence of the political committee.

(d) The political committee shall file an amendment to the registration statement and designation of campaign depository no later than three days after any of the information required in (b) above changes.

(e) A political committee shall file a registration statement and designation of campaign depository for each election in which it raises or expends \$3,800 or more to aid or promote the nomination, election or defeat of a candidate or candidates, or the passage or defeat of a public question.

(f) A political committee which expects to raise or expend funds in each of two or more successive elections may apply to the Commission to be certified as a continuing political committee.

#### **19:25-4.5 Establishment of a continuing political committee**

(a) An organization shall become eligible to be certified by the Commission as a continuing political committee by appointing an organizational treasurer and organizational depository no later than the date on which the prospective continuing political committee first receives any contribution or makes or incurs any expenditure that when combined with other contributions received or expenditures made in a calendar year totals \$8,600 or more.

(b) No later than 10 days after a prospective continuing political committee becomes eligible to be certified, the prospective continuing political committee shall file a registration statement and designation of organizational depository (Form D-4) containing the following information for each organizational depository the continuing political committee has established:

1. The full name of the prospective continuing political committee, and identifying title, if different, provided that the name or identifying title is not currently in use by another continuing political committee;
2. The mailing address of the continuing political committee, and the name and resident address of a resident of New Jersey who is designated by the committee as the agent of the prospective continuing political committee receive service of process;
3. The name, mailing address and telephone number of the person appointed as chairperson;
4. The name, mailing and resident address and telephone number of the person appointed as organizational treasurer;
5. The name, mailing address and telephone number of the bank at which the organizational depository has been established, the account name and number, and the names, mailing addresses and phone numbers of all persons authorized to sign checks or otherwise make transactions;
6. The general organizational category or affiliation of the prospective continuing political committee, including but not limited to: supporting or opposing a candidate or public officeholder, or support of or affiliation with a business, union, professional or trade association, ideological group, civic association, or other entity; and,
7. A descriptive statement prepared by the organizers or officers that identifies:
  - i. The names and mailing address of all the persons having control over the affairs of the prospective continuing political committee, including but not limited to persons in whose name or at whose direction or suggestion the committee solicits funds or makes contributions;
  - ii. The names and mailing addresses of persons not previously identified under subparagraph i. above who, directly or through an agent, participated in the initial organization of the committee;
  - iii. In the case of any identified person who is an individual, the occupation of that individual, home address, and name and mailing address of the individual's employer;
  - iv. In the case of any identified person that is a corporation, partnership, unincorporated association, or other organization, the name and mailing address of the organization; and,

- v. The economic, political or other particular interests and objectives which the prospective continuing political committee has been organized to or does advance.

(c) The registration statement and designation of organizational depository shall be certified as true and correct by the chairperson and organizational treasurer, and they shall further certify that no candidate has established, authorized the establishment of, maintained or participated directly or indirectly in the management or control of the continuing political committee, and no candidate shall be permitted to do so during the existence of the continuing political committee.

(d) The Commission shall certify a continuing political committee upon the satisfactory completion and filing of the registration statement and designation of organizational depository.

(e) The continuing political committee shall file an amendment to the registration statement and designation of organizational depository no later than three days after any of the information required in (b) above changes.

#### **19:25-4.6 Designation by a political party committee**

(a) A political party committee, that is the state committee of a political party organized pursuant to N.J.S.A. 19:5-4, the county committee of a political party organized pursuant to N.J.S.A. 19:5-3, and the municipal committee of a political party organized pursuant to N.J.S.A. 19:5-2, shall designate on or before July 1 in each year an organizational treasurer and an organizational depository, which designation shall be effective through June 30 of the following year.

(b) No later than 10 days after designating an organizational treasurer and organizational depository, a political party committee shall file a designation of organizational depository (Form D-3) containing the following information for each organizational depository the political party committee has established:

1. The full name of the political party committee, which shall include the name of the political party to which the committee is affiliated;
2. The name, mailing address and telephone number of the person appointed as chairperson;
3. The name, mailing and resident address and telephone number of the person appointed as organizational treasurer;
4. The name, mailing address and telephone number of the bank at which the organizational depository has been established, the account name and number, and the names, mailing addresses and telephone numbers of all persons authorized to sign checks or otherwise make transactions.

(c) The designation of organizational depository shall be certified as true and correct by the chairperson and treasurer.

(d) The political party committee shall file an amendment to its designation of organizational depository no later than three days after any of the information required in (b) above changes.

(e) Each State political party committee and county political party committee may create a housekeeping account by opening a new depository account, which shall be kept separate from any other depository account, which must be designated as the committee's housekeeping account, and which must be included on the designation of organizational depository (Form D-3) described at (b), (c), and (d) above. A State political party committee or county political party committee that first designates a housekeeping account at a time other than the annual designation shall file the designation of organizational depository (Form D-3) no later than 10 days after designating a housekeeping account.

1. Each State political party committee and county political party committee that opens and designates a housekeeping account may raise funds for deposit into the housekeeping account in amounts not to exceed \$37,500 per contributor per calendar year. Funds deposited into a different organizational depository shall not be transferred to the designated housekeeping account.

2. Housekeeping account funds are limited to the following purposes:

i. To pay non-political expenses of the committee that designated the housekeeping account. Political expenses, including contributions, in-kind contributions, contributions made on behalf of or to a candidate committee, joint candidates committee, political committee, continuing political committee, political party committee, or legislative leadership committee and independent expenditures made to promote the election or defeat of a candidate or the passage or defeat of a public question are not permitted to be made with funds from the designated housekeeping account; and

ii. To pay for non-political gubernatorial campaign expenses incurred by a gubernatorial campaign after the date of the election in which the gubernatorial candidate participated, which expenses are both reasonable and necessary to allow for the closing of the campaign as described at N.J.A.C. 19:25-15.47 and 16.34.

3. All transactions of the State political party committee or county political party committee housekeeping account must be identified as transactions of the housekeeping account on quarterly reports as required at N.J.A.C. 19:25-9.1 and are subject to the provisions at N.J.A.C. 19:25-10, 11, and 12.

4. Housekeeping funds utilized by a gubernatorial campaign pursuant to this section may be expended in the following manner:

i. Funds may be contributed in an amount specified, but not in an amount to exceed the non-political expense incurred for which the housekeeping funds are to be

utilized, by the gubernatorial campaign. The gubernatorial campaign shall report the receipt of the housekeeping funds as a contribution specifically from the housekeeping account of the political party committee providing the funds, which shall not be considered inconsistent with N.J.A.C. 19:25-15.12, 15.28B, or 16.10. Funds received from the housekeeping account of the political party committee shall not be deposited in the matching fund account of a publicly financed candidate and shall not be eligible for match. Upon the receipt and deposit of housekeeping funds by the gubernatorial campaign, the specified reasonable and necessary non-political expense incurred after the date of the election shall be paid by the gubernatorial campaign and reported on the applicable report (Form G-1); or

ii. Funds may be paid directly to the vendor of goods or services, from the designated housekeeping account, by the State political party committee or county political party committee on behalf of the gubernatorial campaign. Upon payment by the political party committee to the vendor, the gubernatorial campaign shall report the transaction like that of an in-kind contribution on the applicable report (Form G-1) and such contribution shall not be considered inconsistent with N.J.A.C. 19:25-15.12, 15.28B, or 16.10.

#### **19:25-4.7 Establishment of a legislative leadership committee**

(a) 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 may each establish, authorize the establishment of, or designate a State political party committee as a legislative leadership committee for the purpose of receiving contributions and making expenditures to aid or promote candidates, or to aid or promote the passage or defeat of public questions.

(b) 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, or the person authorized by any of them to establish a legislative leadership committee, shall appoint such members and adopt such bylaws for the maintenance of the committee as is deemed appropriate.

(c) Each legislative leadership committee shall appoint an organizational treasurer and designate an organizational depository no later than the date on which it first receives any contribution, or makes or incurs any expenditure. If a State political party committee is designated to serve as a legislative leadership committee, an organizational depository separate from the organizational depository of the State political party committee shall be established and be designated as a depository solely for receiving funds and making expenditures of the legislative leadership committee.

(d) No later than 10 days after a legislative leadership committee is established, the legislative leadership committee shall file a registration statement and designation of organizational depository (Form D-5) containing the following information for each organizational depository the legislative leadership committee has established:

1. The full name of the legislative leadership committee, which name must contain the name of the legislative leader who established it or authorized establishment of it;
2. The mailing address of the legislative leadership committee and the name and resident address of a resident of New Jersey who shall have been designated by the committee as its agent to accept service of legal process;
3. The name, mailing and resident address and telephone number of the person appointed as organizational treasurer;
4. The name, mailing address and telephone number of the bank at which the organizational depository has been established, the account name and number, and the names, mailing addresses and telephone numbers of all persons authorized to sign checks or otherwise make transactions;
5. The political party affiliation of the legislative leadership committee, and a statement of the interests which are shared by leadership, members, or financial supporters; and,
6. A copy of the bylaws adopted by the legislative leadership committee should be sent to the Commission under separate cover, or, if none have been adopted, a statement to that effect.

(e) The registration statement and designation of organizational depository shall be certified as true and correct by the legislative leader who established, or authorized establishment of, the legislative leadership committee, and by the organizational treasurer.

(f) Within 30 days after a legislative leadership committee is established, the organizational treasurer shall file and certify as true and correct a notice of the membership (Form D-5N) containing the names, mailing addresses, and telephone numbers of the chairperson, the vice-chairperson, and all other members of the committee.

(g) The legislative leadership committee, or its organizational treasurer, shall file an amendment to the registration statement and designation of organizational depository, or to the notice of membership, within three days of the occurrence of any change in any of the information required at (d) or (f) above.

#### **19:25-4.8 Approval of abbreviation or acronym as name**

A political committee, continuing political committee, legislative leadership committee, or independent expenditure committee shall apply to the Commission for approval to use an abbreviation or acronym of its complete official name on reports filed with the Commission. The Commission shall verify that the abbreviation or acronym has not been approved for use by any other committee and shall notify the applicant either that its use of the abbreviation or acronym is approved or that the political committee, continuing political committee, legislative leadership

committee, or independent expenditure committee must select a different abbreviation or acronym for approval.

#### 19:25-4.9 Establishment of an independent expenditure committee

(a) An independent expenditure committee shall be established in an election by appointing a treasurer and designating a depository no later than the date on which the independent expenditure committee first makes or incurs independent expenditures that when combined with other independent expenditures made or incurred in the election, exceed \$7,500.

(b) No later than 10 days after an independent expenditure committee is established, the independent expenditure committee shall file a registration statement and designation of campaign depository (Form D-6) containing the following information for each depository the independent expenditure committee has established:

1. The full name of the independent expenditure committee and identifying title, if different, which name or identifying title may not currently be in use by another independent expenditure committee;
2. The mailing address of the independent expenditure committee, and the name, and residential address of a resident of New Jersey who is designated by the committee as the agent of the independent expenditure committee to receive service of legal process;
3. The name, mailing address, and telephone number of the person appointed as chairperson, if any;
4. The name, mailing and residential address, and telephone number of the person appointed as treasurer;
5. The name, mailing address, and telephone number of the bank at which the campaign depository has been established, the account name and number, and the names, mailing addresses, and telephone numbers of all persons authorized to sign checks or otherwise make transactions;
6. The general organizational category or affiliation of the independent expenditure committee, including, but not limited to, support of or opposition to a candidate, public officeholder, or public question or support of or affiliation with a business, union, professional or trade association, ideological group, civic association or other entity; and
7. A descriptive statement prepared by the organizers or officers that identifies:
  - i. The names and mailing addresses of the persons having control over the affairs of the independent expenditure committee, including, but not limited to, persons

in whose name or at whose direction or suggestion the committee solicits funds or makes independent expenditures or electioneering communications;

- ii. The names and mailing addresses of persons not previously identified pursuant to (b)7i above who, directly or through an agent, participated in the initial organization of the committee;
- iii. In the case of any identified person who is an individual, the occupation of that individual, home address, and name and mailing address of the individual's employer;
- iv. In the case of any identified person that is a corporation, partnership, unincorporated association, or other organization, the name and mailing address of the organization; and
- v. The economic, political, or other particular interests and objectives that the independent expenditure committee has been organized to or does advance.

(c) The registration statement and designation of campaign depository shall be certified as true and correct by the chairperson and treasurer, and they shall further certify that no candidate has established, authorized the establishment of, maintained or participated directly or indirectly in the management or control of the independent expenditure committee, and no candidate shall be permitted to do so during the existence of the independent expenditure committee.

(d) The independent expenditure committee shall file an amendment to the registration statement and designation of campaign depository no later than three days after any of the information required at (b) above changes.

(e) An independent expenditure committee shall file a registration statement and designation of campaign depository for each election in which it makes or incurs independent expenditures in excess of \$7,500.

(f) No foreign national, government, instrumentality, or agent may register as an independent expenditure committee for the purpose of making independent expenditures in any election.



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## **SUBCHAPTER 5. APPOINTMENT OF CAMPAIGN OFFICERS AND DEPOSITORIES**

### **19:25-5.1 Qualifications of campaign or committee officers**

(a) Any competent person 18 years of age or older may serve as a campaign treasurer, deputy campaign treasurer, organizational treasurer, deputy organizational treasurer, committee chairperson, committee vice-chairperson, or committee member provided that person maintains a resident address within the State of New Jersey, or alternatively files a consent to service of legal process within the State of New Jersey as set forth in (d) below.

(b) A candidate may serve as his or her own campaign or deputy campaign treasurer, or as committee chairperson, vice-chairperson or member.

(c) Notwithstanding (a) above, no person serving as the chairperson of a political party committee or a legislative leadership committee shall be eligible to be appointed to or serve as:

1. Chairperson, campaign treasurer, or deputy treasurer of a candidate committee or joint candidates committee, other than a candidate committee or joint candidates committee established to further the election of that person as a candidate;
2. Chairperson, campaign treasurer, or deputy treasurer of a political committee; or
3. Chairperson, organizational treasurer, or deputy organizational treasurer of a continuing political committee; or
4. Chairperson, campaign treasurer, or deputy campaign treasurer of an independent expenditure committee.

(d) Any person appointed to serve, or serving, in any capacity specified in (a) above and not maintaining a resident address within the State of New Jersey shall file a consent to service of legal process at an address within this State within 3 days of appointment, or within 3 days of abandoning a resident address within this State.

### **19:25-5.2 Qualifications of depositories**

(a) Any bank authorized by law to transact business in and maintaining a branch or office in the State of New Jersey may be designated for the purpose of establishing a campaign or organizational depository, and may serve as the campaign or organizational depository for any number of candidates or committees.

(b) For the limited purpose of establishing a depository for investing campaign or organizational funds, a recognized investment institution authorized by law to transact business in the State of New Jersey may be designated as an additional depository, provided that the invested funds are not used for the benefit of any person or enterprise in which the candidate, or a campaign or committee official, has an economic interest.

(c) Notwithstanding (a) above, a continuing political committee may designate a bank or investment institution located outside the State of New Jersey as an organizational depository provided that the bank or investment institution files a consent to service of legal process at an address within this State prior to accepting or receiving any organizational funds.

### **19:25-5.3 Required treasurer training**

(a) Each campaign treasurer of a candidate committee or a joint candidates committee for a candidate, or candidates, for the Senate, the General Assembly or gubernatorial candidate(s), shall, on or before filing a designation of campaign treasurer and depository pursuant to N.J.A.C. 19:25-4, be a trained campaign treasurer who has completed a treasurer training program offered by the Commission or shall complete such training within 90 days of designation as a campaign treasurer. Any other campaign treasurer of a candidate committee, a joint candidates committee, or a political committee may be a trained treasurer.

(b) Each organizational treasurer of a State political party committee or of a legislative leadership committee shall, on or before filing a designation of organizational treasurer and depository pursuant to N.J.A.C. 19:25-4, be a trained organizational treasurer, who has completed a treasurer training program offered by the Commission or shall complete such training within 90 days of appointment as an organizational treasurer. An organizational treasurer of any other political party committee, continuing political committee, or an independent expenditure committee may be a trained treasurer.

### **19:25-5.4 Deputy treasurers and additional depositories**

(a) A campaign treasurer of a candidate committee or joint candidates committee may appoint deputy campaign treasurers, and may designate additional campaign depositories pursuant to N.J.A.C. 19:25-5.2.

(b) A campaign treasurer of a political committee or an independent expenditure committee, or an organizational treasurer of a political party committee, a continuing political committee, or a legislative leadership committee, may appoint deputy campaign or organizational treasurers, and may designate additional campaign or organizational depositories.

(c) A campaign or organizational treasurer appointing deputy treasurers or designating additional depositories shall no later than five days after such appointment or designation file a notice, certified as true and correct by such campaign or organizational treasurer, containing the following information:

1. The name of the committee;
2. The name of the campaign or organizational treasurer;
3. The name, mailing and resident address and phone number of each person appointed deputy campaign or deputy organizational treasurer;

4. The name, mailing address and phone number of the bank at which each additional campaign or organizational depository has been established, the account number of each additional depository, and the names, mailing addresses and phone numbers of all persons authorized to sign checks or otherwise make transactions for each depository.

(d) The campaign treasurer or organizational treasurer shall file an amendment to each appointment or designation made pursuant to this section within 10 days of the occurrence of any change in any of the information required in (c) above.

#### **19:25-5.5 Removal or resignation of treasurers**

In the case of the death, resignation or removal of a campaign treasurer, deputy campaign treasurer, organizational treasurer or deputy organizational treasurer, the candidate or committee shall notify the Commission of such event within 10 days of its occurrence. The candidate or committee shall appoint a successor as soon as practicable but in no case more than 20 days after such death, resignation or removal and shall notify the Commission of the appointment of the successor and file his or her name and address with the Commission within three days of such appointment.

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## **SUBCHAPTER 6. RECEIPT AND USE OF FUNDS**

### **19:25-6.1 Receipt and deposit of funds**

(a) Funds received by a candidate committee, joint candidates committee, political committee, continuing political committee, political party committee or legislative leadership committee shall be delivered to the campaign or organizational treasurer and deposited by that treasurer in the campaign or organizational depository within ten days of receipt by the committee, unless transferred prior to deposit pursuant to N.J.A.C. 19:25-6.2.

(b) Funds received by an independent expenditure committee shall be delivered to the campaign treasurer and deposited by that treasurer in the campaign depository within 10 days of receipt by the committee.

(c) The date of receipt by a committee of any funds is the date on which a campaign or organizational treasurer, or any other person so authorized, receives funds on behalf of the candidate committee, joint candidates committee, political committee, continuing political committee, political party committee, legislative leadership committee, or independent expenditure committee.

### **19:25-6.2 Transfer of funds without deposit**

(a) A campaign or organizational treasurer may transfer funds (without depositing them) to a duly designated campaign or organizational treasurer of another candidate committee, joint candidates committee, political committee, continuing political committee, political party committee, or legislative leadership committee. Such a transfer of funds without deposit must be made within ten days of receipt of the funds being transferred, and must be authorized by the candidate, candidates or committee which designated the treasurer.

(b) Any amount transferred pursuant to (a) above shall not be in excess of the amount that a candidate may contribute to another candidate in any election pursuant to N.J.S.A. 19:44A-11.3, except that this subsection shall not be construed to prohibit a county or municipal political party committee from transferring funds as authorized in (a) above.

(c) A campaign or organizational treasurer making any transfer pursuant to this section shall make a written record of all non-deposited funds so transferred, identifying those funds as to source and amount in the same manner as deposited funds, and a copy of that written record shall be sent to the Commission under separate cover.

### **19:25-6.3 Receipt of transferred funds**

A candidate committee, joint candidates committee, political committee, continuing political committee, political party committee, or legislative leadership committee receiving any transfer of undeposited funds shall deliver those funds to its organizational or campaign treasurer for deposit in its campaign or organizational depository within ten days of receipt.

#### **19:25-6.4 Expenditures through treasurer**

(a) No expenditure of money or other thing of value, nor obligation therefor, including but not limited to, expenditures, independent expenditures, loans or obligations of a candidate or of the candidate's family, shall be made or incurred, directly or indirectly, by a candidate committee, joint candidates committee, political committee, continuing political committee, political party committee, legislative leadership committee, or independent expenditure committee, except through:

1. The duly appointed campaign treasurer or deputy campaign treasurers of the candidate committee, joint candidates committee, political committee, or independent expenditure committee; or
2. The duly appointed organizational treasurer or deputy organizational treasurers of a political party committee, continuing political committee, or legislative leadership committee;

(b) Any expenditure by a candidate in the furtherance of his or her candidacy, or by a candidate committee, joint candidates committee, political committee, continuing political committee, political party committee, or legislative leadership committee shall be made from the organizational or campaign depository established by the committee, except that nothing in this section shall be construed to prohibit an expenditure to establish a petty cash fund not to exceed \$100.00 to be used for occasional and incidental expenses, or an expenditure not to exceed \$100.00 to reimburse a candidate or campaign or organizational worker who has personally incurred an occasional and incidental expense on behalf of the committee.

#### **19:25-6.5 Use or disposition of campaign funds**

(a) All contributions received by a candidate, candidate committee, joint candidates committee, or legislative leadership committee shall be used only for the following purposes:

1. The payment of “campaign expenses” as that term is defined in (b) below.
2. The making of donations to any charitable organization described in section 170(c) of the Internal Revenue Code of 1954, as amended or modified, or non-profit organization that is exempt from taxation under section 501(c) of the Internal Revenue Code of 1954, except any charitable organization of which the candidate or a member of the candidate’s immediate family is a paid officer, director or employee or receives compensation for goods or services provided to the organization;
3. Transmittal to another candidate, candidate committee, joint candidates committee, political committee, continuing political committee, legislative leadership committee, or political party committee for the lawful use of such other candidate or committee;

4. The payment of the candidate committee's, joint candidates committee's or legislative leadership committee's overhead and administrative expenses related to its operation;
5. The pro-rata repayment of contributors, except that contributors of \$200.00 or less may be excluded from repayment; or
6. The payment of ordinary and necessary expenses of holding public office, as provided in N.J.A.C. 19:25-6.7.

(b) The term "campaign expenses" means any expense incurred or expenditure made by a candidate, candidate committee, joint candidates committee or legislative leadership committee from a campaign or organizational depository account for the purpose of paying for or leasing items or services used in connection with an election campaign, other than those items or services which may reasonably be considered to be for the "personal use" of the candidate, any person associated with the candidate or any of the members of a legislative leadership committee.

(c) The term "personal use" as used in (b) above means any use of contributions to pay or fulfill a commitment, obligation or expense of any person that would arise or exist irrespective of the candidate's campaign or irrespective of the candidate's ordinary and necessary expense of holding public office. "Personal use" includes, but is not limited to, the following:

1. A mortgage payment on property not owned by a candidate committee, joint candidates committee or legislative leadership committee making the payment;
2. A purchase, loan or lease payment on a vehicle not owned or leased by the candidate committee, joint candidates committee or legislative leadership committee making the payment, except that nothing herein shall be construed to prohibit reimbursement for use of a vehicle pursuant to N.J.A.C. 19:25-6.8;
3. The purchase of clothing, household food, and personal hygiene or health items or services;
4. A tuition payment, unless made for a course of study specifically related to the candidacy or officeholding duties of the candidate or officeholder who established or who controls the candidate committee, joint candidates committee or legislative leadership committee making the payment;
5. A payment for dues, fees or gratuities paid to a country club, fitness club, or other social or fraternal association, to its employees, or to a person working on its premises, unless the payment is part of the cost of a fundraising event held on the premises; or
6. The payment of a salary to a candidate by that candidate's candidate committee or joint candidates committee, or to a legislator by a legislative leadership committee established by or under the control of that legislator.



(d) The term "member of the candidate's immediate family" as used in (a)2 above means the candidate's spouse, child, parent or sibling and the child, parent or sibling of the candidate's spouse.

#### **19:25-6.6 Limitations on permissible expenses**

(a) A candidate committee, or a joint candidates committee, may pay a salary or fee to a family member of a candidate who has established or who controls the committee provided that the salary or fee paid for bona fide services received by the committee does not exceed fair market value.

(b) A legislative leadership committee may pay a salary or fee to a family member of a legislator who has established or who controls the committee provided that the salary or fee paid for bona fide services received by the committee does not exceed fair market value.

(c) A candidate committee, or a joint candidates committee may pay for the use of an office or other property owned or leased by a candidate who has established or who controls the committee provided that the office or property is used by the committee and the payment does not exceed the fair market value for the bona fide use by the committee.

(d) A legislative leadership committee may pay for the use of an office or other property owned by a legislator who has established or who controls the committee provided that the office or property is used by the committee and the payment does not exceed the fair market value for the bona fide use by the committee.

(e) A candidate committee, or a joint candidates committee, may purchase goods or services for use by the committee from a business or other enterprise in which the candidate who established or who controls the committee has a financial interest provided that the goods or services are bona fide and are sold to the committee at fair market value, or if sold at less than fair market value, provided that the committee reports receipt of an in-kind contribution in an amount that is the difference between the purchase price paid by the committee and the fair market value of the goods or services.

(f) A legislative leadership committee may purchase goods or services for use by the committee from a business or other enterprise in which the candidate who established or who controls the committee has a financial interest provided that the goods or services are bona fide and are sold to the committee at fair market value, or if sold at less than fair market value, provided that the committee reports receipt of an in-kind contribution in an amount that is the difference between the purchase price paid by the committee and the fair market value of the goods or services.

#### **19:25-6.7 Ordinary and necessary officeholding expenses**

(a) The term "ordinary and necessary expenses of holding public office" as used in N.J.A.C. 19:25-6.5(a)6 means any expense that reasonably promotes or carries out the

responsibilities of a person holding elective public office, except that no funds received by a candidate, candidate committee, or joint candidates committee shall be used for the payment of any expense arising from the furnishing, staffing or operation of an office used in connection with the officeholder's official duties as an elected public official.

(b) The word "furnishing" as used in (a) above shall be construed to prohibit the use of contributions received by a candidate, candidate committee or joint candidates committee for the purchase or lease of furniture, equipment or other appointments that are physically situated at an office facility used in connection with the officeholder's official duties as an elected public official. This prohibition shall not be applicable to the purchase or lease of office furniture or equipment situated in the residence of the officeholder and used in conjunction with the officeholder's duties.

(c) The word "staffing" as used in (a) above shall be construed to prohibit the use of contributions received by a candidate, candidate committee or joint candidates committee to pay a salary or fee as compensation to any person for performing duties to assist the officeholder in carrying out the officeholder's duties as an elected public official.

(d) The word "operation" as used in (a) above shall be construed to prohibit the use of contributions received by a candidate, candidate committee or joint candidates committee for the payment of any rent, utility or maintenance expense incurred for an office facility used in connection with the officeholder's official duties as an elected public official.

(e) Permissible uses of funds as ordinary and necessary expenses of holding public office shall include, but not be limited to, the following provided the costs are not paid for by the State of New Jersey, or by any political subdivision of the State:

1. Costs of communications to constituents, including:

- i. The production, circulation and postage of newsletters, mailings or other written materials for officeholding duties;
- ii. The sponsorship or holding of a seminar or other meeting to be attended by constituents;
- iii. The making of donations to charitable or non-profit organizations or activities that promote the welfare of constituents, such as the sponsorship of a neighborhood sports team;
- iv. The framing of honorary resolutions for constituents; and,
- v. The nominal purchase of memorial or get-well gifts, flowers, party favors, or similar items for constituents or other persons involved in the execution of the officeholder's duties.

2. Purchase of items including:
  - i. A portable telephone, including a telephone in the vehicle used by the officeholder for official travel;
  - ii. Signs indicating the location of the office used by the officeholder for carrying out official duties whether or not such signs are situated on the premises;
  - iii. Janitorial supplies and other consumables for the office used in connection with the officeholder's official duties, and funding of a "petty cash" account established pursuant to N.J.A.C. 19:25-6.4(b) for that purpose.
  - iv. Newspapers, magazines or other periodicals used in connection with carrying out officeholding duties.
3. Costs of dues for membership in educational organizations related to officeholding duties, and costs of registration and attendance at conferences or seminars attended in connection with officeholding duties. Such costs may include the reasonable expense of travel, lodging, and other subsistence expenses.
4. Costs of travel by means other than by a vehicle as described in N.J.A.C. 19:25-6.8, Vehicle use, when such travel is undertaken in connection with the performance of duties as an elected officeholder, provided that such travel is not undertaken for any purpose resulting in a personal or financial benefit to the candidate or officeholder.

#### **19:25-6.8 Vehicle use**

(a) A candidate committee, joint candidates committee or legislative leadership committee may reimburse a candidate or officeholder for the use of a vehicle owned by that candidate or officeholder provided that:

1. The candidate or officeholder provides the committee with written records of:
  - i. The date of the vehicle use;
  - ii. The departure and arrival locations of the travel;
  - iii. The number of miles the vehicle was used; and
  - iv. The purpose of the use, which purpose must be for travel for campaign or officeholding duties; and

2. The rate of reimbursement does not exceed the rate permitted by the New Jersey Department of Treasury for compensating Executive Branch employees for use of personal vehicles, or the rate provided by the Internal Revenue Service for deduction of business travel mileage.

(b) A candidate committee, joint candidates committee or legislative leadership committee may purchase or lease a vehicle for campaign or officeholding travel by a candidate or officeholder provided that:

1. The vehicle or lease remains an asset of the committee; and
2. The candidate or officeholder reimburses the committee at fair market value for any travel made by the candidate or any other person that was not necessitated by campaign or officeholding duties.

#### **19:25-6.9 Funds remaining unspent at death of candidate**

Any funds remaining upon the death of a candidate in the campaign depository of the deceased candidate's candidate committee, or joint candidates committee, shall be used for one or more of the purposes set forth in N.J.A.C. 19:25-6.5 by the committee's treasurer, or by whomever has control of the depository upon the death of the candidate.

#### **19:25-6.10 Use of funds for legal fees**

(a) Contributions received by a candidate committee, joint candidates committee or legislative leadership committee may be used for reasonable fees and expenses of legal representation, the need for which arises directly from and is related to the campaign for public office or the ordinary and necessary duties of holding public office. Examples of permissible uses of contributions, that is campaign funds, to pay legal fees and expenses shall include, but not be limited to, legal fees and expenses arising in connection with the following:

1. Litigation directly related to a recount proceeding pursuant to N.J.S.A. 19:28-1 or an election contest pursuant to N.J.S.A. 19:29-1, which proceeding or action will determine the election or nonelection of the candidate whose campaign funds are to be used to pay such expenses;
2. The defense of a defamation action against the candidate or officeholder whose campaign funds are to be used to pay such expenses, arising directly from the candidate's campaign for public office or from activities of the officeholder directly related to the discharge of the duties of holding public office;
3. The defense of a civil action or administrative proceeding alleging a violation of the Act and naming as a respondent or defendant the candidate or officeholder whose campaign funds are to be used to pay such expenses; and

4. The defense of an action or proceeding before the Joint Legislative Committee on Ethical Standards or similar public body having authority to hear such action or proceeding and to impose sanctions against the officeholder by reason of his or her status as a holder of public office.

(b) Permissible use of funds for legal fees and expenses shall not include legal fees and expenses for defense of a candidate or officeholder, who is the subject of a criminal inquiry or criminal investigation, or defense of a criminal indictment or other criminal proceeding.

(c) Permissible use of funds for legal fees and expenses shall not include such fees and expenses incurred in connection with the candidate or officeholder's personal or business affairs, or which would otherwise qualify as "personal use" under N.J.A.C. 19:25-6.5(c).

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## **SUBCHAPTER 7. RECORDKEEPING**

### **19:25-7.1 Recordkeeping requirements**

(a) An organizational or campaign treasurer, or deputy organizational or campaign treasurer of a candidate committee, joint candidates committee, political committee, continuing political committee, political party committee, legislative leadership committee, or independent expenditure committee shall make and maintain a written record of all funds and contributions, including non-monetary contributions, and shall record the name and address of the contributor, the amount and date the contribution was received, the name of the account on which a contribution check is drawn and if the contributor is an individual, the occupation of the individual and the name and mailing address of the individual's employer.

(b) An organizational or campaign treasurer, or deputy organizational or campaign treasurer, of a candidate committee, joint candidates committee, political committee, continuing political committee, political party committee, legislative leadership committee, or independent expenditure committee shall make and maintain a written record of all funds expended by the committee, including the name and address of the recipient, the amount and date of the expenditure, and the purpose of the expenditure. The organizational or campaign treasurer, or deputy organizational or deputy campaign treasurer, shall include as part of the record of each expenditure a receipt, invoice, bill, or other documentation for each expenditure made from each campaign, organizational, or additional depository.

(c) The campaign or organizational treasurer of a candidate committee, joint candidates committee, or legislative leadership committee shall include as part of the record of any expenditure of such a committee, a notation or other reference disclosing which of the six enumerated permissible uses of funds set forth in N.J.A.C. 19:25-6.5(a) is applicable to the expenditure.

(d) A candidate, the candidates of a joint candidates committee or the chair of a political committee, continuing political committee, political party committee, legislative leadership committee, or independent expenditure committee shall take such steps as are necessary and appropriate to ensure that a campaign treasurer, or organizational treasurer, appointed by the candidate committee, joint candidates committee, political committee, continuing political committee, political party committee, legislative leadership committee, or independent expenditure committee complies with the recordkeeping requirements of this section and this chapter.

### **19:25-7.2 Record keeping for credit card transactions**

(a) Whenever a candidate committee, joint candidates committee, political committee, continuing political committee, political party committee, or legislative leadership committee purchases, or authorizes purchase of, goods or services by use of a credit card, the campaign or organizational treasurer shall make and maintain a record of the following information:

1. The exact name or title of the owner of the card, and the name of the lending institution that issued the card;
2. The date of the purchase;
3. The name and address of the vendor from whom the purchase was made;
4. The purpose of the purchase; and
5. The cost and description of the goods or services purchased.

### **19:25-7.3 Period of retention**

All records required to be made pursuant to this subchapter shall be maintained for a period of not less than four years after the date of the election to which they are relevant, or a period of not less than four years after the transaction to which they relate occurred, whichever is longer.

### **19:25-7.4 Affidavit for missing records**

(a) An organizational or campaign treasurer unable to produce any record required to be made pursuant to N.J.A.C. 19:25-7.1, Record keeping requirements, shall submit to the Commission within 10 days after the Commission so requests an affidavit specifying which record cannot be produced and the reasons the record is unavailable. The affidavit shall specify;

1. Whether a written record was made at the time of the transaction and, if so, the name of the person who made it, the position of that person in the campaign or organization, and the reasons the record is no longer available; or
2. If no contemporaneous record was made, the name of the person, if any, assigned responsibility for making such a record and the reasons the record was not made.

(b) Any affidavit prepared pursuant to (a) above shall include a recreation of the missing records based on bank statements, copies of negotiated checks or instruments, or any other source. A description of the efforts undertaken to re-create the missing record shall be included in the affidavit.

(c) The submission of affidavit pursuant to (a) above shall not preclude or otherwise stop the Commission from undertaking penalty proceedings for failure to make or maintain records.



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## **SUBCHAPTER 8. CANDIDATE, JOINT CANDIDATES AND POLITICAL COMMITTEE REPORTING**

### **19:25-8.1 Candidate or joint candidates committee election fund reports**

(a) A candidate committee, or a joint candidates committee, shall file election fund reports of all contributions received, all expenditures made, and all other transactions of the election fund subject to reporting under the Act and this chapter.

(b) The term "election fund reports" shall mean election-cycle reports as defined in N.J.A.C. 19:25-8.2(b), or quarterly reports as defined in N.J.A.C. 19:25-8.3(b), which reports shall be filed in accordance with N.J.A.C. 19:25-8.12, Time and place of filing reports.

(c) The initial election fund report of a candidate committee, or joint candidates committee, shall be either a 29-day preelection report or a quarterly report. In the event the committee is established within five months or less of the due date of the 29-day preelection report for the election in which the candidate or joint candidates is or are seeking office, the committee shall file the 29-day preelection report described in N.J.A.C. 19:25-8.2 report as its initial election fund report. However, if the committee is established more than five months prior to the due date of the 29-day preelection report for the election in which the candidate or joint candidates is or are seeking office, the committee shall file as its initial election fund report any quarterly report described in N.J.A.C. 19:25-8.3 that is due for filing within five months of the date the committee is established.

(d) The initial election fund report shall begin with the reporting of the first contribution received or expenditure made in the election (including funds or other benefits received and payments made to determine whether or not an individual should become a candidate), and shall report all subsequent contributions, expenditures, or other reportable transactions of the election fund occurring before the closing date applicable to the report.

(e) A candidate committee, or joint candidates committee, shall continue to file election fund reports for an election until such time as it terminates its reporting requirements and files a final election fund report for that election pursuant to N.J.A.C. 19:25-8.7.

### **19:25-8.2 Election-cycle reports**

(a) A candidate committee, or joint candidates committee, shall file election-cycle reports during any election in which the candidate, or joint candidates, is or are seeking election, or nomination for election.

(b) The term "election-cycle reports" shall mean the reports described below, which reports shall be due for filing on the following dates and shall report all contributions, expenditures, or other transactions of the election fund occurring within the following periods of time:

1. The 29-day preelection report shall be due for filing on the 29th day before the election. The 29-day preelection report shall include all contributions received

or expenditures made in an election (including funds or other benefits received and payments made to determine whether an individual should become a candidate) for the following period of time: beginning with the first transaction made for an election, and ending with the last transaction occurring on the 32<sup>nd</sup> day preceding the date of the election. However, if the candidate committee, or joint candidates committee, filed, or was required to file, a prior quarterly report pursuant to N.J.A.C. 19:25-8.3, its 29-day preelection report shall begin with the first transacting occurring on the day after the date on which the reporting period of the prior quarterly report ended.

2. The 11-day preelection report shall be due for filing on the 11th day before the election. The 11-day preelection report shall include all contributions received or expenditures made for the following period of time: beginning with the first transaction occurring on the 31st day preceding the date of the election, and ending with the last transaction occurring on the 14th day preceding the date of the election; and,
3. The 20-day postelection report shall be due for filing on the 20th day following the election. The 20-day postelection report shall include all contributions received or expenditures made for the following period of time: beginning with the first transaction occurring on the 13th day preceding the date of the election, and ending with the last transaction occurring on the 17th day following the date of the election.

(c) Notwithstanding (b) above, a candidate committee or joint candidates committee comprised only of a candidate or candidates certified to participate in a municipal run-off election shall not be required to file the 20-day postelection report following the municipal election or the 29-day preelection report for the municipal run-off election. The 11-day preelection municipal run-off election report shall begin with the reporting of the first transaction occurring on the 13th day preceding the municipal election, and shall end with the reporting of the last transaction occurring on the 14th day preceding the municipal run-off election.

(d) The campaign treasurer and the candidate shall file and certify the correctness of a candidate committee election-cycle report, and shall certify that no contributions have been received in violation of the contribution limits prescribed by the act.

(e) The campaign treasurer and the joint candidates shall file and each certify the correctness of a joint candidates committee election-cycle report, and certify that no contributions have been received in violation of the contribution limits prescribed by the Act.

#### **19:25-8.2A Winning primary election candidates**

(a) A candidate who has won nomination for election to an office in a primary election, or the candidates of a joint candidates committee who have won nomination to an office for election in a primary election, shall designate the 20-day post election report for that primary election described in N.J.A.C. 19:25-8.1 as the final report of the candidate committee, or joint candidates

committee, for that primary election, and shall transfer the funds in the depository account, and outstanding obligations and liabilities, to a depository account established for the same office in the general election for which the candidate or candidates have been nominated, except that a candidate or joint candidates with net liabilities arising out of that primary election may maintain the depository account for the purpose of retiring such net liabilities pursuant to N.J.A.C. 19:25-8.7A.

(b) A candidate, or joint candidates, winning a primary election for the nomination for election to an office, and who has designated his or her or their 20-day post election report for that primary election as a final report pursuant to (a) above, shall next file a 29-day preelection report described in N.J.A.C. 19:25-8.1 for the office in the general election for which the candidate or candidates have been nominated. Such report shall include all contributions received or expenditures made for the following period of time: beginning with the first transaction occurring on or after the 18th day following the date of the primary election, and ending with the last transaction occurring on the 32<sup>nd</sup> day preceding the date of the election.

(c) A candidate, or joint candidates, may designate the depository account that the candidate, or joint candidates, established for a primary election for an office as the depository account of the candidate, or joint candidates, for a general election for that office provided the candidate, or joint candidates, files or file a new designation pursuant to N.J.A.C. 19:25-4.1A(b) or 4.2(c).

#### **19:25-8.2B Transferring funds to a future election**

(a) A candidate maintaining a depository account for an election that intends to seek election to any office subject to the Act in a future election may transfer the funds remaining in the depository account, and any outstanding obligations and liabilities, to a depository account for the future election, provided that the candidate is not a candidate for both elections simultaneously.

1. Upon transferring the balance to the future election, the candidate shall finalize reporting for the prior election pursuant to N.J.A.C. 19:25-8.7;
2. The transferred funds shall be reported as the opening balance for the future election; and
3. The candidate must file a new designation of depository for the future election pursuant to N.J.A.C. 19:25-4.1A or 4.2, which may be the same depository account used for the prior election.

(b) A candidate shall be considered a candidate for two elections simultaneously if the candidate receives a contribution or makes or incurs an expenditure for the future election before reporting is finalized for the prior election.

(c) A candidate for two elections simultaneously shall not transfer funds from one depository account to another depository account in excess of the contribution limit from a candidate committee to a candidate committee as provided at N.J.A.C. 19:25-11.2.

### **19:25-8.3 Quarterly reports**

(a) A candidate committee, or joint candidates committee, shall file quarterly reports for any period of time it is not required to file election-cycle reports pursuant to N.J.A.C. 19:25-8.2.

(b) The term "quarterly reports" shall mean the reports described below, which reports shall be due for filing and shall include the following periods of time:

1. The first quarterly report shall be due for filing on April 15 of a calendar year. The first quarterly report shall include all contributions received or expenditures made for the following period of time: beginning with the first transaction occurring on or after January 1<sup>st</sup> of the calendar year of the filing date, and ending with the last transaction occurring on March 31<sup>st</sup> of that calendar year;
2. The second quarterly report shall be due for filing on July 15 of a calendar year. The second quarterly report shall include all contributions received or expenditures made for the following period of time: beginning with the first transaction occurring on or after April 1<sup>st</sup> of the calendar year of the filing date, and ending with the last transaction occurring on June 30<sup>th</sup> of that calendar year;
3. The third quarterly report shall be due for filing on October 15 of a calendar year. The third quarterly report shall include all contributions received or expenditures made for the following period of time: beginning with the first transaction occurring on or after July 1<sup>st</sup> of the calendar year of the filing date, ending with the last transaction occurring on September 30<sup>th</sup> of that calendar year; and,
4. The fourth quarterly report shall be due for filing on January 15 of a calendar year. The fourth quarterly report shall include all contributions received or expenditures made for the following period of time: beginning with the first transaction occurring on or after October 1<sup>st</sup> of the calendar year preceding the calendar year of the filing date, and ending with the last transaction occurring on December 31<sup>st</sup> of the calendar preceding the calendar year of the filing date.

(c) A candidate committee, or joint candidates committee, that does not terminate its election-cycle filing requirements with its 20-day postelection report and is therefore required to file quarterly reports, shall start filing quarterly reports on the following dates:

1. For a school board candidate, or joint candidates, the committee shall file a third quarter report on October 15 of the calendar year of the school board election;

2. For a municipal or municipal run-off election candidate, or joint candidates, the committee shall file a third quarter report on October 15 of the calendar year of the municipal or municipal run-off election;
3. For a primary election candidate, or joint candidates, who is or are defeated in a primary election or otherwise is or are not running in the following general election, the committee shall file a third quarter report on October 15 of the calendar year of the primary election;
4. For a general election candidate, or joint candidates, the committee shall file a first quarter report on April 15 of the calendar year following the general election; or
5. For a special election candidate, or joint candidates, the committee shall file a quarterly report on a quarterly report filing date set forth in (b) above that falls within five months of the date on which the 20-day postelection report closed, that is within five months of the 17<sup>th</sup> day after the date of the special election.

(d) The initial quarterly report filed by a candidate committee, or joint candidates committee, after the filing of a 20-day postelection report, shall begin with the reporting of the first contribution received, expenditure made, or other reportable transaction occurring on the 18th day following the date of election. Subsequent quarterly reports shall include the time periods set forth in subsection (b) above.

(e) The campaign treasurer and the candidate, or joint candidates, shall file and each certify the correctness of each quarterly report, and shall certify that no contributions have been received in violation of the contribution limits prescribed by the Act.

#### **19:25-8.4 Candidate certified statements (Form A-1 or A-2)**

(a) There shall be no obligation to file the election fund reports referred to at N.J.A.C. 19:25-8.1 on behalf of any candidate committee of a candidate who files no later than five months after the date on which the committee is established, or no later than the 29th day before the election in which the candidate is seeking office, whichever is earlier, a certified statement (Form A-1) to the effect that the total amount expended or to be expended on behalf of his or her candidacy by the candidate committee, or by any candidate committee, joint candidates committee, political committee, continuing political committee, political party committee, legislative leadership committee, or person shall not, in the aggregate, exceed \$6,900 in that election.

(b) There shall be no obligation to file the election fund reports referred to at N.J.A.C. 19:25-8.1 on behalf of a joint candidates committee if the joint committee files no later than five months after the date on which the committee is established, or no later than the 29th day before the election in which the joint candidates are seeking office, whichever is earlier, a certified statement (Form A-2) to the effect that the total amount to be expended on behalf of the joint candidacies by the joint candidates committee or by any candidate committee, joint candidates

committee, political committee, continuing political committee, political party committee, legislative leadership committee, or person shall not, in the aggregate, exceed the following amounts:

1. In the case of a joint candidates committee consisting of two candidates, \$13,100 in the election; or
2. In the case of a joint candidates committee consisting of three or more candidates, \$18,700 in the election.

(c) If a candidate committee or joint candidates committee that has filed a certified statement receives any contribution from any one source aggregating more than \$200.00, or receives a currency contribution in any amount, it shall file a report (Form C-1) that shall provide the name and mailing address of the source, the date or dates received, and the aggregate total amount of contributions therefrom, and where the source is an individual, the occupation of the individual and the name and mailing address of the individual's employer. The report shall be signed by the candidate or campaign treasurer and filed no later than:

1. On the filing date for a quarterly report if the contribution is received within any quarterly report period prescribed by N.J.A.C. 19:25-8.3(b); or,
2. On the 29th day preceding the date of the election, if the contribution is received during the following period of time: beginning on the day after the prior quarterly report ended (pursuant to N.J.A.C. 19:25-8.3(b)), and ending on the 32<sup>nd</sup> day preceding the date of the election, or,
3. On the 11th day preceding the date of the election, if the contribution is received on or after the 31st day preceding the election through the end of the 14<sup>th</sup> day preceding the election; or,
4. On the 20th day following the date of the election if the contribution is received on or after on the 13th day preceding the election through the end of the 17<sup>th</sup> day following the date of the election.

(d) A candidate, or joint candidates, for election to an office or offices of a school board, or a write-in candidate for any office, making expenditures within the limits provided in (a) or (b) above, shall not be required to file certified statements pursuant to (a) and (b) above, and any candidate committee, or joint candidates committee, established by such a candidate, or joint candidates, shall not be required to file election fund reports pursuant to N.J.A.C. 19:25-8.1. However, any candidate committee, or joint candidates committee, established by such a candidate or joint candidates, must file the reports required by (c) above. For the purposes of this section, the term "write-in candidate" shall mean an individual seeking or having sought election to a public office who has not filed an effective nominating petition for that office and whose name does not appear as a candidate for that office on the ballot used for that election.

(e) A candidate shall not be eligible to file a sworn statement (Form A-1) in an election if that candidate controls or retains campaign funds from any prior election for the same office in an amount that exceeds \$6,900.

(f) A joint candidates committee consisting of two candidates shall not be eligible to file a sworn statement (Form A-2) in an election if the candidates comprising that joint candidates committee control or retain campaign funds from any prior election for the same offices in an amount that exceeds \$13,100, or in the case of a joint candidates committee consisting of more than two candidates, if the candidates comprising the joint candidates committee retain funds from any prior election for the same offices in an amount that exceeds \$18,700.

#### **19:25-8.5 Candidate not receiving contributions or making expenditures**

A candidate who has not established a candidate committee or appointed a treasurer and opened a campaign depository because no contributions have been received and no expenditures have been made, and who reasonably expects not to receive any contributions or make any expenditures in the election in which the candidate is seeking office, shall file a certified statement (Form A-1) so indicating no later than the 29th day preceding the date of the election in which the candidate is seeking office. In the event the candidate subsequently receives a contribution in the election, including a contribution of the candidate's own funds, the candidate must establish a candidate committee as provided by N.J.A.C. 19:25-4.1 and file reports pursuant to N.J.A.C. 19:25-8.

#### **19:25-8.6 Contributions received immediately before an election**

(a) A candidate, or a campaign treasurer of a candidate committee or joint candidates committee, shall file a notice (Form C-1 or 72/24-HR) of any contribution in excess of \$300.00, or any aggregate contributions from a contributor, which total in excess of \$300.00, received on or after the 13th day preceding the date of an election in which the candidate, or joint candidates, is, or are, seeking election, and received up to and including the date of the election, which notice shall contain:

1. The name of the recipient candidate committee, or joint candidates committee;
2. The date the contribution was received;
3. The amount of the contribution;
4. The name and mailing address of the contributor; and,
5. If the contributor is an individual, the occupation of the individual and the name and mailing address of the individual's employer.

(b) The notice described at (a) above shall be signed by the campaign treasurer or a candidate and filed with the Commission:



1. Within 72 hours of receipt of the contribution, if the contribution is received on or after the 13<sup>th</sup> day prior to the election up to and including the eighth day prior to the election; or
2. Within 24 hours of receipt of the contribution, if the contribution is received on or after the seventh day prior to the election up to and including the date of the election.

#### **19:25-8.6A Expenditure made immediately before an election**

(a) A candidate, or a campaign treasurer of a candidate committee or joint candidates committee, shall file a notice (Form E-1 or 72/24-HR) with the Commission of an expenditure of money or other thing of value in excess of \$300.00, or aggregate expenditures that total in excess of \$300.00, made, incurred or authorized by the candidate committee or joint candidates committee to support or defeat a candidate in an election, or to aid the passage or defeat of any public question, during the period of time between the 13<sup>th</sup> day prior to the election and the date of the election, which notice shall contain:

1. The name of the candidate or joint candidates making the expenditure;
2. The name of the person, firm, or organization to whom or which the expenditure was paid; and
3. The amount and purpose of the expenditure.

(b) The notice described at (a) above shall be signed by the campaign treasurer or a candidate and filed with the Commission:

1. Within 72 hours of the making, authorizing, or incurring of the expenditure, if the expenditure is made, authorized, or incurred on or after the 13<sup>th</sup> day prior to the election up to and including the eighth day prior to the election; or
2. Within 24 hours of the making, authorizing, or incurring of the expenditure, if the expenditure is made, authorized, or incurred on or after the seventh day prior to the election up to and including the date of the election.

(c) There shall be no obligation to file the notice at (a) above if an expenditure has been made by a candidate to support the candidate's own candidacy or by joint candidates to support their own candidacies, or to support or defeat a candidate for the same office in the same election. For the purposes of this subsection, the offices of member of the Senate and member of the General Assembly shall be deemed to be the same office in a legislative district; the offices of member of the board of county commissioners and county executive shall be deemed to be the same office in a county; and the offices of mayor and member of the municipal governing body shall be deemed to be the same office in a municipality.

#### **19:25-8.7 Termination of candidate reporting**

(a) A candidate committee, or a joint candidates committee, shall certify its 20-day postelection report or its first quarterly postelection report as its final election fund report for an office in an election and thereby terminate further quarterly reporting for that office in that election, with the following exceptions:

1. The candidate is maintaining the committee for the sole purpose of receiving contributions to retire net liabilities of the election pursuant to N.J.A.C. 19:25-8.7A;
2. The candidate is maintaining the committee to receive contributions and make expenditures pursuant to N.J.A.C. 19:25-11.12 or 12.11 because of a recount or election contest being conducted for that office in the election; or
4. The candidate is or will become an elected officeholder and has no current intention to seek reelection to that office or election to another office subject to the Act, and is maintaining the committee for the limited purpose of paying officeholding expenses. Such a candidate shall not receive contributions on or after the date when the candidate ceases to be an officeholder and shall spend any funds remaining in the campaign depository or depositories pursuant to N.J.S.A. 19:44A-11.2 and N.J.A.C. 19:25-6.

(b) The campaign treasurer, and the candidate, or each joint candidate, shall file and each shall certify the following statements in a final election fund report:

1. There is no remaining balance in any depository opened or maintained by the candidate committee, or joint candidates committee, or if there is a remaining balance or assets, that balance and assets have been transferred to a depository established by the candidate, or joint candidates, for a future election;
2. There are no outstanding obligations of the candidate committee, or joint candidates committee; or, if outstanding obligations exist, the outstanding obligations have been assumed by a candidate committee established by the candidate for a subsequent election, or the total amount of the outstanding obligation does not exceed \$1,000, or does not exceed 10 percent of the expenditures of the election fund with respect to the election, whichever amount is less; or written evidence is provided that any existing outstanding obligations are likely to be discharged or forgiven; and
3. The candidate committee, or joint candidates committee, has been dissolved and wound up its business for the past election.

(c) Notwithstanding (a) above, if after filing a final election fund report, a candidate, or joint candidates, receives or receive any subsequent contributions, makes or make any expenditures, or assumes or assume any obligation in connection with the election for which the candidate or joint candidates was or were seeking office, the candidate, or joint candidates, shall

establish a candidate committee, or joint candidates committee, and that committee shall resume filing election fund reports pursuant to N.J.A.C. 19:25-8.1.

### **19:25-8.7A Retirement of net liabilities**

(a) A candidate committee, or joint candidates committee, which files a 20-day postelection report reporting outstanding liabilities in excess of the total assets of the committee including its cash balance in all of the candidate committee depositories for an office in an election, otherwise referred to in this section as net liabilities, may continue to receive contributions to satisfy such net liabilities for that past election for that office, subject to the following:

1. Each contribution received shall indicate in writing a clear designation from the contributor indicating the office and past election to which the contribution is to be applied;
2. Each contribution received shall be aggregated with any other contribution made by that contributor for that office in that past election, and the aggregate contribution cannot exceed the applicable contribution limit for that past election; and
3. Each contribution received shall be deposited into the campaign depository account established for the office in the past election.

(b) The total amount of all contributions received during the postelection quarterly reporting periods for an office in a past election shall not exceed the amount of the net liabilities incurred for that office in that past election, plus the reasonable and necessary expenses to raise contributions to satisfy those net liabilities.

(c) A candidate committee or joint candidates committee which receives contributions under the provisions of (a) above shall continue to file postelection quarterly reports for the office sought in a past election for which such contributions are received until such time as the outstanding obligations are satisfied or transferred to a future election, and the committee files a final report.

(d) A candidate committee or joint candidates committee which receives contributions under the provisions of (a) above may establish a candidate committee and/or joint candidates committee and receive contributions for a future election, provided that:

1. The candidate committee or joint candidates committee shall establish and designate a separate campaign depository for the deposit of the contributions that are received for the future election.
2. The designation of the new campaign depository for the future election shall be reported to the Commission on the Form D-1 or D-2, and

3. Contributions received for the future election by a candidate committee or joint candidates committee which is also continuing to receive contributions for a past election pursuant to the provisions of (a) above shall be designated by the contributor for that future election.

#### **19:25-8.8 Political committee election fund reports**

(a) A political committee receiving or expending \$3,800 or more in an election shall file election fund reports of all contributions received, all expenditures made, and all other financial transactions of its election fund subject to reporting, and such reports shall be filed on the same dates and be pertinent to the same periods of time as set forth at N.J.A.C. 19:25-8.1 for candidate committee reports.

(b) The campaign treasurer of the political committee shall file and certify the correctness of the reports described in (a) above, and shall certify that no contributions have been received in violation of the contribution limits prescribed by the Act.

#### **19:25-8.9 Political committee contributions received immediately before an election**

(a) A campaign treasurer of a political committee shall file a notice (Form C-1 or 72/24-HR) of any contribution in excess of \$300.00, or any aggregate contributions from a contributor, which total in excess of \$300.00, received on or after the 13th day preceding the date of the election and received up to and including the date of the election, which notice shall contain:

1. The name of the recipient political committee;
2. The date the contribution was received;
3. The amount of the contribution;
4. The name and mailing address of the contributor; and,
5. If the contributor is an individual, the occupation of the individual and the name and mailing address of the individual's employer.

(b) The notice described at (a) above shall be signed by the campaign treasurer and filed with the Commission:

1. Within 72 hours of receipt of the contribution, if the contribution is received on or after the 13<sup>th</sup> day prior to the election up to and including the eighth day prior to the election; or
2. Within 24 hours of receipt of the contribution, if the contribution is received on or after the seventh day prior to the election up to and including the date of the election.

### **19:25-8.10 Political committee expenditures made immediately before an election**

(a) A campaign treasurer of a political committee shall file a notice (Form E-1 or 72/24-HR) of any expenditure of money or other thing of value in excess of \$300.00 made, incurred or authorized by the political committee to support or defeat a candidate in an election, or to aid the passage or defeat of a public question, which expenditure is made, incurred, or authorized on or after the 13th day preceding the date of the election and up to and including the date of the election. The notice shall contain:

1. The name of the political committee;
2. The name and mailing address of the person, firm or recipient; or organization to whom or which the expenditure was paid or given; and,
3. The amount and purpose of the expenditure.

(b) The notice described at (a) above shall be signed by the campaign treasurer and filed with the Commission:

1. Within 72 hours of the making, authorizing, or incurring of the expenditure, if the expenditure is made, authorized, or incurred on or after the 13<sup>th</sup> day prior to the election up to and including the eighth day prior to the election; or
2. Within 24 hours of the making, authorizing, or incurring of the expenditure, if the expenditure is made, authorized, or incurred on or after the seventh day prior to the election up to and including the date of the election.

### **19:25-8.11 Termination of political committee quarterly reporting**

(a) A political committee may certify a 20-day postelection report or a quarterly report as its final election fund report for an election and thereby terminate further reporting for that election provided:

1. There is no remaining balance in any depository opened or maintained by the political committee; and,
2. There are no outstanding obligations of the political committee; or, if outstanding obligations exist, the total amount does not exceed \$1,000.00, or does not exceed ten percent of the expenditures of the election fund with respect to the election, whichever amount is less; or written evidence is provided that any existing outstanding obligations are likely to be discharged or forgiven; and,
3. The political committee has been dissolved and wound up its business for the past election.

(b) The campaign treasurer of the political committee shall certify and file the final election fund report.

**19:25-8.12 Time and place of filing reports**

(a) All reports required to be filed must be received by the Commission no later than 5:00 P.M. on the date the report is due for filing in order to be deemed timely filed.

(b) A candidate committee, joint candidates committee, or political committee shall, for the period of time provided in N.J.A.C. 19:25-7.3, retain an exact copy of each report as that report has been filed with the Commission.

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## **SUBCHAPTER 8A. INDEPENDENT EXPENDITURE COMMITTEES**

### **19:25-8A.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.

“Contributions” mean all transfers of money, loans, paid personal services, or other things of value made to an independent expenditure committee for the purpose of furthering independent expenditures.

“Electioneering communication” means an independent expenditure that:

1. Expressly supports or opposes a clearly identified candidate or public question, or that is the functional equivalent of express advocacy supporting or opposing a clearly identified candidate or public question;
2. Is made within 30 days of a primary election or within 60 days of a municipal, runoff, school board, special election, or general election in which the identified subject of the communication is a candidate, or the identified public question is to be voted upon by the voters of the State or any political subdivision thereof; and
3. Is targeted to the relevant electorate of persons eligible to vote for or against the identifiable candidate or the identifiable public question.

“Functional equivalent of express advocacy” means that a communication is unable to be interpreted by a reasonable person in any way other than supporting or opposing the clearly identified candidate or public question.

“Independent expenditure” means an expenditure by an independent expenditure committee for the purpose of expressly advocating the election or defeat of a clearly identified candidate, or expressly advocating the passage or defeat of a public question, or such an expenditure that amounts to the functional equivalent of express advocacy, that is not coordinated with a candidate or any person or committee acting on behalf of a candidate or political party.

### **19:25-8A.2 Prohibited activity**

(a) An independent expenditure committee shall not:

1. Coordinate with a candidate or political party committee as defined at N.J.A.C. 19:25-12.7A; or
2. Contribute to any entity subject to the contribution limits provided at N.J.A.C. 19:25-11.2.



### **19:25-8A.3 Independent expenditure committee election fund reports**

An independent expenditure committee making an electioneering communication in an election shall file election fund reports of all contributions received and all independent expenditures made, and all other transactions of its election fund subject to reporting, and such reports shall be filed according to the time periods prescribed at N.J.A.C. 19:25-8A.4.

### **19:25-8A.4 Election cycle reports**

(a) An independent expenditure committee making an electioneering communication pertaining to the primary election shall file election-cycle reports, as follows:

1. An 11-day pre-election report shall be due for filing on the 11th day before the election. The 11-day pre-election report shall include all contributions received and all independent expenditures made beginning on January 1 of the preceding year and ending on the 14th day prior to the election; and
2. A 20-day post-election report shall be due for filing on the 20th day following the election. The 20-day post-election report shall include all contributions received and all independent expenditures made beginning with the 13th day prior to the election and ending on the 17th day following the election.

(b) An independent expenditure committee making an electioneering communication pertaining to a municipal, runoff, school board, special election, or general election shall file election-cycle reports, as follows:

1. A 29-day pre-election report shall be due for filing on the 29th day before the election. The 29-day pre-election report shall include all contributions received and all independent expenditures made beginning on January 1 of the preceding year and ending on the 32nd day prior to the election;
2. An 11-day pre-election report shall be due for filing on the 11th day before the election. The 11-day pre-election report shall include all contributions received and all independent expenditures made beginning with the 31st day prior to the election and ending on the 14th day prior to the election; and
3. A 20-day post-election report shall be due for filing on the 20th day following the election. The 20-day post-election report shall include all contributions received and all independent expenditures made beginning with the 13th day prior to the election and ending on the 17th day following the election.

(c) The campaign treasurer of the independent expenditure committee shall file and certify the correctness of the reports described at (a) and (b) above.

### **19:25-8A.5 Contribution reporting**

(a) A contribution received by an independent expenditure committee during an election fund report period established at N.J.A.C. 19:25-8A.4 in an amount in excess of \$7,500, or aggregate contributions received in the election from a contributor in excess of \$7,500 during such a report period must be reported by providing the following information:

1. The date the contribution was received or, if more than one contribution was received in the reporting period, the dates the aggregate contributions were received;
2. The name and mailing address of the contributor;
3. If the contributor is an individual, the occupation of the individual and the name and mailing address of the individual's employer;
4. The amount of the contribution, or amount of the aggregate contributions in the reporting period; and
5. The total amount of all contributions received from the contributor in the election to date.

(b) A contribution received by an independent expenditure committee in an amount of \$7,500 or less in the election must be reported on the election fund report required pursuant to N.J.A.C. 19:25-8A.4 for the time period in which the contribution was received by including the amount of the contribution in the total sum reported in the report for all contributions received in the amount of \$7,500 or less, but the name and the mailing address of the contributor or the occupation of a contributor who is an individual and the name and mailing address of the individual's employer is not required to be reported.

(c) At any time during the election, if the aggregate amount received from a contributor by an independent expenditure committee exceeds the sum of \$7,500, the contribution resulting in aggregate contributions totaling more than \$7,500 and each subsequent contribution (regardless of amount) received from the contributor during the election must be reported on the pertinent election fund report in the manner described at (a) above.

### **19:25-8A.6 Independent expenditure reporting**

(a) An independent expenditure shall be reported by providing the following information:

1. The date the expenditure was made;
2. The full name and address of the payee;
3. The purpose of the expenditure;

4. The amount of the expenditure; and
5. The number of the check or type of transaction, whether electronic transfer of funds, debit card, or credit card.

(b) In addition to the information at (a) above, an independent expenditure committee shall identify the name of the candidate(s) or public question, the election date, and the location of the election for each independent expenditure.

#### **19:25-8A.7 Time and place of filing reports**

(a) All reports required to be filed must be received by the Commission no later than 5:00 P.M. on the date the report is due for filing in order to be deemed timely filed.

(b) An independent expenditure committee shall, for the period of time provided at N.J.A.C. 19:25-7.3, retain an exact copy of each report as that report has been filed with the Commission.

### **SUBCHAPTER 9. CONTINUING POLITICAL COMMITTEE, POLITICAL PARTY COMMITTEE, AND LEGISLATIVE LEADERSHIP COMMITTEE REPORTING**

#### **19:25-9.1 Quarterly reports**

(a) A continuing political committee, a political party committee, or a legislative leadership committee shall file quarterly reports of all contributions received, all expenditures made, and all other transactions of its election fund subject to reporting, which reports shall be due for filing and shall include the following periods of time:

1. The first quarterly report shall be due for filing on April 15 of a calendar year. The first quarterly report shall include all contributions received or expenditures made for the following period of time: beginning with the first transaction occurring on or after January 1<sup>st</sup> of the calendar year of the filing date, ending with the last transaction occurring on March 31<sup>st</sup> of that calendar year;
2. The second quarterly report shall be due for filing on July 15 of a calendar year. The second quarterly report shall include all contributions received or expenditures made for the following period of time: beginning with the first transaction occurring on or after April 1<sup>st</sup> of the calendar year of the filing date, and ending with the last transaction occurring on June 30<sup>th</sup> of that calendar year;
3. The third quarterly report shall be due for filing on October 15 of a calendar year. The third quarterly report shall include all contributions and expenditures received or expenditures made for the following period of time: beginning with the first transaction occurring on or after July 1<sup>st</sup> of the calendar year of the

filing date, and ending with the last transaction occurring on September 30<sup>th</sup> of that calendar year; and

4. The fourth quarterly report shall be due for filing on January 15 of a calendar year. The fourth quarterly report shall include all contributions received and expenditures made for the following period of time: beginning with the first transaction occurring on or after October 1<sup>st</sup> of the calendar year preceding the calendar year of the filing date, and ending with the last transaction occurring on December 31<sup>st</sup> of the calendar year preceding the calendar year of the filing date.

(b) The initial quarterly report shall be filed for the calendar year quarter in which the continuing political committee, political party committee, or legislative leadership committee was established or required to be established, and, in the case of a continuing political committee, quarterly reports shall continue to be filed in each calendar year quarter pursuant to (a) above until such time as a final quarterly report is filed pursuant to N.J.A.C. 19:25-9.5. A political party committee or a legislative leadership committee cannot terminate quarterly reporting requirements.

(c) The organizational treasurer shall file and certify the correctness of the quarterly report, and shall certify that no contributions have been received in violation of the contribution limits prescribed by the Act.

#### **19:25-9.2 Certified statement (Form A-3)**

(a) There shall be no obligation to file the quarterly reports referred to at N.J.A.C. 19:25-9.1 on behalf of a continuing political committee, political party committee, or legislative leadership committee that files no later than January 15 of a calendar year a certified statement (Form A-3) to the effect that the total amount to be raised or expended in that calendar year shall not exceed \$8,600. Such committee is required to file the certified statement (Form A-3) notwithstanding that the committee did not receive any contribution or make any expenditure in a calendar year.

(b) In the event that a continuing political committee, political party committee, or legislative leadership committee files a certified statement (Form A-3) pursuant to (a) above, and total expenditures exceed \$8,600 during the calendar year for which the statement was filed, the committee shall:

1. File a quarterly report pursuant to N.J.A.C. 19:25-9.1 on the date relevant to the calendar year quarter in which \$8,600 of expenditures was exceeded, and that quarterly report shall include all contributions received and all expenditures made from the beginning of the calendar year; and
2. Continue filing quarterly reports for the remainder of that calendar year, unless a final quarterly report is filed pursuant to N.J.A.C. 19:25-9.5.

(c) If a continuing political committee, political party committee, or legislative leadership committee, which has filed a certified statement for a calendar year pursuant to (a) above, receives during any calendar year quarter a contribution, or aggregate contributions from a contributor, that exceeds the sum of \$200.00, or receives a currency contribution in any amount, that committee shall file on the dates provided at N.J.A.C. 19:25-9.1 a report (Form C-3) containing the following information:

1. The name and mailing address of the contributor;
2. The date the contribution was received;
3. The amount of the contribution, or if the contribution was other than money, a description of the contribution and its value as determined pursuant to N.J.A.C. 19:25-10.4; and
5. If the contributor was an individual, the occupation of the contributor and the name and mailing address of the individual's employer.

#### **19:25-9.3 Contributions received immediately before an election**

(a) An organizational treasurer of a continuing political committee, a political party committee, or a legislative leadership committee shall file a notice (Form C-3 or 72/24-HR) with the Commission of any contribution in excess of \$300.00, or any aggregate contributions from a contributor, which total in excess of \$300.00, received after the closing date of its most recent quarterly report and on or before the date of an election in which the committee has made or intends to make any contribution or expenditure to aid or promote any candidate or the passage or defeat of any public question. The closing dates of quarterly reports are set forth at N.J.A.C. 19:25-9.1(a).

(b) The notice described at (a) above shall be signed by the organizational treasurer and filed with the Commission:

1. No later than the 11<sup>th</sup> day before the election for all such contributions or aggregate contributions received on or after the first day of the quarter up to and including the 14<sup>th</sup> day prior to the election;
2. Within 72 hours of receipt of the contribution or aggregate contributions, if received on or after the 13<sup>th</sup> day prior to the election up to and including the eighth day prior to the election; or
3. Within 24 hours of receipt of the contribution or aggregate contributions, if received on or after the seventh day prior to the election up to and including the date of the election.

(c) The notice described in (a) above shall contain the following information:

1. The name of the recipient committee;

2. The date the contribution was received;
3. The amount of the contribution, or if the contribution was other than money, a description of the contribution and its value as determined pursuant to N.J.A.C. 19:25-10.4;
4. The name and mailing address of the contributor; and
5. If the contributor is an individual, the occupation of the individual and the name and mailing address of the individual's employer.

**19:25-9.4 Continuing political committee expenditures made immediately before a primary or general election**

(a) An organizational treasurer of a continuing political committee shall file a notice (Form E-3 or 72/24-HR) of an expenditure of money or other thing of value in excess of \$300.00, or aggregate expenditures that total in excess of \$300.00, made, incurred or authorized in a primary or general election by the continuing political committee to support or defeat a candidate, or to aid the passage or defeat of a public question, which expenditure is, or aggregate expenditures are, made, incurred or authorized after March 31 and on or before the day of the primary election, or after September 30, and on or before the day of the general election. The notice shall contain:

1. The name of the continuing political committee making the expenditure.
2. The name and mailing address of the person, firm or recipient; or the name and mailing address of the organization to whom or which the expenditure was paid or given; and
3. The amount and purpose of the expenditure.

(b) The notice described at (a) above shall be signed by the organizational treasurer and filed with the Commission:

1. No later than the 11<sup>th</sup> day before the election for all such expenditures or aggregate expenditures made, authorized, or incurred on or after April 1 up to and including the 14<sup>th</sup> day prior to the primary election, or on or after October 1 up to and including the 14<sup>th</sup> day prior to the general election;
2. Within 72 hours of the making, authorizing, or incurring of the expenditure, if the expenditure is made, authorized, or incurred on or after the 13<sup>th</sup> day prior to the primary or general election up to and including the eighth day prior to the primary or general election; or

3. Within 24 hours of the making, authorizing, or incurring of the expenditure, if the expenditure is made, authorized, or incurred on or after the seventh day prior to the primary or general election up to and including the date of the primary or general election.

**19:25-9.4A Political party committee and legislative leadership committee expenditures made immediately before a primary or general election**

(a) An organizational treasurer of a political party committee or an organizational treasurer of a legislative leadership committee shall file a notice (Form E-3 or 72/24-HR) of an expenditure of money or other thing of value in excess of \$300.00, or aggregate expenditures that total in excess of \$300.00, made, incurred, or authorized in a primary or general election by the political party committee or legislative leadership committee to support or defeat a candidate, or to aid the passage or defeat of a public question, which expenditure is, or aggregate expenditures are made, incurred, or authorized after March 31 and on or before the day of the primary election, or after September 30 and on or before the day of the general election. The notice shall contain:

1. The name of the political party committee or legislative leadership committee making the expenditure;
2. The name and mailing address of the person, firm or recipient; or the name and mailing address of the organization to whom or which the expenditure was paid or given; and
3. The amount and purpose of the expenditure.

(b) The notice described at (a) above shall be signed by the organizational treasurer and filed with the Commission:

1. No later than the 11<sup>th</sup> day before the election for all such expenditures or aggregate expenditures made, authorized, or incurred on or after April 1 up to and including the 14<sup>th</sup> day prior to the primary election, or on or after October 1 up to and including the 14<sup>th</sup> day prior to the general election;
2. Within 72 hours of the making, authorizing, or incurring of the expenditure, if the expenditure is made, authorized, or incurred on or after the 13<sup>th</sup> day prior to the primary or general election up to and including the eighth day prior to the primary or general election; or
3. Within 24 hours of the making, authorizing, or incurring of the expenditure, if the expenditure is made, authorized, or incurred on or after the seventh day prior to the primary or general election up to and including the date of the primary or general election.

**19:25-9.5 Termination of continuing political committee reporting**

(a) A continuing political committee may certify a quarterly report as its final quarterly report and thereby terminate further quarterly reporting provided:

1. The continuing political committee has ceased making contributions to aid or promote any candidate, or to aid or promote the passage or defeat of any public question;
2. The final quarterly report makes a final accounting of any funds used or relating to aiding or promoting any candidate or the passage or defeat of any public question, including the final disposition of any remaining balance; and
3. The continuing political committee is dissolved.

(b) The chairperson and the organizational treasurer shall file and each certify the final quarterly report.

#### **19:25-9.6 Time and place of filing reports**

(a) All reports required to be filed must be received by the Commission no later than 5:00 P.M. on the date the report is due for filing in order to be deemed timely filed.

(b) A continuing political committee, political party committee, or legislative leadership committee shall, for the period of time provided in N.J.A.C. 19:25-7.3, retain an exact copy of each report as that report has been filed with the Commission.



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## **SUBCHAPTER 10. CONTRIBUTION REPORTING**

### **19:25-10.1 General provisions**

Each contribution received by a candidate, candidate committee, joint candidates committee, political committee, continuing political committee, political party committee or legislative leadership committee must be reported at the time and in the manner provided in the Act and this subchapter.

### **19:25-10.2 Contributions of more than \$200.00; currency contribution**

(a) A contribution received by a candidate committee, joint candidates committee, or political committee during an election fund report period established at N.J.A.C. 19:25-8 in an amount of more than \$200.00, or aggregate contributions received by such a committee in an election from a contributor totaling more than \$200.00 during such a report period, or a currency contribution, in any amount received during such a reporting period, must be reported by providing the following information:

1. The date the contribution was received or, if more than one contribution was received in the reporting period, the dates the aggregate contributions were received;
2. The name and mailing address of the contributor;
3. If the contributor is an individual, the occupation of the individual and the name and mailing address of the individual's employer pursuant to N.J.A.C. 19:25-10.2A;
4. The amount of the contribution, or amount of aggregate contributions in the reporting period; and
5. The total amount of all contributions received from the contributor in the election to date.

(b) A contribution received by a continuing political committee, a political party committee, or a legislative leadership committee during a calendar year of more than \$200.00 from a contributor, or aggregate contributions received by such a committee during a calendar year from a contributor totaling more than \$200.00, or a currency contribution, in any amount received during a calendar year, must be reported by providing the following information:

1. The date the contribution was received or, if more that one contribution was received in the reporting period, the dates the aggregate contributions were received;
2. The name and mailing address of the contributor;

3. If the contributor is an individual, the occupation of the individual and the name and mailing address of the individual's employer pursuant to N.J.A.C. 19:25-10.2A;
4. The amount of the contribution, or amount of aggregate contributions in the reporting period; and
5. The total amount of all contributions received from the contributor in the calendar year to date.

(c) A candidate committee or joint candidates committee that has filed a certified statement (that is, Form A-1 or A-2) in an election and which receives a contribution in that election of more than \$200.00, or aggregate contributions from a contributor of more than \$200.00, or a currency contribution, in any amount, shall file the report provided at N.J.A.C. 19:25-8.4(c).

(d) A continuing political committee, political party committee, or legislative leadership committee which has filed a certified statement (Form A-3) in a calendar year and which receives in that calendar year a contribution of more than \$200.00, or aggregate contributions from a contributor of more than \$200.00, or a currency contribution, in any amount, shall file the report provided at N.J.A.C. 19:25-9.2(c).

#### **19:25-10.2A Reporting of occupation and employer information**

(a) Occupation and employer information shall be reported for each individual contributor whose contribution is more than \$200.00, or whose contributions are more than \$200.00 in the aggregate, in an election to a candidate committee, joint candidates committee or political committee, or in a calendar year to a continuing political committee, political party committee or legislative leadership committee or whose contribution is a currency contribution in any amount received during such reporting period.

(b) The following occupation information shall be reported for each contributor who is an individual:

1. For an individual who earns a source of livelihood, a description of the individual's source of livelihood shall be provided, such as "florist," "attorney," "physician," "business owner," "law enforcement," "hospitality," "custodian," or "electrician." Descriptions such as "self-employed," "owner," or "sole proprietor" are insufficient.
2. For an individual who does not have a source of livelihood, a description, such as "retired," "student," or "unemployed" shall be reported, but in all cases a description shall be provided and the information shall not be left blank or empty.

(c) The following employer information shall be reported for each contributor who is an individual:

1. For an individual who earns a source of livelihood, the name of the employer shall include the legal or trade name under which the employer does business. In the event the individual contributor's source of income or his or her livelihood is derived from his or her own business or corporation, the name of the employer shall include, in addition to any description, such as "self-employed," "business owner," or "sole proprietor," the legal or trade name under which the individual does business. The employer's mailing address shall include the address from which the business is operated whether or not it is the same as the address reported for the contributor.
2. For an individual who does not earn a source of livelihood and a description, such as "retired," "student," or "unemployed" was supplied, employer information is not required.

### **19:25-10.3 Contributions of \$200.00 or less**

(a) Except as provided at N.J.A.C. 19:25-10.2 for currency contributions, a contribution received by a candidate, candidate committee, joint candidates committee, or political committee in an amount of \$200.00 or less in an election must be reported on the election fund report required at N.J.A.C. 19:25-8.2 or 8.3 for the time period in which the contribution was received by including the amount of the contribution in the total sum reported in the report for all contributions received in the amount of \$200.00 or less, but the name and mailing address of the contributor or the occupation of a contributor who is an individual and the name and mailing address of the individual's employer is not required to be reported.

(b) At any time during an election pursuant to (a) above, if the aggregate amount received from a contributor by a candidate, candidate committee, joint candidates committee, or political committee exceeds the sum of \$200.00, the contribution resulting in aggregate contributions totaling more than \$200.00 and each subsequent contribution (regardless of amount) received from the contributor during the election must be reported on the pertinent election fund report in the same manner as a contribution of more than \$200.00 pursuant to N.J.A.C. 19:25-10.2(a).

(c) Except as provided at N.J.A.C. 19:25-10.2 for currency contributions, a contribution received by a continuing political committee, a political party committee or a legislative leadership committee in an amount of \$200.00 or less in a calendar year must be reported on the quarterly report required at N.J.A.C. 19:25-9.1 for the calendar year quarter in which the contribution was received by including the amount of the contribution in the total sum reported for the quarterly reporting period of all contributions received in the amount of \$200.00 or less, but the name and mailing address of the contributor or the occupation of a contributor who is an individual and name and mailing address of the individual's employer is not required to be reported.

(d) At any time during a calendar year pursuant to (c) above, if the aggregate amount received from a contributor by a continuing political committee, political party committee, or legislative leadership committee exceeds the sum of \$200.00, the contribution resulting in aggregate contributions totaling more than \$200.00 and each subsequent contribution (regardless

of amount) received from the contributor during the remainder of the calendar year must be reported on the pertinent quarterly report in the same manner as a contribution of more than \$200.00 pursuant to N.J.A.C. 19:25-10.2(b).

#### **19:25-10.4 Computation of contribution amounts**

(a) A contribution received in the form of goods (that is, an in-kind contribution) shall be reported in an amount equal to the fair market value of the goods to the candidate, candidate committee, joint candidates committee, political committee, continuing political committee, political party committee or legislative leadership committee receiving such goods.

(b) A contribution in the form of "paid personal services" as defined in N.J.A.C. 19:25-1.7, Definitions, shall be reported in an amount equal to the amount of salary, compensation or consideration for said services paid by the contributor to the individual performing said services.

(c) Personal services performed by an individual on a voluntary, non-compensated basis do not constitute a reportable contribution.

**Example:** E is a certified public accountant, who, in aid of the candidacy of candidate A has undertaken to set up the necessary books and records to reflect the financial operations of the campaign of candidate A. E employs in his office several accountants, bookkeepers and clerical personnel who perform some of the work required to maintain the financial records for the campaign of candidate A. The services of E do not constitute a contribution to candidate A since they are voluntary and uncompensated personal services. The value of the services of the accountants and other employees of E, estimated as described in (b) above, are a contribution to candidate A.

#### **19:25-10.5 Contributions of paid personal services**

(a) The treasurer or organizational treasurer of a candidate committee, joint candidates committee, political committee, continuing political committee, political party committee, or legislative leadership committee shall upon receipt of a contribution in the form of paid personal services pursuant to N.J.A.C. 19:25-10.4(b) obtain from the person contributing the paid personal services a written statement setting forth the amount of compensation paid by the contributor to the individual performing the services.

(b) In any written statement required pursuant to (a) above, if the individual performing the services for the candidate committee, joint candidates committee, political committee, continuing political committee, political party committee or legislative leadership committee, also performed other services during the same period for the contributor, and the manner of payment was such that payment for the contributed services cannot readily be segregated from contemporary payment for the other services, the contributor shall so state in the written statement and shall either:

1. Set forth the contributor's best estimate of the dollar amount of payment to each such individual which is attributable to the contribution of the paid personal services, and shall certify the substantial accuracy of the same; or
2. If unable to determine such amount with sufficient accuracy, set forth the total compensation paid by the contributor to each such individual for the period of time during which the paid personal services were performed.

### **19:25-10.6 Currency contributions**

(a) A candidate, candidate committee, joint candidates committee, political committee, continuing political committee, political party committee, legislative leadership committee, or independent expenditure committee, or the treasurer or organizational treasurer of such committee, may accept a contribution in the form of currency provided that it is received in an aggregate amount not to exceed \$200.00 in an election, or a calendar year, whichever is applicable to the recipient candidate or committee, and provided the contributor simultaneously submits a written record to the committee or treasurer containing the following:

1. The date the contribution was made;
2. The name and mailing address of the contributor;
3. If the contributor is an individual, the occupation of the individual and the name and mailing address of the individual's employer;
4. The amount of the contribution; and
5. The signature of the contributor.

(b) A contributor may make a contribution in the form of currency provided that the contribution in an aggregate amount does not exceed \$200.00 in an election to a candidate, candidate committee, joint candidates committee, political committee, or independent expenditure committee, or does not exceed \$200.00 in a calendar year to a continuing political committee, political party committee or legislative leadership committee, and provided such contributor shall simultaneously submit to the committee or its treasurer a written record containing the following:

1. The date the contribution was made;
2. The name and mailing address of the contributor;
3. If the contributor is an individual, the occupation of the individual and the name and mailing address of the individual's employer;
4. The amount of the contribution; and
5. The signature of the contributor.

(c) No currency contribution pursuant to (a) and (b) above may be made or accepted in the currency of any foreign country.

#### **19:25-10.7 Public solicitations**

(a) The term "public solicitation" means any activity by or on behalf of any candidate, political committee, continuing political committee, candidate committee, joint candidates committee, legislative leadership committee, political party committee, or independent expenditure committee, whereby either:

1. Members of the general public are personally solicited for on- the-spot cash contributions not to exceed \$20.00 per person; or
2. Members of the general public are personally solicited for on-the-spot purchase of items having tangible value as merchandise, at a price not to exceed \$20.00 per item.

(b) A written record shall be made of each currency contribution received as the result of a public solicitation, pursuant to (a) above, which record shall contain the information set forth in N.J.A.C. 19:25-10.6, and each such currency contribution shall be subject to reporting, regardless of the amount of the contribution.

(c) In the event contributions are received as the result of a public solicitation, the date and location of each such public solicitation must be identified in any report showing receipt of proceeds from the public solicitation.

#### **19:25-10.8 Prohibition of anonymous contributions and of contributions in the name of another**

(a) No contribution shall be made by a person or received by a candidate, candidate committee, joint candidates committee, political committee, continuing political committee, political party committee, legislative leadership committee, or independent expenditure committee on an anonymous basis, that is without making known, or knowing, the identity of the person making the contribution, or in a fictitious name, or by one person or group in the name of another, and no person shall contribute or purport to contribute to any candidate, candidate committee, joint candidates committee, political committee, continuing political committee, political party committee, legislative leadership committee, or independent expenditure committee, any funds or property not actually belonging to him or her and in his or her full custody and control, or which have been given or furnished to him or her by any other person or group for the purpose of making a contribution thereof.

(b) A contribution shall not be deemed anonymous if the identity of the contributor was known to the candidate, candidate committee, joint candidates committee, political committee, continuing political committee, political party committee, legislative leadership committee, or independent expenditure committee, or to the treasurer or organizational treasurer of such

committee, at the time when the contribution was received, even though the committee or treasurer may later be unable to identify the contributor because of loss or destruction of records. Nothing in this subsection shall be construed to prevent the Commission from imposing a penalty pursuant to the Act or this chapter for failure to keep proper records.

(c) A group contribution, that is a contribution made collectively by persons who are members of the contributing group, shall not be deemed an anonymous contribution by any individual member of the group.

#### **19:25-10.9 Contributions for an inaugural or other election-related event**

(a) Funds given to and received by a candidate, candidate committee or joint candidates committee for the purpose of the contributor attending or otherwise participating in an inaugural or swearing-in celebratory event of a candidate, or other election-related event, shall be reported by the recipient candidate or committee as contributions and are subject to the requirements of the Act and this chapter.

(b) Funds given to and received by a gubernatorial candidate for the purpose of the contributor attending or otherwise participating in an inaugural event are subject to the provisions of N.J.A.C. 19:25-15.

#### **19:25-10.10 Political communication contributions**

(a) The term "political communication" means any written or electronic statement, pamphlet, advertisement or other printed or broadcast matter or statement, communication, or advertisement delivered or accessed by electronic means, including, but not limited to, the Internet, containing an explicit appeal for the election or defeat of a candidate which is circulated or broadcast to an audience substantially comprised of persons eligible to vote for the candidate on whose behalf the appeal is directed. Words such as "Vote for (name of candidate)," "Vote against (name of opposing candidate)," "Elect (name of candidate)," "Support (name of candidate)," "Defeat (name of opposing candidate)," "Reject (name of opposing candidate)," and other similar explicit political directives constitute examples of appeals for the election or defeat of a candidate.

(b) A written statement, pamphlet, advertisement, or other printed or broadcast matter or statement, communication, or advertisement delivered or accessed by electronic means, including, but not limited to, the Internet, that does not contain an explicit appeal pursuant to (a) above for the nomination for election or for the election or defeat of a candidate shall be deemed to be a political communication if it meets the following conditions:

1. The communication is circulated or broadcast within 90 days of the date of any election in which the candidate on whose behalf the communication is made is seeking nomination for election or elected office; except that in the case of a candidate for nomination for the office of Governor in a primary election, the period of time that a communication shall be deemed political shall be on or after January 1st in a year in which a primary election for Governor is being conducted, in the case of a candidate for election to the office of Governor in a



general election, the period of time that a communication shall be deemed political shall begin on the day following the date of the gubernatorial primary election, and in the case of a candidate for election to the office of Lieutenant Governor in a general election, the period of time that a communication shall be deemed political shall begin on the day following certification pursuant to N.J.A.C. 19:25-15.4A;

2. The communication is circulated or broadcast to an audience substantially comprised of persons eligible to vote for the candidate on whose behalf the communication was made;
3. The communication contains a statement or reference concerning the governmental or political objectives or achievements of the candidate; and
4. The production, circulation or broadcast of the communication, or any cost associated with the production, circulation or broadcast of the communication, has been made in whole or in part with the cooperation of, prior consent of, in consultation with, or at the request or suggestion of the candidate.

(c) Nothing contained in (b) above shall be construed to require reporting of a communication by an incumbent officeholder seeking reelection if the communication is in writing and is made to a constituent in direct response to a prior communication received from that constituent, if it is circulated or broadcast for the sole and limited purpose of communicating governmental events requiring constituents to make applications or take other actions before the date of the upcoming election, or if it is circulated or broadcast to constituents for the sole and limited purpose of communicating facts relevant to a bona fide public emergency.

(d) Nothing contained in (b) above shall be construed to require reporting of a communication by a candidate seeking nomination for election in a primary election if that candidate is not opposed by another candidate seeking nomination for election in that primary election. For the purposes of this section, the term “opposed” shall mean that no opposing candidate has filed a petition for nomination for election in that primary election.

#### **19:25-10.11 Reporting of political communication costs**

(a) If any political communication as defined in N.J.A.C. 19:25-10.10 is incurred or paid for by any candidate committee or joint candidates committee, the committee shall report such expenditure in accordance with N.J.A.C. 19:25-12.

(b) Any political communication as defined by N.J.A.C. 19:25-10.10 incurred or paid for by any person or entity other than the candidate's candidate committee or joint candidates committee, which political communication is prepared, made or circulated with the consent or cooperation of the candidate, shall be reported by that candidate as a campaign contribution of goods and/or services in accordance with N.J.A.C. 19:25-10.4(a).

(c) Any political communication not prepared, made or circulated with the consent or cooperation of a candidate and incurred or paid for by any other person or entity shall be reported in accordance with N.J.A.C. 19:25- 12.

#### **19:25-10.12 Interest income**

Any payment received as interest income for funds on deposit in a campaign or organizational depository account established pursuant to N.J.A.C. 19:25-5.2 is not subject to contributor identification requirements, provided that such interest payment amount is included in amounts reported as received and deposited.

#### **19:25-10.13 Loans as contributions**

(a) A loan received by a candidate, candidate committee, joint candidates committee, political committee, continuing political committee, political party committee or legislative leadership committee, or by the treasurer of such committee, shall be reported as a contribution by the person or entity making the loan.

(b) Notwithstanding (a) above, if a loan is made to a candidate, committee or treasurer by a banking or lending institution, and if the candidate as an individual using personal assets, or some third party person or entity, in the ordinary course of business, has guaranteed, co-signed or otherwise assured repayment of the loan to the banking or lending institution, the contributor of the loan shall be reported as the person or entity guaranteeing, co-signing or otherwise assuring the repayment of the loan, and the banking or lending institution shall not be deemed to be the contributor.

(c) A loan made by a banking or lending institution to a candidate, candidate committee, joint candidates committee, political committee, continuing political committee, political party committee or legislative leadership committee which loan is not secured pursuant to (b) above is a contribution to the candidate or committee by that banking or lending institution.

(d) An obligation by a contributor to pay for goods or services, which obligation is to be repaid by a candidate, candidate committee, joint candidates committee, political committee, continuing political committee, political party committee or legislative leadership committee, shall be reported as a contribution subject to contribution limits and shall be reported as an outstanding obligation.

(e) A loan shall be reported as a contribution at the time it is received and is a contribution as long as it remains unpaid.

(f) A contribution made by a candidate from his or her own funds to his or her candidate committee, or joint candidates committee, cannot be treated as a loan, and cannot be repaid to the candidate at any time, unless the candidate's candidate committee, or joint candidates committee, at the time the contribution is received, also reports the contribution amount as an outstanding obligation owed to that candidate. A candidate's candidate committee, or joint candidates committee, that fails to report a contribution from a candidate who established the candidate committee, or joint candidates committee, as an outstanding obligation owed to that candidate at

the time the contribution is received shall be precluded from recharacterizing the contribution as a loan in amended or subsequent reports.

#### **19:25-10.14 Contributions by minors**

(a) Contributions by minors shall be attributed to the legal guardian(s) of the minor for the purposes of N.J.A.C. 19:25-11.2, and not to the minor unless:

1. The minor is 14 years or older;
2. The contribution is made from funds comprised of the minor's earned income as defined in N.J.A.C. 19:25-1.7; and
3. Sworn statements made by the minor and by the minor's legal guardian(s) are submitted with the contribution which state that the decision to contribute was solely that of the minor and that the funds used to make the contribution were comprised solely of the minor's earned income.

(b) For the purposes of (a) above, if the minor has more than one legal guardian, the contribution shall be attributed equally to each legal guardian of the minor.

#### **19:25-10.15 Contributions made by check**

(a) When a contribution is received by means of a check or other negotiable instrument (hereafter, collectively referred to as “check”), the recipient committee and its campaign or organizational treasurer shall determine the contributor pursuant to the following:

1. If an individual who is solely or jointly a beneficial owner of the funds in the account on which the check is drawn signs the check, the contributor is the individual signing the check and beneficially owning the funds.
2. If the check is signed by more than one individual and each of them jointly is a beneficial owner of the funds in the account on which the check is drawn, each of the individuals signing the check and beneficially owning the funds is a contributor. The amount of the contribution of each individual signatory is the sum of the check divided equally among them, unless written instructions signed by each joint beneficial owner provide for a different percentage allocation of the check amount.
3. If the check is signed by an authorized representative of a corporation, labor organization, group or association and the funds in the account on which the check is drawn are beneficially owned by that corporation, labor organization, group or association, the contributor is the corporation, labor organization, group or association beneficially owning the funds.

4. If the check is signed by a treasurer or organizational treasurer and is drawn on funds in a depository or organizational depository account established by a candidate committee, joint candidates committee, political committee, continuing political committee, political party committee, or legislative leadership committee, the contributor is the respective candidate committee, joint candidates committee, political committee, continuing political committee, political party committee, or legislative leadership committee beneficially owning the funds in the depository or organizational depository account.
5. If the check is signed by an individual who is authorized to sign it as the trustee or guardian of an individual who is the beneficial owner of the funds in the account on which the check is drawn, the contributor is the individual who is the beneficial owner of the funds in the account. A trustee or guardian conveying funds not beneficially owned by that trustee or guardian shall not be a contributor, except as provided at N.J.A.C. 19:25-10.14 for a contribution from a minor.
6. If the check is signed by an authorized representative of a sole proprietorship that is an unincorporated business entity, and the check is drawn on the account of the sole proprietorship, the contributor shall be the individual who is the sole proprietor having beneficial ownership of the funds in the account on which the check is drawn. If the signatory of the check is an individual other than the sole proprietor beneficially owning the account, the campaign or organizational treasurer shall obtain the signature of the sole proprietor, which signature shall be made on the check, or made on some supporting written document expressing the intent of the sole proprietor to make the contribution as an individual. A sole proprietorship shall not be a contributor.
7. If the check is signed by an authorized representative of a partnership entity as defined in N.J.A.C. 19:25-11.10(b), or of a limited liability company as defined in N.J.A.C. 19:25-11.10(c), and the check is drawn on the account of the partnership entity or limited liability company, the contributor shall be an individual (or individuals) who is a partner of that partnership entity, or who is a member of the limited liability company, provided that the procedures set forth in N.J.A.C. 19:25-11.10 are met. A partnership entity or a limited liability company shall not be a contributor.

#### **19:25-10.16 Contributions by electronic transfer of funds**

(a) A candidate committee, joint candidates committee, political committee, continuing political committee, political party committee, or legislative leadership committee may receive a contribution made by means of an electronic transfer of funds, including a credit card, provided that:

1. The date of receipt of a contribution made by an electronic transfer of funds, including a credit card, is the date on which the account owner or credit card owner authorizes that the contribution be charged to the owner's account or credit card;
2. The amount of the contribution is the total amount that the account owner or credit card owner authorizes to be charged to the account;
3. The account used to make the contribution made by an electronic transfer of funds or a credit card must be owned by the individual contributor or other entity making the contribution; and
4. The campaign or organizational treasurer shall make and maintain records required pursuant to N.J.A.C. 19:25-7.1 for each contribution received by means of an electronic transfer of funds or credit card.

(b) Any fees or costs imposed upon a candidate committee, joint candidates committee, political committee, continuing political committee, political party committee, or legislative leadership committee by a financial institution as a result of receipt of a contribution by means of an electronic transfer of funds or credit card must be reported by the candidate or committee as an expenditure to the financial institution.

(c) Contributions received by means of an electronic transfer of funds or credit card shall be deposited directly into a campaign or organizational depository.

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## **SUBCHAPTER 11. CONTRIBUTION LIMITS**

### **19:25-11.1 Candidates subject to contribution limits**

(a) All candidates, candidate committees, and joint candidates committees, and all treasurers of such committees, shall observe the contribution limits set forth in this subchapter and shall not knowingly accept any contribution in excess of such contribution limits, except that candidates for nomination for election to the office of Governor shall be subject to the contribution limits set forth in N.J.A.C. 19:25-16, Public Financing of Primary Election for Governor, and candidates for election to the offices of Governor and of Lieutenant Governor shall be jointly subject to the contribution limits set forth in N.J.A.C. 19:25-15, Public Financing: General Elections for the offices of Governor and of Lieutenant Governor.

(b) A candidate who has established and is maintaining a candidate committee, or joint candidates committee, or both, for an office in an election may not establish or maintain another candidate committee, or joint candidates committee, for that office in any other election, and may not receive contributions for that same office in any other election, with the following exceptions:

1. The candidate is maintaining a committee for that office in a past election for the sole purpose of receiving contributions to satisfy net liabilities of that past election pursuant to N.J.A.C. 19:25-8.7A; or
2. The candidate is maintaining a committee to receive contributions and make expenditures for a recount or election contest pursuant to N.J.A.C. 19:25-11.12 or 12.11 for that office in that election.

### **19:25-11.1A Committees subject to contribution limits**

All political committees, continuing political committees, legislative leadership committees, political party committees, and all treasurers or organizational treasurers of such committees, shall observe the contribution limits set forth in this subchapter and shall not knowingly accept any contribution in violation of such contribution limits.

### **19:25-11.2 Contribution limit chart**

(a) The following chart sets forth the contribution limits applicable in an election, or in a calendar year, as the case may be, to persons or entities making contributions to candidates, candidate committees, political committees, continuing political committees, legislative leadership committees, and State, county, or municipal political party committees, except that the chart does not apply to contributions made to candidates for Governor and Lieutenant Governor:

ADJUSTED CONTRIBUTION LIMITS FOR NON-GUBERNATORIAL CANDIDATES AND COMMITTEES

Entities Making Contributions

Entities Receiving Contributions

	<u>Candidate Committee</u>	<u>Political Committee</u>	<u>Continuing Political Committee</u>	<u>Legislative Leadership Committee</u>	<u>State Political Party Committee</u>	<u>County Political Party Committee</u>	<u>Municipal Political Party Committee</u>
Individual to:	\$5,500 per election	\$15,200 per election	\$15,200 per year	\$79,000 per year	\$79,000 per year	\$79,000 per year	\$15,200 per year
Corporation or Union to:	\$5,500 per election	\$15,200 per election	\$15,200 per year	\$79,000 per year	\$79,000 per year	\$79,000 per year	\$15,200 per year
Association or Group to:	\$5,500 per election	\$15,200 per election	\$15,200 per year	\$79,000 per year	\$79,000 per year	\$79,000 per year	\$15,200 per year
Candidate Committee to:	\$17,300 per election	\$15,200 per election	\$15,200 per year	\$79,000 per year	\$79,000 per year	\$79,000 per year	\$15,200 per year
Political Committee to:	\$17,300 per election	\$15,200 per election	\$15,200 per year	\$79,000 per year	\$79,000 per year	\$79,000 per year	\$15,200 per year
Continuing Political Committee to:	\$17,300 per election	\$15,200 per election	\$15,200 per year	\$79,000 per year	\$79,000 per year	\$79,000 per year	\$15,200 per year
Legislative Leadership Committee	*	*	*	NO LIMITS	*	*	*
State Political Party Committee to:	*	*	*	NO LIMITS	*	*	*
County Political Party Committee to:	NO LIMITS, except those set forth at <u>N.J.A.C. 19:25- 11.7</u> for a county political party committee.						
Municipal Political Party Committee to:	*	*	*	NO LIMITS	*	*	*
National Political Party Committee to:	\$17,300 per election	\$15,200 per election	\$15,200 per year	\$79,000 per year	\$152,000 per year	\$79,000 per year	\$15,200 per year
Any Contributor to a Housekeeping Account:	N/A	N/A	N/A	N/A	\$39,500 per year	\$39,500 per year	N/A



(b) No contributing person or entity listed in (a) above shall make a contribution, or aggregate contributions, in excess of the contribution limits set forth in (a) above.

(c) No candidate, candidate committee, political committee, continuing political committee, legislative leadership committee, political party committee, or treasurer or organizational treasurer of any of such committee, shall knowingly accept a contribution, or aggregate contributions, in excess of the contribution limits set forth in (a) above.

### **19:25-11.3 Candidate contributions**

(a) A candidate may make a contribution as an individual and subject to the limits set forth in this subchapter notwithstanding any contribution made by the candidate's candidate committee or joint candidates committee, provided that the contribution made by the candidate as an individual is from personal assets and not derived from funds controlled by the candidate committee or joint candidates committee.

(b) Notwithstanding the contribution limits set forth in N.J.A.C. 19:25-11.2 above, a candidate, or a corporation one hundred percent of the stock of which is owned by the candidate, or by the candidate's spouse, child, parent, or sibling residing in the candidate's household, may make contributions without limit to a candidate committee established by that candidate, or to a joint candidates committee established by that candidate.

(c) Notwithstanding the contribution limits set forth at N.J.A.C. 19:25-11.2, a candidate committee or joint candidates committee can make contributions in the same election without limit to another candidate committee or joint candidates committee if both the contributing and recipient committees are established by candidates who are seeking nomination for election, or election to, legislative offices within the same legislative district, or to the same offices within the same political subdivision of this State, that is, the offices of mayor and member of the municipal governing body, or to the offices of county executive in a county and members of the board of county commissioners in the same county.

### **19:25-11.4 Joint candidates committee contribution limits**

(a) A joint candidates committee established by candidates who have not established any candidate committees in an election may accept a contribution from a contributor in an amount equal to but not in excess of the sum of the number of candidates participating in the joint candidates committee multiplied by the contribution limit applicable to a contribution made by the contributing entity to a candidate committee of a single candidate.

**Example:** A joint candidates committee in which three candidates are participating, none of whom have established candidate committees, may receive from an individual a contribution not to exceed \$16,500 in an election, that is three multiplied by the \$5,500 contribution limit applicable to a contribution from an individual to a candidate committee.

(b) A joint candidates committee established by candidates who have not established any candidate committees in an election may make a contribution to a political committee not to exceed

\$15,200 per candidate in the election, and may make a contribution to a continuing political committee not to exceed \$15,200 per candidate in a calendar year.

(c) In the event any of the candidates participating in a joint candidates committee also has established a candidate committee in an election, the amount of a contribution that the joint candidates committee may accept from a contributor without violating the contribution limit will be determined by application of the equal attribution requirement set forth in N.J.A.C. 19:25-11.5, Equal attribution requirements.

(d) A joint candidates committee may receive a contribution in an election from another joint candidates committee in an amount equal to \$17,300 multiplied by the number of candidates participating in the contributing joint candidates committee, and that sum may be further multiplied by the number of the candidates participating in the recipient joint candidates committee, provided that the contributing joint candidates committee, and any candidate committee established by any of the participating candidates, have not made any other contributions to the recipient joint candidates committee, or to any candidate committee established by any of the candidates participating in the recipient joint candidates committee.

**Example:** Joint candidates committee ABC has three candidates participating in it (candidates A, B, and C) and wishes to make a contribution to a joint candidates committee DEFG with four candidates participating in it (candidates D, E, F, and G). Neither the joint candidates committee ABC, nor any individual candidate committee established by candidates A, B or C, has made any contributions in the election to the joint candidates committee DEFG, or to any individual candidate committee established or maintained by candidates D, E, F, or G. Joint candidates committee ABC may contribute the sum of \$207,600 in the election to joint candidates committee DEFG, that is \$17,300 multiplied by three (that is, the three candidates participating in ABC), for a total of \$51,900, further multiplied by four (that is, the four candidates participating in DEFG) for a total maximum permissible contribution in the election of \$207,600.

(e) In the event that a joint candidates committee makes a contribution to another joint candidates committee as described at (c) above, but there have been one or more contributions by the contributing joint candidates committee, or by a candidate committee established by one of the joint candidates committee's candidates, to one or more candidate committees of a candidate or candidates participating in the recipient joint candidates committee, or to the recipient joint candidates committee, the amount of a contribution that the recipient joint candidates committee may receive cannot, after application of the equal attribution requirement set forth at N.J.A.C. 19:25-11.5, exceed \$17,300 per candidate in the election.

### **19:25-11.5 Equal attribution requirements**

(a) A candidate who has established a candidate committee in an election and is also participating in a joint candidates committee in that election may not receive contributions to those committees from a contributor that in the aggregate exceed the applicable contribution limit set forth in N.J.A.C. 19:25-11.2.

(b) Each contribution received in an election by the joint candidates committee of a candidate who has also established a candidate committee in that election must be equally attributed to each of the candidates participating in the joint candidates committee, and the contribution limits in this subchapter must be applied to those participating candidates and to any candidate committee established by any of the participating candidates.

1. **Example:** The ABC joint candidates committee, consisting of Candidates A, B, and C, receives a contribution from an individual in the amount of \$16,500 in an election. For purposes of applying the contribution limits to the participating candidates and their individual candidate committees, the contribution must be equally attributed to each of the three participating candidates so that each is deemed to have received a contribution in the amount of \$5,500 in the election from the contributor. The sum of \$5,500 is the maximum amount an individual can contribute to a candidate in an election. Therefore, no further contributions can be made by the contributor in the election to the ABC joint candidates committee, or to any candidate committee established in the election by candidates A, B, or C.

2. **Example:** The ABC joint candidates committee receives a contribution of \$300.00 in an election from a contributor who has contributed \$5,500 in that election to an individual candidate committee established or maintained by candidate A. The sum of \$5,500 is the maximum amount an individual can contribute to a candidate committee in an election. Application of the equal attribution requirement set forth at (a) above would result in the attribution of \$100.00 to Candidate A of the total \$300.00 contribution to joint candidates committee ABC. Since the sum of the amount contributed to the candidate committee of A \$5,500, plus the attribution of \$100.00 of the \$300.00 contribution made to the ABC joint candidates committee, results in a total contribution from the contributor in the election of \$5,600 to Candidate A, the ABC joint candidates committee must refund the \$300.00 contribution to avoid receipt of an excessive contribution, or alternatively the candidate committee of A must refund \$100.00 in order that the total contribution from the contributor in the election does not exceed the \$5,500 per election contribution limit of candidate A.

#### **19:25-11.6 Public question political committees**

(a) A political committee which is organized to, or does, aid or promote the passage or defeat of a public question in an election, may accept a contribution from a contributor without limit, notwithstanding the contribution limits set forth in N.J.A.C. 19:25-11.2.

(b) A political committee which is organized to, or does, aid or promote the passage or defeat of a public question in an election, may make contributions without limit to another political committee, or to a continuing political committee.

#### **19:25-11.7 County political party contribution limits**

(a) In addition to the limits set forth at N.J.A.C. 19:25-11.2, a county political party committee shall not make a contribution, or aggregate contributions, in excess of \$17,300 in an election to a candidate committee established by a candidate seeking election for an office in another county.

(b) In addition to the limits set forth at N.J.A.C. 19:25-11.2, a county political party committee shall not make a contribution, or aggregate contributions, in excess of \$15,200 in a calendar year to a municipal political party committee in another county.

(c) In addition to the limits set forth at N.J.A.C. 19:25-11.2, a county political party committee may make contributions, or aggregate contributions, subject to the following limits:

1. To a candidate for State Legislature in a legislative district in which less than 20 percent of the legislative district's population resides in the county of the contributing county political party committee, a contribution not to exceed \$17,300 in the election; and
2. To a candidate for State Legislature in a legislative district in which at least 20 percent but less than 40 per cent of the legislative district's population resides in the county of the contributing county political party committee, a contribution not to exceed \$53,000 in the election.

#### **19:25-11.7A Limitations on contributions between county political party committees**

(a) In addition to any other applicable limit prescribed by law, between January 1 and June 30 of each year, a county committee of a political party shall not make a contribution to any other county committee of a political party, nor shall any such county committee accept a contribution from any other county committee during that time period.

(b) In addition to any other penalty provided by law, a county committee of a political party that willfully and intentionally violates this section, or willfully and intentionally makes a contribution to any candidate or committee with the intent, condition, understanding or belief that the candidate or committee has made or shall make a contribution to another county committee of a political party, shall be liable to a penalty equal to four times the amount of the contribution.

(c) For the purposes of this section, a county committee of a political party shall have willfully and intentionally made a contribution in violation of this section if that county committee of a political party fails to request in writing within 48 hours of making the contribution that the recipient county committee of a political party or candidate return the contribution.

(d) For the purposes of this section, a county committee of a political party shall have willfully and intentionally accepted a contribution in violation of this section if the recipient county committee of a political party fails to return the contribution within 48 hours of receipt to the candidate or county committee of a political party which made the contribution.

### **19:25-11.8 Return of excessive contributions**

(a) A candidate, candidate committee, joint candidates committee, political committee, continuing political committee, legislative leadership committee, or political party committee, or a treasurer or organizational treasurer of such a committee, who receives a contribution in an amount exceeding any contribution limit set forth in this subchapter, shall return that portion of the contribution which exceeds the contribution limit to the contributor within 48 hours of such receipt, and shall make and maintain a written record of the contribution containing the following:

1. The date the contribution was received;
2. The name and mailing address of the contributor;
3. If the contributor is an individual, the occupation of the individual and the name and mailing address of the individual's employer;
4. The amount of the contribution;
5. The amount of the contribution that exceeds the applicable contribution limit;
6. A photocopy of the check or written instrument received as a contribution; and
7. A photocopy of the refund check issued by the committee.

(b) A candidate, committee or treasurer who makes a refund pursuant to (a) above, shall report the refund transaction on the election fund or quarterly report required for the reporting period in which the refund was made.

(c) Failure to make a refund pursuant to (a) and (b) above may result in a finding of a knowing violation of the contribution limits set forth in this subchapter or the Act.

### **19:25-11.9 Contributions from affiliated corporations, associations or labor organizations**

(a) A corporation, association or labor organizations or any subsidiary, affiliate, branch, division, department or local unit of any such corporation, association or labor organization shall not make any contribution to or on behalf of a candidate, candidate committee, joint candidates committee, political committee, continuing political committee, political party committee, or legislative leadership committee which, when added to any other contribution by any related or affiliated corporation, association or labor organization, to the candidate, candidate committee, joint candidates committee, political committee, continuing political committee, political party committee, or legislative leadership committee exceeds in the aggregate the applicable contribution limit in N.J.A.C. 19:25-11.2(a). Whether such corporation, association or labor organization is related or affiliated shall depend on the circumstances existing at the time of such contribution, including, but not by way of limitation, the degree of control or common ownership with related or affiliated corporations, associations or labor organizations, the source and control of funds used for such contribution and the degree to which the decisions whether to contribute, to what candidate and in what amount are independent decisions.

(b) In considering the criteria set forth in (a) above, two or more corporations shall be conclusively deemed to be affiliated if:

1. Any individual, corporation, partnership, company, association, or other entity owns, directly or indirectly, more than a 30 percent interest in each of such corporations; or
2. One such corporation owns, directly or indirectly, more than a 30 percent interest in the other such corporation.

#### **19:25-11.10 Partnership contributions prohibited**

(a) A partnership entity as defined in (b) below shall not be permitted to make contributions as an entity. A contribution received by a campaign or organizational treasurer and made by means of a check or written instrument drawn on a partnership account shall be signed by a partner or partners and shall be deemed to be a contribution from the partner or partners who signed the check or written instrument by which the contribution was conveyed or, in the case of a contribution of currency, the partner who has conveyed the currency. If the check or written instrument is drawn on a partnership account and is signed by an individual other than a partner, or if it is the intent of the contributor that any portion of a contribution received from a partnership account is to be attributed or allocated to a partner or partners who have not signed the check or written instrument, or in the case of a currency contribution if the currency was conveyed by an individual who is not a partner, the following written information shall be received and maintained by the campaign or organizational treasurer:

1. Written instructions concerning the allocation of the contribution amount to a contributing partner, or among contributing partners;
2. A signed acknowledgment of the contribution from each contributing partner who has not signed the contribution check or other written instrument; and
3. Contributor information for each contributing partner as required by N.J.A.C. 19:25-7.1.

(b) For the purposes of this section, the term “partnership entity” means:

1. Any partnership or joint venture organized under or governed by Title 42 of the New Jersey Statutes, including general partnerships within the meaning of N.J.S.A. 42:1-1 et seq., limited liability partnerships organized pursuant to N.J.S.A. 42:1-45 et seq., limited partnerships organized pursuant to or governed by N.J.S.A. 42:2A-1 et seq., and limited partnership associations organized pursuant to N.J.S.A. 42:3-1 et seq.; and
2. Any similar association of two or more persons to carry on as co-owners a business for profit including, but not limited to, joint ventures, general partnerships, limited liability partnerships and limited partnerships organized or governed by corresponding laws of any other jurisdiction.

(c) A limited liability company organized pursuant to N.J.S.A. 42:2B-1 et seq., shall not be permitted to make contributions as an entity. A contribution received by a campaign or organizational treasurer drawn upon a limited liability company account and made by means of a check or written instrument drawn on the account of a limited liability company shall be signed by a member or members and shall be deemed to be a contribution from the member or members who signed the check or written instrument by which the contribution was conveyed or, in the case of the contribution of currency, the member who has conveyed the currency. If the check or written instrument is drawn on a limited liability company account and is signed by an individual other than a member, or if it is the intent of the contributor that any portion of a contribution received from a limited liability company account is to be attributed or allocated to a member or members who have not signed the check or written instrument, or in the case of a currency contribution, if the currency was conveyed by an individual who is not a member, the following written information shall be received and maintained by the campaign or organizational treasurer:

1. Written instructions concerning the allocation of the contribution amount to a contributing member, or among contributing members;
2. A signed acknowledgment of the contribution from each contributing member who has not signed the contribution check or other written instrument; and
3. Contributor information for each contributing member as required by N.J.A.C. 19:25-7.1.

(d) In the case of a partnership entity, as defined at (b) above, and in the case of a limited liability company, as described at (c) above, whose partners or members are making contributions by means of a check issued by the partnership entity or limited liability company to a continuing political committee that is established and controlled by the partners or members, provided that the partnership entity or limited liability company controls only a single continuing political committee, the requirement to obtain a signed acknowledgment from each contributing partner or member shall be satisfied if the check from the partnership entity or limited liability company is accompanied by a list of the names of all contributing partners or members and a certification from an authorized partner or member or other authorized individual identifying any partner or member whose contributions to the continuing political committee in the calendar year exceed \$200.00 in the aggregate.

(e) A contribution received by an organizational treasurer or campaign treasurer from a contributing partner or member by means of a check drawn on the account of a partnership entity, as defined in (b) above, or a limited liability company, as described in (c) above, shall be reported pursuant to N.J.A.C. 19:25-8.6, 8.9, 9.3, 10.2 and 10.3.

#### **19:25-11.11 Contributions received from out-of-State candidates and committees**

(a) A contribution received from an organization or entity that is filing campaign finance reports with the Federal Election Commission, or filing campaign finance reports in another state, and is not filing reports with the Commission, shall be received by a New Jersey candidate, candidate committee, joint candidates committee, political committee, continuing political committee, legislative leadership committee, or political party committee as a contribution from

an association or group, and such contribution shall be subject to the contribution limit applicable to an association or group.

(b) A contribution received from a candidate committee of a candidate for Federal elected office, or for elected office in another state, shall be received by a New Jersey candidate, candidate committee, joint candidates committee, political committee, continuing political committee, legislative leadership committee, or political party committee as a contribution from an association or group, and such contribution shall be subject to the contribution limit applicable to an association or group.

(c) A contribution received from the personal funds of an individual who is a candidate for elected Federal office, or a candidate for elected office in another state, shall be received by a New Jersey candidate, candidate committee, joint candidates committee, political committee, continuing political committee, legislative leadership committee, or political party committee as a contribution from an individual, and such contribution shall be subject to the contribution limit applicable to an individual.

#### **19:25-11.12 Contribution received for a recount or election contest**

A contribution received by a candidate, candidate committee or joint candidates committee during the pendency of a recount of votes for an office in an election, pursuant to N.J.S.A. 19:28-1 et seq., or for an election contest for an office in an election, pursuant to N.J.S.A. 19:29-1 et seq., shall be subject to the contribution limits applicable in the election that is the subject of the recount or election contest.

#### **19:25-11.13 Contribution from an estate**

A contribution received by a candidate, candidate committee, joint candidates committee, political committee, continuing political committee, political party committee or legislative leadership committee by means of a check drawn on the account of an estate shall be deemed to be a contribution from the decedent, and shall be subject to the contribution limit applicable to an individual, if the estate has been admitted to probate and if the will of the decedent provides a specific bequest authorizing the contribution to the recipient candidate or committee. In the absence of a specific bequest authorizing the contribution from an estate to the recipient candidate or committee, or if the estate has not been admitted to probate, a candidate, candidate committee, joint candidates committee, political committee, continuing political committee, political party committee or legislative leadership committee shall not deposit or otherwise accept a contribution from the account of an estate.

#### **19:25-11.14 Solicitation and making of contributions on State property prohibited**

(a) For the purposes of this section, the terms "contribution," "candidate," "candidate committee" and "joint candidates committee," shall have the meanings prescribed for those terms in the Act and at N.J.A.C. 19:25-1.7; and the term "property" means buildings used for the discharge of official government functions, business, duties or purposes.



(b) No candidate for nomination for or for election to the offices of Governor and of Lieutenant Governor, or for nomination for or for election to the office of member of the Legislature, or any holder of that elective public office, or their agent or representative, while located on any property exclusively owned or leased by the State, or any agency of the State, shall, directly or indirectly, solicit any contribution to or on behalf of any candidate for nomination for or for election to the offices of Governor and of Lieutenant Governor, or for nomination for or for election to the office of member of the Senate or General Assembly, or any candidate for another elective public office held or sought by a candidate for or holder of the office of member of the Legislature, or the candidate committee or joint candidates committee of any such candidate.

(c) The provisions of this section shall not apply to any casual or inadvertent communication otherwise made in connection with, but without intent to solicit, such a contribution.

(d) No person, while located on any property exclusively owned or leased by the State, or any agency of the State, shall, directly or indirectly, make any contribution to or on behalf of any candidate for nomination for or for election to the offices of Governor and of Lieutenant Governor, or for nomination for or for election to the office of member of the Senate or General Assembly, or any candidate for another elective public office held or sought by a candidate for or holder of the office of member of the Legislature, or the candidate committee or joint candidates committee of any such candidate.

(e) Any candidate for nomination for or for election to the offices of Governor and of Lieutenant Governor, or for nomination for or for election to the office of member of the Legislature or any holder of that elective public office, or their agent or representative, or any person, who is determined by the Commission to have violated this section shall be liable to a penalty of not less than \$5,000 for each violation, which penalty may be recovered by a summary proceeding pursuant to the "Penalty Enforcement Law of 1999" (P.L. 1999, c. 274).

(f) In the event property exclusively owned or leased by the State, or any agency of the State, or part thereof, is made available, through rent, reservation or otherwise, for the exclusive use of any group for a non-governmental purpose as a meeting location, the prohibition in (b) above shall not apply, and the solicitation or making of contributions or funds of any nature from any or among or by the members of the group during the time the group is using the property made available as a meeting location is permitted.

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## **SUBCHAPTER 12. REPORTING OF EXPENDITURES; INDEPENDENT EXPENDITURES**

### **19:25-12.1 General provisions**

(a) An expenditure made by a candidate, candidate committee, joint candidates committee or political committee shall be reported as provided by N.J.A.C. 19:25-8, and as provided by this subchapter.

(b) An expenditure made by a continuing political committee, political party committee, or legislative leadership committee shall be reported as provided in N.J.A.C. 19:25-9, and as provided by this subchapter.

### **19:25-12.2 Expenditure reporting**

(a) An expenditure shall be reported by providing the following information:

1. The date the expenditure was made;
2. The full name and address of the payee;
3. The purpose of the expenditure;
4. The amount of the expenditure; and
5. The number of the check.

(b) In describing the purpose of an expenditure pursuant to (a)3 above, the specific election-related reason for the expenditure shall be provided. Descriptions, such as "operations," "campaign expense," "petty cash," or "reimbursement" do not satisfy the reporting requirement because they do not provide any specific election-related information. Examples of satisfactory descriptions include such information as "newspaper advertising," "telephone-cell phones," "postage," "printing," "office rental," and similarly specific items.

(c) If a candidate committee, joint candidates committee, political committee, continuing political committee, political party committee, or a legislative leadership committee has established and is using more than a single campaign or depository account, its expenditures shall be reported on a separate schedule for each depository account, and each schedule shall state the name and number of the depository account from which the expenditures were made.

### **19:25-12.3 Written notification of a coordinated expenditure**

(a) Whenever a candidate committee, joint candidates committee, political committee, continuing political committee, political party committee or a legislative leadership committee makes or authorizes an expenditure on behalf of a candidate with the cooperation or prior consent of that candidate, or in consultation with or at the request or suggestion of that candidate, or of any person acting on behalf of that candidate, the committee shall provide immediate written notification to that candidate's candidate committee of the expenditure.

(b) When an individual seeking political party office makes or authorizes an expenditure on behalf of a candidate with the cooperation or prior consent of that candidate, or in consultation with or at the request or suggestion of that candidate, or of any person acting on behalf of that candidate, the individual shall provide immediate written notification to the candidate's candidate committee of the expenditure.

(c) "Immediate written notification" for the purposes of this section shall mean written notice delivered to the candidate or the candidate's candidate committee or joint candidates committee within 48 hours of the making or authorizing of the expenditure, which notice shall contain:

1. The date of the making or authorizing of the expenditure;
2. The name and address of the payee;
3. The purpose of the expenditure; and
4. The amount of the expenditure.

(d) "Expenditure on behalf of a candidate" for the purposes of this section shall mean an expenditure made to a payee or recipient other than that candidate's candidate committee or joint candidates committee and made for the purpose of aiding or promoting the candidate's candidacy, such as the purchase from a vendor of brochures advocating the candidate's election (commonly described as "in-kind contributions"). A contribution made directly to a candidate committee or joint candidates committee is not included in the meaning of "expenditure on behalf of a candidate."

### **19:25-12.4 Expenditures made by credit card**

(a) If an expenditure is authorized by a candidate committee, joint candidates committee, political committee, continuing political committee, political party committee or legislative leadership committee to be made by use of or by a charge against a credit card account that was not established in the name of that candidate committee, joint candidates committee, political committee, continuing political committee, political party committee or legislative leadership committee, the person or entity owning the credit card and who is liable for any debt charged against that credit card account shall be deemed to have made a loan to that committee subject to

reporting as a loan in the amount charged until such time as the committee reimburses that person or entity for that amount.

(b) Whenever a committee pursuant to (a) above makes an expenditure to reimburse a person or entity for a charge made against that person's or entity's credit card account, that committee shall report the following information for each such charge:

1. The exact name or title of the person or entity owning the credit card account, and the name of the lending institution that issued the card;
2. The name and address of the vendor from whom the purchase was made;
3. The date of the purchase;
4. A description pursuant to N.J.A.C. 19:25-12.2(b) of the purpose of the purchase, including a specific itemization of the goods or services acquired;
5. The amount of the purchase; and
6. The name of the payee, and the number, date and amount of the reimbursement check.

(c) For the purposes of this section, the term "reimbursement" shall include an expenditure made payable to either the person or entity owning the credit card account and who is liable for any debt charged against that credit card account or an expenditure made payable to the issuer of the credit card account.

(d) A candidate committee, joint candidates committee, political committee, continuing political committee, political party committee, or legislative leadership committee that makes an expenditure to pay for goods or services using a credit card account that is owned by and issued in the name of the candidate committee, joint candidates committee, political committee, continuing political committee, political party committee, or legislative leadership committee, shall report the following information:

1. The name and address of the lending institution that issued the credit card account;
2. The check number, payment date, and amount of the expenditure paid to the issuer of the credit card; and,
3. For each purchase itemized on the statement issued for the credit card account, the name and address of the vendor, the date and amount of the purchase, and a description pursuant to N.J.A.C. 19:25-12.2(b) of the purpose of the purchase, including a specific itemization of the goods or services acquired.

(e) A candidate committee, joint candidates committee, or political committee shall report to the Commission on its election fund report as an outstanding obligation any amount owed on a credit card account issued to the candidate committee, joint candidates committee, or political committee, pursuant to (d) above, which amount remains unpaid on the final date of an election fund report period.

(f) A continuing political committee, political party committee, or legislative leadership committee shall report to the Commission on its quarterly report as an outstanding obligation any amount owed on a credit card account issued to the continuing political committee, political party committee, or legislative leadership committee, pursuant to (d) above, which amount remains unpaid on the final date of a quarterly report period.

(g) Payment by use of credit card reported pursuant to (a) and (d) above shall not be deemed to be in violation of N.J.S.A. 19:44A-11, requiring campaign expenditures to be made through the campaign or organizational treasurer.

#### **19:25-12.4A Expenditures made by debit card**

A debit card that is owned by and issued in the name of a candidate committee, joint candidates committee, political committee, continuing political committee, political party committee or legislative leadership committee, may be used to make an expenditure provided that the debit card draws against funds in a campaign or organizational depository. A debit card expenditure transaction shall be reported by providing the following information:

1. The name and address of the vendor from whom the purchase was made;
2. The date of the purchase;
3. A description pursuant to N.J.A.C. 19:25-12.2(b) of the purpose of the purchase, including a specific itemization of the goods or services acquired;
4. The amount of the purchase; and,
5. The use of the term "debit card" on reports filed with the Commission in place of a check number for the transaction.

#### **19:25-12.5 Expenditures by currency; petty cash fund**

Payment of expenditures by currency is permissible if the payment is made from proceeds of a petty cash fund established pursuant to N.J.A.C. 19:25-6.4(b).

#### **19:25-12.6 Payments to individuals; "street money"**

(a) Any payment by a candidate, candidate committee, joint candidates committee, political committee, continuing political committee, political party committee or legislative leadership committee to an individual which is related to efforts by or on behalf of a candidate, candidate committee, joint candidates committee, political committee, continuing political

committee, political party committee or legislative leadership committee in aid of or to promote a candidate in an election or the passage or defeat of a public question, or to efforts directly to promote or encourage the participation of voters in an election including, but not limited to, get-out-the-vote efforts, poll watching and challenging, (hereafter referred to as "street money"), shall be made by check issued from the depository account of the candidate or committee making the payment and shall be payable to such named individual.

(b) Any payment by a candidate, candidate committee, joint candidates committee, political committee, continuing political committee, political party committee or legislative leadership committee to any vendor, group, association or other entity made for the purpose of providing funds for further distribution to an individual or individuals as "street money" as described in (a) above shall be made by check issued from the depository account of the candidate or committee making the payment and shall be payable to such vendor, group, association or other entity. A candidate or committee making any payment pursuant to this subsection shall, in addition to the information required by (d) below, report the name and address of each individual receiving any payment as "street money" from the vendor, group, association or other entity, and shall report the date the individual received the payment, and the amount of the payment.

(c) Payment in the form of currency for any of the purposes described in (a) and (b) above is prohibited.

(d) A payment or expenditure made for the purposes described in (a) or (b) above shall be reported by including the following information:

1. The date the expenditure was made;
2. The check number;
3. The name and address of any recipient, who shall be the payee;
4. The purpose of the expenditure, including itemization of the specific services provided by the individual-payee; and,
5. The amount of the expenditure.

### **19:25-12.7 Independent expenditures**

(a) An expenditure by a candidate committee, joint candidates committee, political committee, continuing political committee, political party committee, legislative leadership committee, or independent expenditure committee that is not coordinated with a candidate or political party, or any person or committee acting on behalf of a candidate or political party, for the purpose of expressly advocating the election or defeat of a clearly identified candidate, or expressly advocating the passage or defeat of a public question, or such an expenditure that amounts to the functional equivalent of express advocacy, is an independent expenditure.

(b) An expenditure by a person from the person's own funds of more than \$300.00 in an election that is not coordinated with a candidate or political party, or any person or committee acting on behalf of a candidate or political party, for the purpose of expressly advocating the election or defeat of a clearly identified candidate, or expressly advocating the passage or defeat of a public question, or such an expenditure that amounts to the functional equivalent of express advocacy, is an independent expenditure.

(c) The functional equivalent of express advocacy means that a communication can only be interpreted by a reasonable person as advocating the election or defeat of a candidate or the passage or defeat of a public question or referendum, which shall be determined by considering the following:

1. Whether the communication mentions a candidate and discusses the candidate's character, qualifications, fitness for office, or position on an issue; or
2. Whether the communication mentions a public question or referendum and discusses its merits or lack of merits.

(d) A communication that is paid for by means of an independent expenditure pursuant to (a) or (b) above shall include the political identification information required pursuant to N.J.A.C. 19:25-13.

#### 19:25-12.7A Coordinated communication expenditures

(a) An expenditure for a communication is coordinated with a candidate or a political party and, therefore, not an independent expenditure; if the candidate, political party, candidate committee, or any staff member or agent of the candidate, political party, or candidate committee:

1. Cooperated with, consented to, authorized, or exercised control over production or circulation of the communication;
2. Requested or suggested the making of the expenditure;
3. Provided information to the person or entity making the expenditure regarding the content, timing, location, mode, intended audience, distribution, or placement;
4. Discussed or negotiated with the purchaser, creator, producer, or distributor of the communication concerning content, timing, location, mode, intended audience, distribution, or placement;
5. Shared information or held discussions on campaign or media strategy with the person or entity making the expenditure or with the purchaser, creator, producer, or distributor; or



6. Shared its polling or other research with the person or entity making the expenditure.

(b) A coordinated communication expenditure that is a political communication pursuant to N.J.A.C. 19:25-10.10 is a contribution to the recipient candidate or committee and is subject to contribution limits.

### **19:25-12.8 Reporting of independent expenditures**

(a) An independent expenditure, as defined in N.J.A.C. 19:25-12.7(a), made by a candidate committee, joint candidates committee, political committee, continuing political committee, political party committee or legislative leadership committee shall be subject to the reporting requirements of the Act and this chapter.

(b) An independent expenditure made by an independent expenditure committee shall be reported as set forth at N.J.A.C. 19:25-8A.

(c) An independent expenditure, as defined at N.J.A.C. 19:25-12.7(b), made by a person from the person's own funds, shall be reported on the dates established for filing as a political committee set forth at N.J.A.C. 19:25-8, on a form prescribed by the Commission which shall contain the following information:

1. The name and mailing address of the person making the independent expenditure;
2. If the person is an individual, the occupation of the individual and the name and mailing address of the individual's employer; and
3. An itemization of the expenditures, including the dates the expenditures were made, the names and addresses of the payees, the amount of each expenditure, and the total amount expended.

### **19:25-12.8A Independent expenditures made immediately before an election**

(a) A person who makes an independent expenditure in an amount in excess of \$300.00, as defined at N.J.A.C. 19:25-12.7(b), from the person's own funds during the period of time between the 13th day prior to an election and the date of the election, shall file a notice (Form IND) of the expenditure with the Commission, which notice shall include the following:

1. The name and mailing address of the person making the independent expenditure;
2. If the person is an individual, the occupation of the individual and the name and mailing address of the individual's employer; and

3. An itemization of the expenditures, including the dates the expenditures were made, the names and addresses of the payees, the amount of each expenditure, and the total amount expended.

(b) The notice described at (a) above shall be filed with the Commission:

1. Within 72 hours of the making, authorizing, or incurring of the expenditure, if the expenditure is made, authorized, or incurred on or after the 13<sup>th</sup> day prior to the election up to and including the eighth day prior to the election; or
2. Within 24 hours of the making, authorizing, or incurring of the expenditure, if the expenditure is made, authorized, or incurred on or after the seventh day prior to the election up to and including the date of the election.

### **19:25-12.9 Expenditures for an inaugural or other election related event**

(a) Funds expended by a candidate, candidate committee or joint candidates committee for the purpose of paying for an inaugural or swearing-in celebratory event of a candidate, or other election related event, shall be reported by the recipient candidate or committee as expenditures and are subject to the requirements of the Act and this chapter.

(b) Funds expended by a gubernatorial candidate for the purpose of paying for an inaugural event are subject to the provisions of N.J.A.C. 19:25-15.

### **19:25-12.10 Allocation**

(a) Where an expenditure is made on behalf of two or more candidates, the expenditure must be allocated between or among such candidates in a reasonable manner so as to fairly reflect the relative value to each of the candidates of such expenditure. The initial allocation should be made by the committee or candidates on a reasonable basis, and in advance of the expenditure where possible. All documents and financial records relating to the allocation and the expenditure should be retained:

**Example:** A municipal political party committee is expending \$100.00 for the purchase of a quantity of bumper stickers containing the slogan "Vote for Candidates A and B". The committee determines that the stickers are of equal value to each of the candidates. Thus, \$50.00 of the expenditure should be allocated to Candidate A and \$50.00 should be allocated to Candidate B. Financial records and a record of the facts on which the allocation is based must be retained.

### **19:25-12.11 Expenditures for a recount or election contest**

An expenditure made by a candidate, candidate committee or joint candidates committee for a recount of votes for an office in an election, pursuant to N.J.S.A. 19:28-1 et seq., or for an office in an election contest proceeding in an election, pursuant to N.J.S.A. 19:29-1 et seq., shall

be an expenditure subject to reporting for that office in the election that is the subject of the recount or election contest.

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## **SUBCHAPTER 13. POLITICAL IDENTIFICATION STATEMENTS**

### **19:25-13.1 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.

"Communication" means a press release, pamphlet, flyer, form letter, sign, billboard, or paid advertisement printed in any newspaper or other publication or broadcast on radio or television, or telephone call featuring a recorded message, or delivered or accessed by electronic means, including, but not limited to, the Internet or text messaging, or any other form of advertising directed to the electorate.

### **19:25-13.2 Political identification requirements**

(a) Whenever a candidate committee, joint candidates committee, political committee, continuing political committee, political party committee, legislative leadership committee, or a person or group making independent expenditures pursuant to N.J.A.C. 19:25-12.8, makes, incurs or authorizes an expenditure for the purpose of financing a communication aiding or promoting the nomination, election or defeat of any candidate which is an expenditure that the committee, person or group is required to report pursuant to the Act, the communication shall clearly state the name and business or residence address of the committee, person or group, as that information appears on the certificate of organization and designation of depository (Form D-1, D-2, PC, D-4, D-3, D-5, respectively) filed by the candidate committee, joint candidates committee, political committee, continuing political committee, political party committee, or legislative leadership committee or, in the case of a person or group, as the name of the person or group and business or residence address appears in public records or a current telephone directory, and the communication shall clearly state that the communication has been paid for by that committee, person or group.

(b) Whenever a candidate committee, joint candidates committee, political committee, continuing political committee, political party committee, legislative leadership committee, or a person or group making independent expenditures pursuant to N.J.A.C. 19:25-12.8, makes, incurs or authorizes an expenditure for the purpose of financing a communication aiding the passage or defeat of any public question which is an expenditure that the committee, person or group is required to report pursuant to the Act, the communication shall clearly state the name and business or residence address of the committee, person or group, as that information appears on the certificate of organization and designation of depository (Form D-1, D-2, PC, D-4, D-3, D-5, respectively) filed by the candidate committee, joint candidates committee, political committee, continuing political committee, political party committee, or legislative leadership committee or, in the case of a person or group, as the name of the person or group and business or residence address appears in public records or a current telephone directory, and the communication shall clearly state that the communication has been paid for by that committee, person or group.

(c) A candidate committee, joint candidates committee, political committee, continuing political committee, political party committee or legislative leadership committee filing certified statements pursuant to N.J.A.C. 19:25-8.4 or 9.3 and therefore not required to report expenditures or a school board or write-in candidate not required to file certified statements pursuant to N.J.A.C. 19:25-8.4(d) is nevertheless required within any communication paid for by it, or to be paid for by it, to clearly state the name and address of the committee, as that information appears on the Form D-1 filed or required to be filed by the candidate committee, Form D-2 filed or required to be filed by the joint candidates committee, or Form D-3, filed or required to be filed by the political committee, continuing political committee, political party committee, legislative leadership committee, and that the communication has been paid for by that committee.

### **19:25-13.2A Independent expenditure committee political identification requirements**

(a) Each independent expenditure by an independent expenditure committee, including an independent expenditure that is an electioneering communication, shall state that the communication has been paid for by an independent expenditure committee. Such statement shall also include the name and address of the independent expenditure committee, as that information appears on the certificate of organization and designation of depository (Form D-6) and a clear and conspicuous statement that the expenditure was not made with the cooperation or prior consent of, or in consultation with, or at the request or suggestion of, any candidate, any person, or committee acting on behalf of any candidate, or any political party committee.

(b) Independent expenditures, including independent expenditures that are electioneering communications, by an entity organizing as an independent expenditure committee prior to filing Form D-6 shall be subject to the political identification requirements at (a) above.

### **19:25-13.3 Independent expenditure communications by other entities**

A communication that is paid for by any person, not acting in concert with a candidate or any person or committee acting on behalf of a candidate, that is, is paid for as an independent expenditure pursuant to N.J.A.C. 19:25-12.7, shall, in addition to the political identification statement required by this subchapter contain a clear and conspicuous statement that the expenditure was not made with the cooperation or prior consent of, or in consultation with or at the request or suggestion of, any candidate, or any person or committee acting on behalf of any candidate.

### **19:25-13.4 Vendor records**

(a) Any person who accepts compensation from a committee, group, or individual described at N.J.A.C. 19:25-13.2 or 13.2A for the purpose of printing, broadcasting, or otherwise disseminating to the electorate a communication subject to political identification statement requirements shall maintain a record of the transaction, which record shall include:

1. An exact copy of the communication;

2. A statement of the number of copies made or the dates and times the communication was broadcast or otherwise transmitted; and
3. The name and address of the committee, group or individual paying for the communication and of the candidate or committee, if any, on whose behalf the individual was acting.

(b) The record shall be maintained on file at the principal office of the person accepting the communication for at least two years, and shall be available for public inspection during normal business hours.

### **19:25-13.5 Exemptions**

(a) The following shall be exempt from the political identification requirements in this subchapter:

1. A bona fide news item or editorial contained in any publication of bona fide general circulation;
2. Small, tangible items of de minimis value commonly used in election campaigns to convey a political message, including, but not limited to, buttons, combs, and nail files; and
3. Advertising space costing no more than \$50.00 and purchased by a candidate committee, joint candidates committee, political committee, continuing political committee, political party committee, legislative leadership committee or other person, in a political program book distributed at a fund-raising event, provided that the payment for the advertising space is subject to reporting under the Act.

(b) An exemption with respect to any item listed in (a)2 or 3 above shall not relieve the committee, group or individual making the expenditure for such item from any applicable campaign reporting requirements under the Act.

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## **SUBCHAPTER 14. RECALL ELECTIONS**

### **19:25-14.1 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.

"Campaign Reporting Act" means the New Jersey Campaign Contributions and Expenditures Reporting Act, Laws of 1973, chapter 83, as amended, N.J.S.A. 19:44A-1 et seq.

"Circulator" means an individual, whether paid or unpaid, who solicits signatures for a recall petition.

"Elected official" means any person holding the office of United States Senator or member of the United States House of Representatives elected from this State, or any person holding a State or local government office which, under the State Constitution or by law, is filled by the registered voters of a jurisdiction at an election, including a person appointed, selected or otherwise designated to fill a vacancy in such office, but does not mean an official of a political party.

"File" or "filed" means deposited in the office of the Commission designated in N.J.A.C. 19:25-2.1.

"Jurisdiction" means the electoral jurisdiction, including but not limited to the State, or any county or municipality thereof, within which the voters reside who are qualified to vote for an elected official who is sought to be recalled.

"Notice of intention" means the notice filed with the recall election official by a recall committee for the purpose of initiating a recall effort.

"Recall committee" means a committee formed by persons sponsoring the recall of an elected official which represents the sponsors and signers of a recall petition in matters relating to the recall effort.

"Recall election" means an election held for the purpose of allowing the voters of a jurisdiction to decide whether an elected official shall be recalled from office.

"Recall election official" means the official authorized by law to receive nominating petitions for an elective office, except that with respect to the recall of the county clerk, it means the Secretary of State.

"Recall petition" means a petition prepared and circulated by a recall committee as provided by the Recall Act for the purpose of gathering a sufficient number of valid signatures of registered voters to cause a recall election to be called.

"Sponsors" means the proponents of a recall effort who establish a recall committee.

"Recall Act" means the Uniform Recall Election Law, Laws of 1995, chapter 105, N.J.S.A. 19:27A-1 et seq.

#### **19:25-14.2 Recall committee subject to candidate committee requirements; penalties**

(a) A recall committee established under the Recall Act shall be treated as and shall be subject to the same organizational, reporting, contribution limit, political communication identification and other requirements as are provided for a candidate committee in the Campaign Reporting Act and the regulations promulgated pursuant to it, except as otherwise provided in this chapter.

(b) A recall committee shall be subject to the penalties provided in the Campaign Reporting Act for a candidate committee.

#### **19:25-14.3 Commencement of fundraising by recall committee**

(a) A recall committee shall not solicit or accept contributions in connection with a recall effort until either of the following events occur:

1. The recall committee serves written notice of the recall effort on the official sought to be recalled, and such notice is made by personal service or certified mail with a copy filed with the recall election official; or,
2. A copy of a notice of intention approved by the recall election official is served on the official sought to be recalled, as provided by N.J.S.A. 19:27A-7b (Subsection b. of Section 7 of Chapter 105 of the Laws of 1995).

(b) If a recall committee notifies an official sought to be recalled of its intention to initiate a recall effort by the method described in paragraph 1 of subsection (a) above, it must file a notice of intention within 30 days of the date the notice is served on the official or cease the solicitation, acceptance and expenditure of funds.

#### **19:25-14.4 Recall committee depository and filing requirements**

(a) A recall committee shall appoint a treasurer and open a depository account for the purpose of receiving contributions and making expenditures no later than the date on which that recall committee first receives any contribution or makes or incurs any expenditure in connection with a recall effort.

(b) No later than 10 days after establishing a recall committee, the recall committee shall file a designation of campaign depository and treasurer (Form RC-1) which shall be certified as true and correct by the chairperson and treasurer of the recall committee, and shall contain the following information:

1. The full name of the recall committee, which name must contain the name of the elected official sought to be recalled;

2. The name, mailing address and telephone number of the person appointed as chairperson;
3. The name, mailing and resident address and telephone number of the person appointed as treasurer;
4. The name, mailing address and telephone number of the bank at which the campaign depository has been established, the account name and number, and the names, mailing addresses and telephone numbers of all persons authorized to sign checks or otherwise make transactions.

(c) A recall committee shall file its initial election fund report certified as true and correct by the chairperson and treasurer no later than on the first date established for candidate committee reports by N.J.A.C. 19:25-8.3(b) falling after the date of the establishment of the recall committee depository.

(d) A recall committee shall continue to file election fund reports certified as true and correct by the chairperson and treasurer on the dates set forth in N.J.A.C. 19:25-8.1 and following for candidate committee reports, provided that in no event shall more than three months elapse between the last day of a period covered by one such report and the last day of the period covered by the next such report.

(e) There shall be no obligation to file the election fund reports referred to at (c) and (d) above on behalf of any recall committee that files no later than on the first date established for candidate committee reports pursuant to N.J.A.C. 19:25-8.3(b) falling after the date of the establishment of the recall committee depository, or no later than the 29th day before the recall election, whichever is earlier, a certified statement to the effect that the total amount expended or to be expended on behalf of the recall committee in the recall election shall not in the aggregate exceed \$6,900.

#### **19:25-14.5 Registration statement**

(a) A recall committee shall file a recall committee registration statement (Form RC-2) no later than 10 days after its establishment, and the registration statement shall include the following:

1. The complete name or identifying title of the committee and the general category of entity or entities, including but not limited to business organizations, labor organizations, professional or trade associations, candidates for or holders of public offices, political parties, ideological groups or civic associations, the interests of which are shared by the leadership, members, or financial supporters of the committee;
2. The mailing address of the committee and the name and resident address of a resident of this State who shall have been designated by the committee as its agent to accept service of process; and

3. A descriptive statement prepared by the organizers or officers of the committee that identifies the following:
  - i. The names and mailing addresses of the persons having control over the affairs of the committee, including but not limited to persons in whose name or at whose direction or suggestion the committee solicits funds;
  - ii. The name and mailing address of any person not included among the persons identified under subparagraph i. of this paragraph who, directly or through an agent, participated in the initial organization of the committee;
  - iii. In the case of any person identified in subparagraphs i. or ii. above who is an individual, the occupation of that individual, the individual's home address, and the name and mailing address of the individual's employer, or, in the case of any person identified in subparagraphs i. and ii. which is a corporation, partnership, unincorporated association, or other organization, the name and mailing address of the organization;
4. Information material to the economic, political and other particular interests and objectives which the committee has been organized to or does advance. Any change in the information required in this paragraph shall be filed in writing with the Commission within three days of that change.

#### **19:25-14.6 Recall committee use restrictions**

- (a) All contributions received by a recall committee shall be used only for the following:
  1. The payment of campaign expenses incurred in the course of and directly related to the committee's effort to promote the recall or the passage of the question of recall at the recall election;
  2. The payment of the overhead and administrative expenses related to the operation of the committee; or
  3. The pro-rata repayment of contributors.

#### **19:25-14.7 Establishment of recall defense committee; subject to candidate committee requirements; penalties**

- (a) A recall defense committee shall not be formed and shall not solicit or accept contributions in connection with a recall effort until the elected official sought to be recalled receives notice of the recall effort pursuant to N.J.A.C. 19:25-14.3(a).

(b) An elected official sought to be recalled shall establish, prior to receiving contributions and making expenditures for the purpose of opposing a recall effort, a recall defense committee pursuant to the Recall Act, which recall defense committee shall be separate from, but shall be treated as and subject to the same organizational, reporting, contribution limit, political communication identification and other requirements as those existing for a candidate committee provided in the Campaign Reporting Act and regulations promulgated pursuant to it, except that a recall defense committee shall be permitted to receive without limit contributions from the candidate committee or joint candidates committee of the elected official sought to be recalled.

(c) A recall defense committee, for all purposes relating to campaign finance, shall be in addition to any candidate committee or joint candidates committee which an official sought to be recalled may by law establish.

(d) If an elected official sought to be recalled transfers funds from the official's candidate committee or joint candidates committee to the official's recall defense committee, a new election cycle shall be deemed to begin with respect to the candidate committee or joint candidates committee after the recall election is held or the recall effort fails and such official shall be permitted to solicit and receive contributions thereto, including contributions from prior contributors, up to the limits imposed by the Campaign Reporting Act.

(e) A recall defense committee shall be subject to the penalties provided in the Campaign Reporting Act for a candidate committee.

#### **19:25-14.8 Recall defense committee depository and filing requirements**

(a) No later than the date on which a recall defense committee first receives any contribution or transfer of funds, or makes or incurs any expenditure, the recall defense committee shall open a depository account pursuant to N.J.A.C. 19:25-4.1.

(b) No later than 10 days after establishing a recall defense committee, the recall defense committee shall file a designation of campaign depository and treasurer (Form RC-1), which shall be certified as true and correct by the chairperson and treasurer of the recall defense committee, and shall contain the following information:

1. The full name of the recall defense committee, which name must contain the name of the elected official sought to be recalled;
2. The name, mailing address and telephone number of the person appointed as chairperson;
3. The name, mailing and resident address and telephone number of the person appointed as treasurer;

4. The name, mailing address and telephone number of the bank at which the campaign depository has been established, the account name and number, and the names, mailing addresses and telephone numbers of all persons authorized to sign checks or otherwise make transactions.

(c) A recall defense committee shall file its initial election fund report certified as true and correct by the chairperson and treasurer no later than on the first date established for candidate committee reports by N.J.A.C. 19:25-8.3(b) falling after the date of the establishment of the recall defense committee depository.

(d) A recall defense committee shall continue to file election fund reports certified as true and correct by the chairperson and treasurer on the dates set forth in N.J.A.C. 19:25-8.1 and following for candidate committee reports, provided that in no event shall more than three months elapse between the last day of a period covered by one such report and the last day of the period covered by the next such report.

(e) A recall defense committee shall be subject to the penalties provided in the Campaign Reporting Act for a candidate committee.

#### **19:25-14.9 Recall defense committee use restrictions**

(a) All contributions received by a recall defense committee shall be used only for the following:

1. The payment of campaign expenses incurred in the course of and directly related to the committee's effort to oppose the recall effort or the passage of the question of recall at the recall election;
2. The payment of the overhead and administrative expenses related to the operation of the committee; or
3. The pro-rata repayment of contributors.

#### **19:25-14.10 Requirements for a nominee to succeed elected official**

(a) Any nominee to succeed an elected official shall be treated as and shall be subject to the same organizational, reporting, contribution limit and other requirements for a candidate provided in the Campaign Reporting Act and the regulations promulgated pursuant to it, except as otherwise provided in this Chapter.

(b) A nominee to succeed an elected official shall be subject to the penalties provided in the Campaign Reporting Act for a candidate committee.

### **19:25-14.11 Limits applicable to Federal candidates**

(a) The limits on contributions established by 2 U.S.C. 441a shall apply to:

1. A Federal elected official sought to be recalled;
2. A candidate to succeed a Federal elected official; or
3. A recall committee seeking to recall a Federal elected official.

### **19:25-14.12 Public financing unavailable**

A Governor who is sought to be recalled shall not be entitled to public support or financing pursuant to N.J.S.A. 19:44A-27 et seq. for the purpose of opposing the recall effort.

### **19:25-14.13 Limit on contributions by a prior defeated candidate**

Contributions to a recall committee by a candidate committee or joint candidates committee of a candidate who was defeated by the official sought to be recalled at the last election for that office shall be subject to the limits on contributions established by the Campaign Reporting Act and this chapter.

### **19:25-14.14 Identification of paid circulator**

(a) If a solicitation for signatures to a recall petition is presented to prospective petition signers by a paid print advertisement or paid mailing, or if a recall petition is presented to a prospective signer by a paid circulator, the solicitation or petition, respectively, shall disclose prominently in a statement printed in at least 10-point type the following:

1. The full name and resident address of the person paying for the printed or personal solicitation; and
2. The fact that the circulator is paid.

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## **SUBCHAPTER 15. PUBLIC FINANCING; GENERAL ELECTIONS FOR THE OFFICES OF GOVERNOR AND OF LIEUTENANT GOVERNOR**

### **19:25-15.1 Scope of subchapter**

The provisions of this subchapter shall be applicable to the general election campaign for election to the office of Governor of New Jersey in November 1977 and every such gubernatorial campaign held thereafter, except that the provisions shall not apply to any general election campaign for the offices of Governor and of Lieutenant Governor for which the Legislature fails to make an appropriation for public funding.

### **19:25-15.2 Definitions; generally**

The words and terms used in this subchapter are used as defined herein or in N.J.A.C. 19:25-1.7.

### **19:25-15.3 Definitions**

The following words and terms, when used in this subchapter, shall have the following meanings unless the context clearly indicates otherwise.

"Candidate" means an individual who has filed a nominating petition, or has filed a form D-1 with the Commission, or has solicited contributions or made or incurred expenditures on behalf of the candidate's campaign, or has allowed others to solicit contributions or make or incur expenditures on behalf of the candidate's campaign for election to the office of Governor of New Jersey, or who has received funds or other benefits or has made payments solely for the purpose of determining whether or not the individual should become a candidate for the office of Governor of New Jersey in any general election for which the Legislature makes an appropriation for public funding. "Candidate" shall also mean an individual who is selected and certified pursuant to N.J.A.C. 19:25-15.4A who seeks election to the office of Lieutenant Governor.

"Contribution" is used as defined in N.J.A.C. 19:25-1.7 and includes loans, except that a loan in the ordinary course of business by a bank pursuant to N.J.S.A. 19:44A-44 is not a contribution by that bank.

"Contribution eligible for match" means contributions from one contributor to be matched from public funds on a two-for-one basis. No contribution, which must be, or is intended by the contributor or the recipient to be, refunded or repaid at any time, no loan obtained pursuant to N.J.S.A. 19:44A-44, no funds received from the housekeeping account of a State political party committee or county political party committee authorized pursuant to N.J.S.A. 19:44A-10.2, no amount of the candidate's own funds in the aggregate in excess of \$5,800, no in-kind contribution, and no other moneys received by the candidates for Governor and for Lieutenant Governor, their campaign treasurer, or deputy campaign treasurer, except those contributions described at N.J.S.A. 19:44A-29(a) shall be deemed contributions eligible for match.

"County committee" means the county committee of a political party established pursuant to N.J.S.A. 19:5-3.

"Debate sponsor" means the organization or organizations to which the Commission has delegated the responsibility for conducting one or both of the two televised interactive general election debates for candidates for the office of Governor or the one televised interactive general election debate for candidates for the office of Lieutenant Governor.

"Depository bank account" means the campaign bank account designated by a candidate pursuant to N.J.S.A. 19:44A-9 for the deposit pursuant to N.J.S.A. 19:44A-12 of funds received by the campaign treasurer.

"Gubernatorial candidate" means an individual seeking election to the office of Governor, an individual seeking election to the office of Lieutenant Governor, or both, for purposes of this subchapter, in a general election in which the office of Governor is to be filled.

"Gubernatorial inaugural fund-raising event" means any event or events held between the date of the general election for the offices of Governor and of Lieutenant Governor and 30 days after the date of the inauguration of the Governor and Lieutenant Governor, whether the event is sponsored by the inaugural committee, the State committee representing the party of the Governor-elect, or any other person or persons, and at which the Governor-elect or Lieutenant Governor-elect are prominent participants or for which solicitations of contributions include the name of the Governor-elect or Lieutenant Governor-elect in prominent display.

"Interactive general election debate" means the moderated reciprocal discussion of issues among the candidates for the office of Governor or among the candidates for the office of Lieutenant Governor, which involves responses by the candidates to questions posed by the representative or representatives of the sponsor organization.

"Matching fund account" means the campaign bank account or accounts opened pursuant to N.J.S.A. 19:44A-32 by a campaign treasurer of a candidate, or deputy campaign treasurer, in which only contributions eligible for match may be deposited.

"Municipal committee" means the municipal committee of a political party established pursuant to N.J.S.A. 19:5-2.

"Non-participating candidate" means any candidate who does not make application for public funding in a general election pursuant to N.J.A.C. 19:25-15.17, or who is not a "qualified candidate" as that term is defined in this section. In no case shall a candidate who qualified for and receives any public funding for a general election be subsequently deemed a non-participating candidate for that election.

"Own funds" means funds to which the candidate is legally and beneficially entitled, but shall not include funds as to which the candidate is a trustee or funds given or otherwise transferred to the candidate by any person other than the spouse of the candidate for use in aid of his or her candidacy.

"Person" includes an individual, a corporation, an association or a labor union. For purposes of this subchapter, person does not include a partnership. A spouse of any person is deemed to be a separate person.

"Public fund account" means the campaign bank account created by the Commission pursuant to N.J.A.C. 19:25-15.20 on behalf of qualified candidates and for the deposit of public matching funds.

"Qualified candidates" mean candidates for election to the offices of Governor and of Lieutenant Governor who have deposited and expended \$580,000 pursuant to N.J.S.A. 19:44A-32; and who, not later than September 1 preceding a general election in which the offices of Governor and of Lieutenant Governor are to be filled, apply to the Commission to receive public funds for gubernatorial campaign expenses; and who certify and file required reports regarding any issue advocacy organization involvement; and the candidate for election to office of Governor certifies their agreement to participate in two interactive general election debates and the candidate for election to the office of Lieutenant Governor certifies their agreement to participate in one interactive general election debate.

"State committee" means the State committee of a political party established pursuant to N.J.S.A. 19:5-4.

"State committee account" means the campaign bank account created by a State committee of a political party pursuant to N.J.S.A. 19:44A-29(d) on behalf of any candidate the committee intends to or does assist for election to the offices of Governor and of Lieutenant Governor in a general election, and in which only contributions eligible for match may be deposited and proceeds from any loan made by the State committee pursuant to N.J.S.A. 19:44A-44.

"Submission for matching funds" includes a list of all contributions received and all expenditures made or incurred, whether a qualified candidate or a non-participating candidate, filed for the purpose of receiving public funds for campaign expenses or for participation in the series of interactive debates.

#### **19:25-15.4 Appointment of treasurers and depositories**

(a) Each candidate for election to the office of Governor in a general election, whether or not intending to participate in public funding, shall on or before the first Monday following the date of the primary election for nomination for the office of Governor designate to the Commission the name and address of his or her candidate committee for the general election.

(b) Each candidate for election to the office of Governor in a general election, whether or not intending to participate in public funding, shall appoint a campaign treasurer and designate a depository bank account and shall notify the Commission pursuant to N.J.A.C. 19:25-4.1A of such appointment and designation no later than the 10th day after receipt of any contribution or after incurring or making any expenditure, whichever comes first.

(c) Upon the selection and certification of a candidate for election to the office of Lieutenant Governor pursuant to N.J.A.C. 19:25-15.5, the candidate for election to the office of Governor in a general election shall amend the designation in (a) above to include the candidate for the office of Lieutenant Governor by filing Form D-1G.

#### **19:25-15.4A Selection and certification of a candidate for election to the office of Lieutenant Governor in the general election**

(a) A candidate for election to the office of Lieutenant Governor shall be elected jointly with the candidate for election to the office of Governor of the same political party. The candidate of each political party for election to the office of Lieutenant Governor shall be selected by the candidate of that party nominated for election to the office of Governor within 30 days following the certification of the candidate for election to the office of Governor. In the event the 30th day occurs on a Saturday or Sunday, the selection shall be made as of the next succeeding business day. A candidate for the office of Lieutenant Governor shall be selected by a candidate who is seeking election to the office of Governor through direct nomination by petition within 30 days following the certification of the candidate for the office of Governor.

(b) Each candidate for election to the office of Governor shall immediately upon selection of the candidate for election to the office of Lieutenant Governor, file with the Secretary of State a statement, in a form required by the Secretary, signed by the candidate and certifying the name and address of the person the gubernatorial candidate selects as the candidate for the office of Lieutenant Governor.

#### **19:25-15.5 Gubernatorial candidate committee**

There shall be one candidate committee established jointly for the candidate for Governor and candidate for Lieutenant Governor, and the limits and thresholds in this subchapter shall be applied as if each gubernatorial committee is a single candidate committee.

#### **19:25-15.6 Contribution limits; applicability**

(a) No candidate for the office of Governor, whether or not intending to participate in public funding, no candidate for the office of Lieutenant Governor, and no campaign treasurer or deputy campaign treasurer of such candidates shall knowingly accept from any person, candidate committee, joint candidates committee, political committee, continuing political committee, or legislative leadership committee any contribution in aid of the candidacy of or on behalf of such candidates, jointly, in the aggregate in excess of \$5,800 in any general election.

(b) No State committee, and no campaign treasurer or deputy campaign treasurer of such State committee, shall knowingly accept from any person, candidate committee, joint candidates committee, political committee, continuing political committee, or legislative leadership committee any contribution in aid of the candidacies of, or on behalf of any candidates for the offices of Governor and of Lieutenant Governor, jointly, in the aggregate in excess of \$5,800 in any general election, whether or not such candidates intend to participate in public funding.

(c) Contributions from a joint account by one owner of the account shall not be attributed to other owners of the account.

#### **19:25-15.7 Separately maintained primary and general bank accounts**

(a) Any candidate may establish and designate to the Commission a depository bank account, and/or a matching fund account pursuant to N.J.A.C. 19:25-15.17(b), for a gubernatorial general election and may deposit contributions in such respective accounts at any time after designation. Such general election bank accounts may be established prior to the date of the primary election for nomination for the office of Governor, and prior to the conclusion of any such candidate's primary election campaign. However, if a candidate establishes general election bank accounts prior to or on the date of the primary election for the office of Governor, and such candidate is also a candidate in such primary election, no moneys deposited in such candidate's general election accounts may be transferred or expended until the day following such primary election and may not be expended at any time for primary election expenses.

(b) No candidate establishing bank accounts for the general election may deposit or transfer at any time into such accounts any contributions received on behalf of such candidate's primary election campaign.

(c) No moneys deposited in a candidate's campaign bank accounts for the primary election may be expended at any time for any general election expense of such candidate.

(d) The primary election campaign bank accounts of each candidate (that is, depository bank account, matching fund account and public fund account) shall be separate from the general election campaign bank accounts of such candidate and shall be separately designated in reports required to be filed under the Act. Funds in primary election campaign accounts shall not be commingled with funds in general election campaign accounts.

(e) An expenditure which was made from a candidate's primary election bank account and which is determined after the date of the primary election to be allocable in part to that candidate's general election candidacy shall be reimbursed to the candidate's primary election depository account, established pursuant to N.J.A.C. 19:25-16.4, with general election funds. In no case shall funds from a candidate's primary election public funds account established pursuant to N.J.A.C. 19:25-16.20 be used for any purpose attributable to the general election.

(f) Reimbursements pursuant to (e) above shall be limited strictly to reimbursements for ordinary office expenditures for such purposes as office, furniture, and equipment rental and insurance and salaries, and shall be made on a date after the date of the primary election.

#### **19:25-15.8 Return of contributions; certification**

(a) Any candidate in the general election who receives and deposits any contributions in such candidate's general election depository bank account or matching fund account on or prior to the date of the primary election for nomination to the office of Governor, and who is defeated at such primary election thereby terminating such candidate's general election campaign must

promptly return to each contributor any contribution received and deposited on behalf of such candidate's general election campaign.

(b) Any candidate who receives contributions as described at (a) above shall certify to the Commission on the next filed quarterly report after the primary election for nomination to the office of Governor showing each contributor's full name and full mailing address (number, street, city, state, zip code), the date of receipt of each contribution, the dollar amount of each contribution, the date and amount of each contribution returned by the candidate, and for each contributor who is an individual and whose aggregate contributions to the candidate in the general election exceed \$200.00, the occupation of the individual and the name and mailing address of the individual's employer. In the event a candidate is unable to return any contribution, or part thereof, for any reason, such candidate shall certify in such report the reasons for inability to return such contribution. In no event shall any such unreturned contribution be withdrawn by the candidate from the candidate's general election depository bank account until the Commission has approved of disposition of such unreturned contributions.

### **19:25-15.9 Candidates deemed non-participating; effect**

Any candidates for the offices of Governor and of Lieutenant Governor who do not, by September 1 preceding a general election in which the office of Governor is to be filled, jointly apply for public funding in a general election pursuant to N.J.A.C. 19:25-15.17, shall be deemed non-participating in public funding of that general election, and shall not receive public funds on their behalf.

### **19:25-15.10 Non-participating candidates**

(a) Non-participating candidates for the offices of Governor and of Lieutenant Governor are jointly subject to the \$5,800 limitation on contributions from a person, candidate committee, joint candidates committee, political committee, continuing political committee, or legislative leadership committee, pursuant to N.J.S.A. 19:44A-29.

(b) Non-participating candidates for the offices of Governor and of Lieutenant Governor are jointly subject to the \$5,800 limit on guarantors of bank loans, except if the guarantor is the non-participating candidate.

(c) Non-participating candidates for the offices of Governor and of Lieutenant Governor are not subject to:

1. The overall campaign expenditure limit contained in N.J.S.A. 19:44A-7;
2. The \$25,000 limit on own funds contained in N.J.S.A. 19:44A-29;
3. The \$50,000 limit on bank loans contained in N.J.S.A. 19:44A-44; and
4. Any limits on the amount of bank loans to be guaranteed by each candidate personally.

(d) A non-participating candidate who elects to participate in the series of interactive debates pursuant to the provisions of N.J.S.A. 19:44A-45, is subject to the same qualifying contribution and expenditure thresholds as participating candidates.

### **19:25-15.11 Limitations on participating candidates**

(a) Each candidate for the office of Governor and for the office of Lieutenant Governor intending to participate in public funding, in addition to any other requirement imposed by the Act or this subchapter, is subject to the following limitations:

1. No publicly funded candidate for the office of Governor may make expenditures from the candidate's own funds, including any contributions from the candidate's own funds, in aid of the candidate's campaign in excess of \$25,000. Any loan guaranteed with such candidate's own funds must be included in calculating the aggregate contribution of the candidate in aid of the candidate's campaign until such time as the loan is no longer outstanding.
2. No publicly funded candidate for the office of Lieutenant Governor may make expenditures from the candidate's own funds, including any contributions from the candidate's own funds, in aid of the candidate's campaign in excess of \$25,000. Any loan guaranteed with such candidate's own funds must be included in calculating the aggregate contribution of the candidate in aid of the candidate's campaign until such time as the loan is no longer outstanding.
3. No candidates for the offices of Governor and of Lieutenant Governor, or their campaign treasurer or deputy campaign treasurer, shall borrow an amount that at any one time exceeds \$50,000 in the aggregate for their campaign, and such loan must be repaid in full no later than 20 days prior to the general election for which the loan was made from moneys accepted or allocated pursuant to N.J.S.A. 19:44A-29. Certification of such repayment shall be made by the borrower to the Commission in accordance with N.J.A.C. 19:25-15.30.
4. The amount that any qualified candidates may spend in aid of their joint candidacies for the offices of Governor and of Lieutenant Governor shall not exceed \$18.5 million, which amount shall include payments made solely for the purpose of determining whether to become a candidate. Such amount shall not include expenditures listed at N.J.A.C. 19:25-15.26.
5. Contributions by any candidate for the office of Governor in excess of \$5,800 from the candidate's own funds in aid of the candidate's campaign shall not be deposited in a matching fund account and shall not be calculated in determining if such candidate is a qualified candidate eligible for public matching funds.
6. Contributions by any candidate for the office of Lieutenant Governor in excess of \$5,800 from the candidate's own funds in aid of the candidate's campaign

shall not be deposited in a matching fund account and shall not be calculated in determining eligibility for public matching funds.

#### **19:25-15.12 Who may or may not contribute**

(a) No person, candidate committee, joint candidates committee, political committee, continuing political committee, or legislative leadership committee, other than a candidate contributing the candidate's own funds to the candidate's own campaign, shall make any contribution to any candidate, the candidate's campaign treasurer or deputy campaign treasurer, or to any other person or committee, in aid of the candidacy of or on behalf of a candidate, whether or not participating in public funding, for election to the offices of Governor and of Lieutenant Governor in a general election, in the aggregate in excess of \$5,800. Any such contribution in excess of \$5,800 must be returned to the contributor pursuant to the requirements at N.J.A.C. 19:25-11.8, and evidence of repayment shall be submitted to the Commission.

(b) A joint candidates committee established by candidates who have not established any candidate committees in an election may make a contribution to candidates for election to the offices of Governor and of Lieutenant Governor in an amount not to exceed the sum of the number of candidates participating in the joint candidates committee multiplied by \$5,800. If a candidate has established both a candidate committee and a joint candidates committee in an election, the total amount that may be contributed by that candidate's joint candidates committee and candidate committee to candidates for election to the offices of Governor and of Lieutenant Governor may not exceed \$5,800 per candidate participating in the joint candidates committee.

(c) Subject to the limitations contained in this subchapter and the Act, any person may contribute to more than one candidate.

(d) A corporation, association, or labor organization or any subsidiary, affiliate, branch, division, department, or local unit of any such corporation, association, or labor organization shall not make any contribution to, or on behalf of, a candidate, which, when added to any other contribution by any related or affiliated corporation, association, or labor organization, exceeds \$5,800 in the aggregate. Whether such corporation, association, or labor organization is related or affiliated shall depend on the circumstances existing at the time of such contribution, including, but not by way of limitation, the degree of control or common ownership with related or affiliated corporations, associations, or labor organizations, the source and control of funds used for such contributions and the degree to which the decisions whether to contribute, to what candidate and in what amount are independent decisions.

(e) In considering the criteria set forth in (d) above, two or more corporations shall be conclusively deemed to be affiliated if:

1. Any individual, corporation, partnership, company, association, or other entity owns, directly or indirectly, more than a 30 percent interest in each of such corporation; or



2. One such corporation owns, directly or indirectly, more than 30 percent interest in the other such corporation.

(f) Contributions by minors shall be attributed to the legal guardian(s) of the minor for the purpose of N.J.A.C. 19:25-15.6, and not to the minor unless:

1. The minor is 14 years or older;
2. The contribution is made from funds comprised of the minor's earned income as defined in N.J.A.C. 19:25-1.7; and
3. Sworn statements made by the minor and by the minor's legal guardian(s) are submitted with the contribution which state that the decision to contribute was solely that of the minor and that the funds used to make the contribution were comprised solely of the minor's earned income.

(g) For the purposes of (f) above, if the minor has more than one legal guardian, the contribution shall be attributed equally to each legal guardian of the minor.

#### **19:25-15.13 Corporate or labor organization communications**

Communications on any subject by a corporation to its stockholders and their families, or by a labor organization to its members and their families, and nonpartisan registration and get-out-the-vote campaigns by a corporation aimed at its stockholders and their families, or by a labor organization aimed at its members and their families, shall not be construed to be in aid of the candidacy of, or on behalf of, candidates for election to the offices of Governor and of Lieutenant Governor in any general election.

#### **19:25-15.14 Contributions eligible for match**

(a) To be eligible for matching with public funds for a gubernatorial general election, a contribution must have been received by candidates for the offices of Governor and of Lieutenant Governor at a time when those candidates were seeking or had sought election for the offices of Governor and of Lieutenant Governor, or must have been received by the candidate for the office of Governor for the purpose of determining whether or not to become a candidate for election to the office of Governor, except that a contribution received and deposited pursuant to N.J.A.C. 19:25-15.7, Separately maintained primary and general bank accounts, shall be eligible. Any funds received prior to the inception of such a candidacy shall not be eligible for match. Any funds received from the housekeeping account of a State political party committee or county political party committee authorized pursuant to N.J.S.A. 19:44A-10.2 shall not be eligible for match.

(b) The campaign treasurer or deputy campaign treasurer of the candidates shall open a matching fund account in a national or State bank pursuant to N.J.S.A. 19:44A-32, which shall be the designated Matching Fund Account of (names of candidates for the office of Governor and of Lieutenant Governor) and in which contributions eligible for match may be deposited. Such deposit shall be made within 10 days of receipt.

(c) Only contributions in cash or by check, money order, or negotiable instrument, shall be contributions eligible for match. Loans shall not be eligible for match. In-kind contributions shall not be eligible for match, but will count toward the individual contribution limit of \$5,800 and the overall expenditure limit at N.J.S.A. 19:44A-7, except for expenses not subject to expenditure limits pursuant to N.J.A.C. 19:25-15.26. The total of all contributions eligible for match from any person, candidate committee, joint candidates committee, political committee, continuing political committee, or legislative leadership committee shall not exceed \$5,800 in the aggregate.

(d) A maximum of \$5,800 in the aggregate of a candidate for the office of Governor's own funds may be deposited in the matching fund account, and a maximum of \$5,800 in the aggregate of a candidate for the office of Lieutenant Governor's own funds may be deposited in the matching fund account.

(e) Every contribution eligible for match must be accompanied by a written statement which shall identify the individual making the contribution by full name and full mailing address (number, street, city, state, zip code), the name of the candidate, the amount and date of receipt of the contribution, and shall bear the signature of the contributor. The requirement of such written statement will be deemed to be satisfied in the case where a contribution is made by means of a check, money order or other negotiable instrument payable on demand and to the order of, or specially endorsed without qualification to, the candidate or to his or her campaign committee, if such check, money order or instrument contains all of the foregoing information.

(f) A contribution received from a contributing member of a political committee or continuing political committee which has made a prior contribution to the candidate shall be eligible for matching funds, provided that the political committee is a bona fide political entity which was not created to circumvent the contribution limit contained in the act.

**19:25-15.15 Contributions eligible for match; checks and instruments; partnership contributions prohibited; contributions by electronic transfer of funds**

(a) In the case of a check drawn on a joint checking account, the contributor shall be deemed to be the owner whose signature appears on the check. The check will not be attributed equally or otherwise to other joint owners of the account, unless the check or other accompanying written instrument contains the signature of each contributing owner and information identifying the amount of contribution of each such owner. In the absence of specific instructions to the contrary, the contribution will be allocated equally among all owners whose signatures appear on the instrument. Where the maker of a check drawn on a joint checking account is different from the individual who signs the accompanying written instrument, the Commission shall deem the individual who signs the written instrument to be the contributor of the funds.

(b) In the case of a check drawn on an escrow or trust account, the contribution will be that of the person who is the beneficial owner of the account, and the check or other accompanying written instrument must bear the signature of such beneficial owner.

(c) A partnership as defined in (d) below shall not be permitted to make contributions as an entity. A contribution received by a campaign treasurer and made by means of a check or written instrument drawn on a partnership account shall be signed by a partner or partners and shall be deemed to be a contribution from the partner or partners who signed the check or written instrument by which the contribution was conveyed, or in the case of a contribution of currency, the partner who has conveyed the currency. If the check or written instrument is drawn on a partnership account and is signed by an individual other than a partner, or if it is the intent of the contributor that any portion of the contribution received from a partnership account is to be attributed or allocated to a partner or partners who have not signed the check or written instrument, or in the case of a currency contribution if the currency contribution was conveyed by an individual who is not a partner, the following written information must be received and maintained by the campaign treasurer and accompany the check or written instrument being submitted for match pursuant to N.J.A.C. 19:25-15.17:

1. Written instructions concerning the allocation of the contribution amount to a contributing partner, or among contributing partners;
2. A signed acknowledgment of the contribution from each contributing partner who has not signed the contribution check or other written instrument; and
3. Contributor information for each contributing partner as required by N.J.A.C. 19:25-7.1.

(d) For the purposes of this section, the term "partnership" means:

1. Any partnership or joint venture organized under or governed by Title 42 of the New Jersey Statutes, including general partnerships within the meaning of N.J.S.A. 42:1-1 et seq., limited liability partnerships organized pursuant to N.J.S.A. 42:1-45 et seq., limited partnerships organized pursuant to or governed by N.J.S.A. 42:2A-1 et seq., and limited partnership associations organized pursuant to N.J.S.A. 42:3-1 et seq.; and
2. Any similar association of two or more persons to carry on as co-owners a business for profit including, but not limited to, joint ventures, general partnerships, limited liability partnerships and limited partnerships organized or governed by corresponding laws of any other jurisdiction.

(e) A limited liability company shall not be permitted to make contributions as an entity. A contribution received by a campaign treasurer drawn upon a limited liability company account and made by means of a check or written instrument drawn on the account of a limited liability company shall be signed by a member or members and shall be deemed to be a contribution from the member or members who signed the check or written instrument by which the contribution was conveyed or, in the case of the contribution of currency, the member who has conveyed the currency. If it is the intent of the contributor that any portion of a contribution received from a limited liability company account is to be attributed or allocated to a member or members who have not signed the check or written instrument, or in the case of a currency contribution, if the

currency was conveyed by an individual who is not a member, the following written information must be received and maintained by the campaign treasurer and accompany the check or written instrument being submitted for match pursuant to N.J.A.C. 19:25-15.17:

1. Written instructions concerning the allocation of the contribution amount to a contributing member, or among contributing members;
2. A signed acknowledgment of the contribution from each contributing member who has not signed the contribution check or other written instrument; and
3. Contributor information for each contributing member as required by N.J.A.C. 19:25-7.1.

(f) To be eligible for match pursuant to N.J.A.C. 19:25-15.17, a contribution received by means of an electronic transfer of funds, including a credit card, shall be deposited directly into a matching fund account established pursuant to N.J.A.C. 19:25-15.14(b). For each contribution received by an electronic transfer of funds, including a credit card, the matching fund submission shall include a deposit slip or dated receipt from the bank or financial institution which specifically identifies the contributor and the amount of the contribution and a written statement which includes the signature of the contributor, the name of the contributor as it appears on the account used for the electronic transfer of funds or credit card account, the name of the owner of the account used for the electronic transfer of funds or credit card account, and the billing address of the account used for the electronic transfer of funds or credit card. An electronic signature will satisfy the signature requirement in this section when:

1. A contributor or authorized representative provides the required information, as specified in this subsection;
2. The contributor or authorized representative attests to his or her intent to authorize the contribution and provide their signature by typing their name.
  - i. Electronically received contributions are prohibited to be made by partnerships, LLCs, or LLPs;
3. The designated treasurer or deputy treasurer provides a certification to the Commission certifying that any and all credit card processing companies utilized to collect contributions performs the following verification process:
  - i. Verification shall confirm that the following characteristics correspond to each other for the transaction to be accepted or approved and documentation demonstrating the verification process shall be provided by the credit card processor and included as part of the treasurer's or deputy treasurer's certification:

(1) Cardholder name;

- (2) Credit card number;
  - (3) Billing zip code;
  - (4) Expiration date; and
  - (5) Security code;
- ii. Any inconsistency among the above characteristics shall cause the transaction to fail; and
  - iii. The certification must be provided to the Commission prior to submitting electronically received contributions for match; and
4. The campaign shall provide a receipt or confirmation of each contribution received electronically by credit card containing the following information:
- i. The contributor's name as it appeared on the credit card;
  - ii. The contributor's or authorized representative's name as it appears on the signature line;
  - iii. The contributor's address;
  - iv. The amount of the contribution; and
  - v. The date the contribution was electronically submitted.

**19:25-15.16 Limitation on contributions eligible for match**

(a) Any contributions in the form of the purchase price paid for an item with significant intrinsic and enduring value (such as a watch) shall be eligible for match only to the extent the purchase price exceeds the fair market value of the item or benefit conferred on the contributor, and only the excess will be included in calculating the \$5,800 contribution limit.

(b) A contribution in the form of the purchase price paid for admission to a testimonial affair, as defined at N.J.A.C. 19:25-1.7, shall be a contribution eligible for match and for purposes of the \$5,800 limitation.

(c) The purchase price paid to a candidate for a fund raising event, or admission to any activity that primarily confers private benefits to the contributor in the form of entertainment (such as a concert, motion picture or theatrical performance) shall be deemed the amount of the contribution made to such candidate. The tickets for such an event and the promotional materials shall state that the purchase price represents a political contribution to the candidate.

### **19:25-15.17 Matching of funds**

(a) Candidates for the offices of Governor and Lieutenant Governor seeking to qualify for receipt of public matching funds shall, no later than September 1 preceding a general election in which the offices of Governor and Lieutenant Governor are to be filled, file with the Commission:

1. Form G-1A separately (Candidate Certification for Public Financing and Debate Participation);
2. Form P-1 establishing the candidates' deposited contributions eligible for match of at least \$580,000 and that at least \$580,000 of the contributions have been expended or are committed to be expended.
  - i. Form P-1 shall report all contributions, regardless of whether they are eligible, or being submitted, for match showing each contributor's full name and full mailing address (number, street, city, state, zip code); the date of receipt of each contribution; the dollar amount of each contribution; and for each contributor who is an individual, and whose aggregate contributions to the candidates exceed \$200.00, or were made in currency in any amount, the occupation of the individual and the name and mailing address of the individual's employer;
  - ii. Form P-1 shall include scanned images of all documentation that is required as set forth at N.J.A.C. 19:25-15.14 and 15.15, as well as deposit slips, receipted deposit slips, bank ledgers, and/or statements or any other documentation to evidence that the contributions for match were deposited into the matching fund account. Additionally, scanned images of all adjustments to contributions shall be included; and
  - iii. Form P-1 shall report all expenditures made or incurred pursuant to N.J.A.C. 19:25-15.27. The expenditures shall include scanned images of all documentation that is required to substantiate the initial expenditure threshold. Thereafter, scanned images of expenditure documentation shall be required only as set forth at N.J.A.C. 19:25-15.20 and 15.24; and
3. Form P-2 or Form P-2A reporting each candidate's involvement or participation in an issue advocacy organization pursuant to N.J.A.C. 19:25-15.17A.

(b) Each submission for public funds following qualification shall contain no less than \$12,500 of contributions eligible for match.

### **19:25-15.17A Reporting of issue advocacy organization information**

(a) A candidate seeking to qualify for receipt of public matching funds who participated in an issue advocacy organization during the four years prior to the date upon which the candidate

became a candidate for election to the office of Governor or office of Lieutenant Governor, or who is at the time of the application for receipt of public matching funds participating in an issue advocacy organization, shall be ineligible to receive public matching funds unless the candidate files an Issue Advocacy Organization Report of Contributions and Expenditures (Form P-2). For the purposes of this section, a candidate shall be deemed to be participating in an issue advocacy organization if the candidate forms or formed, assists or assisted in the formation of, or was or is involved in any way in the management of an issue advocacy organization.

(b) For the purposes of this section, the term "issue advocacy organization" shall mean:

1. An issue advocacy organization that is organized under section 527 of the Federal Internal Revenue Code (26 U.S.C. § 527);
2. An organization that is organized under paragraph (4) of subsection c. of section 501 of the Federal Internal Revenue Code (26 U.S.C. § 501); or
3. An organization that is organized under any other current or future section of the Federal Internal Revenue Code which the Election Law Enforcement Commission determines is similar to any of the organizations described above.

(c) The report filed by a candidate for Governor pursuant to (a) above shall include the following:

1. The name(s) of the issue advocacy organization(s) in which the candidate was a participant during the four years prior to the date upon which he or she became a candidate for election to the Office of Governor or in which the candidate is a participant;
2. The section of the Federal Internal Revenue Code under which the issue advocacy organization is organized;
3. A list from each issue advocacy organization, verified as correct by the candidate, which shall report all contributions received from the inception of the issue advocacy organization, and which shall include for each contribution, the date of receipt, the name of the contributor, the amount of the contribution, and if the contribution was a monetary contribution, an in-kind contribution, or loan;
4. A list from each issue advocacy organization, verified as correct by the candidate, which shall report all expenditures made from the inception of the issue advocacy organization, and which shall include for each expenditure, the date of the payment, the payee name, and the payment amount; and
5. A certification by the candidate of the correctness of the report.

(d) The report filed by a candidate for Lieutenant Governor pursuant to (a)

above shall include the following:

1. The name(s) of the issue advocacy organization(s) in which the candidate was a participant during the four years prior to the date upon which the candidate became a candidate for election to the office of Lieutenant Governor or in which the candidate is a participant;
2. The section of the Federal Internal Revenue Code under which the issue advocacy organization is organized;
3. A list from each issue advocacy organization, verified as correct by the candidate, which shall report all contributions received from the inception of the issue advocacy organization, and which shall include for each contribution, the date of receipt, the name of the contributor, the amount of the contribution, and if the contribution was a monetary contribution, an in-kind contribution, or loan;
4. A list from each issue advocacy organization, verified as correct by the candidate, which shall report all expenditures made from the inception of the issue advocacy organization, and which shall include for each expenditure, the date of the payment, the payee name, and the payment amount; and
5. A certification by the candidate of the correctness of the report.

(e) A candidate shall continue to file the Issue Advocacy Organization Report of Contributions and Expenditures (Form P-2) on each date that the candidate applies to receive public matching funds pursuant to N.J.A.C. 19:25-15.18 and on each date established for reporting by a candidate committee pursuant to N.J.A.C. 19:25-8, until such time as the candidate certifies that there are no funds remaining in the issue advocacy organization or organizations and that the issue organization or organizations have wound up their business and been dissolved.

(f) A candidate shall not be required to file the Issue Advocacy Organization Report of Contributions and Expenditures (Form P-2) if the candidate certifies and files the Candidate Certification-Issue Advocacy Organization Participation (Form P-2A) to the effect that:

1. The candidate was not, during the four years prior to the date upon which the candidate became a candidate for election to the office of Governor or Lieutenant Governor a participant in any issue advocacy organization and is not at the time of the application for receipt of public matching funds participating in any issue advocacy organization; or
2. The candidate participated during the four years prior to the date upon which the candidate became a candidate for election to the office of Governor or Lieutenant Governor in an issue advocacy organization or organizations, or is a participant in an issue advocacy organization or organizations at the time of the application for receipt of public matching



funds, but the organization or organizations file reports of contributions and expenditures with the Commission or with the Federal Election Commission.

### **19:25-15.18 Dates of submission**

(a) Form P-1, and accompanying P-2, if applicable, may be submitted to the Commission by candidates on or before 12:00 noon of the first Tuesday following the date of the primary election in the year of a general election for the offices of Governor and of Lieutenant Governor of New Jersey, and every other Tuesday thereafter through August 31, and every Tuesday thereafter up to and including the date of the general election being funded.

(b) Form P-1, and accompanying P-2, if applicable, may be submitted to the Commission by candidates on or before 12:00 noon of the first Tuesday following the general election and every other Tuesday thereafter up to the first Tuesday following the fifth month after the general election. No further requests shall be considered by the Commission thereafter.

(c) In the event that a date for submission shall fall on a holiday, then the submission may be on the next succeeding business day that is not a holiday.

(d) Nothing in this section shall relieve any candidate or committee from the preelection or post-election reporting requirements contained in N.J.S.A. 19:44A-8 or 19:44A-16.

### **19:25-15.19 Matching of State committee contributions; submission dates**

(a) The campaign treasurer or deputy campaign treasurer of any candidate seeking matching funds must, on the dates of submission provided in N.J.A.C. 19:25-15.18 deliver to the Commission any statement of contributors or expenditures and photocopies received from any State committee pursuant to N.J.A.C. 19:25-15.37 and must so certify to the Commission. In the event no contribution from a State committee has been received and therefore no deposit made of such State committee contributions in such candidate's matching fund account, the campaign treasurer or deputy campaign treasurer shall so certify to the Commission.

(b) No submission or application for public funds pursuant to N.J.A.C. 19:25-15.18 will be considered by the Commission unless accompanied by written certification in compliance with (a) above.

### **19:25-15.20 Special account for public funds**

(a) The Commission shall facilitate the creation of, for each qualified candidate, a separate segregated public fund account for deposit of public funds. All public funds approved by the Commission will be transferred by the Commission into such public fund account. No funds other than such public funds shall be transferred to the public fund account, and all expenditures from the account shall be separately identified in all applicable reports filed with the Commission.

(b) The campaign treasurer of candidates for the offices of Governor and of Lieutenant Governor, on whose behalf a public fund account has been established, shall file with the Commission on each date upon which a submission for public matching funds has been made pursuant to N.J.A.C. 19:25-15.17, Matching of funds, and 15.18, Date of submission, and for as long as said public fund account is open and such submissions are being made, a report identifying each disbursement made out of the public fund account since the last such submission for public matching funds. The identification of each disbursement from the public fund account shall include the transaction number, date of payment, amount of payment, full name of payee, full payee mailing address, and a complete statement of purpose of the expenditure indicating which of the permitted purposes set forth at N.J.A.C. 19:25-15.24, Use of public funds, is applicable. Failure to file any such report, failure to provide the identification information required in such report, or failure to expend public funds in compliance with N.J.A.C. 19:25-15.24 may result in immediate cessation of public fund deposits by the Commission.

(c) Any report filed pursuant to this section disclosing an expenditure in an aggregate sum exceeding \$5,000 for the purpose of purchase of media consultant services or other services shall be accompanied by a certification from the payee categorizing media advertising purchases or other services provided, incurred or contemplated, and certifying that such funds have been or will be expended in compliance with N.J.A.C. 19:25-15.24.

(d) Disbursements from the public fund account identified on submissions filed for matching funds will not be disclosed for public inspection until filed on election cycle reports.

#### **19:25-15.21 Receipt of public funds**

(a) The campaign treasurer, or deputy campaign treasurer, of any qualified candidates for election to the offices of Governor and of Lieutenant Governor in a general election shall promptly receive, on behalf of such qualified candidates, public moneys in an amount equal to twice the amount of each contribution eligible for match and deposited in such qualified candidates' matching fund account, described at N.J.S.A. 19:44A-32, except that no payment shall be made to any candidates from such fund for general election campaign purposes for the first \$185,000 of the \$580,000 deposited in such candidates' matching fund account.

(b) No candidates for election to the offices of Governor and of Lieutenant Governor or their campaign treasurer or deputy campaign treasurer shall receive any general election public matching funds if the Commission determines that an application for matching funds, submitted pursuant to N.J.A.C. 19:25-15.17, contains a contribution or contributions in excess of the general election contribution limit. The Commission shall permit the candidates or their campaign treasurer or deputy campaign treasurer to submit proof that the excessive portion of a contribution or contributions has been refunded.

#### **19:25-15.22 Receipt of public funds; limitation**

(a) No public funds shall be deposited by the Commission in the public fund account of any qualified candidates on or before the date of the primary election for nomination for the office of Governor of New Jersey immediately preceding the general election for the same office.

(b) The maximum amount that any qualified candidates may jointly receive from public funds shall not exceed \$12.5 million.

### **19:25-15.23 Receipt of public funds; procedure**

Upon receipt and review of all required forms and documentation contained within a request for public funds, the Commission shall authorize the amount to be disbursed to the public fund account of the candidate and shall cause the authorized amount to be transferred therein.

### **19:25-15.24 Use of public funds**

(a) Public funds received on behalf of qualified candidates from the fund for general election campaign expenses shall be deposited by the Commission in the candidates' public fund account and the candidates' use of such funds shall be strictly limited to the following purposes:

1. Purchase of time on radio and television stations;
2. Purchase of rental space on outdoor signs or billboards;
3. Purchase of advertising space in newspapers, regularly published magazines and periodicals, and on the internet;
4. Payment of the cost of producing the material aired or displayed radio, television, outdoor signs or billboards, and in newspapers, regularly published magazines and periodicals;
5. Payment of the cost of printing and mailing campaign literature brochures distributed under the name of the candidate;
6. Payment of the cost of legal and accounting expenses incurred in complying with the public financing regulations of the Commission and with the public financing provisions of the Act;
7. Payment of the cost of telephone deposits, and installation charges and monthly billings in excess of deposits. Within six months after the general election, a candidate shall return to the Commission the amount of any public funds used to pay such telephone deposits which are later returned;
8. Payment of the cost of website communications that are not used for fund-raising purposes;
9. Payment of the cost of email communications that are not used for fund-raising purposes; and
10. Payment for the purchase of lists of postal and email addresses.

(b) Expenditures made prior to the receipt of public funds, including expenditures made for the purpose of determining whether an individual should become a candidate for election to the office of Governor, which fit within (a)1 through 7 above, shall be expenses properly payable out of public funds.

(c) Any expenditure made from the candidates' public fund account which results in the purchase of time on radio and television stations pursuant to (a) above shall be documented by an invoice prepared by the radio or television station listing the media time used and the cost to the candidates. The invoice shall be obtained by the candidates, their campaign treasurer, or deputy campaign treasurer no later than 10 days following the due date for the 20-day postelection report and shall be maintained pursuant to N.J.A.C. 19:25-15.42.

(d) Any expenditure made from the candidates' public fund account shall be identified on election fund reports and submissions for public matching funds to include the check or transaction number, date of payment, full name of payee, full payee mailing address, amount of payment, a detailed description of the election-related purpose of the expenditure that includes the applicable permitted use of public funds contained in (a) above and the type of expenditure for each expenditure.

(e) A reimbursement made to a depository or matching fund account of the candidates from the public fund account of the candidates for an expenditure or expenditures permitted under (a) above shall:

1. Be made by individual transfer or transaction from the public fund account in the exact amount of the expenditure or expenditures being reimbursed;
2. Be specifically identified as a reimbursement, including the attachment of applicable documentation (invoice and/or certification of payee), on the report required pursuant to N.J.A.C. 19:25-15.20(b) and on campaign reports required by the Act; and
3. Contain a list of the previously paid expenditure or expenditures permissible under (a) above for which the reimbursement is being made.

(f) Contributions, other than public funds, received by or on behalf of any candidate (including contributions eligible for match) shall not be subject to the limitations of (a) above, but may be expended for any lawful purpose in furtherance or aid of the candidacy of the candidate.

(g) Transfer of public funds from the public funds account established pursuant to N.J.A.C. 19:25-15.20 to an interest-bearing account or other investment account or vehicle is prohibited.

### **19:25-15.25 Use of transferred funds**

Notwithstanding the provisions of N.J.A.C. 19:25-6.2, any transfer of funds from the general election campaign of the gubernatorial candidate to any other candidate, candidate committee, joint candidates committee, political committee, continuing political committee,

political party committee, legislative leadership committee, or political club will be considered to be an expenditure on behalf of the gubernatorial candidate under N.J.S.A. 19:44A-7. No such transferee shall make any contribution to or on behalf of the gubernatorial candidate prior to or subsequent to such transfer.

### **19:25-15.26 Expenses not subject to expenditure limits**

(a) The following expenditures by qualified candidates shall not be subject to the expenditure limit described in N.J.A.C. 19:25-15.11(a)3:

1. Reasonable and necessary compliance with the reporting and certification requirements imposed by the public finance provisions of the Act shall not be deemed to be expenditures within the meaning of N.J.S.A. 19:44A-7. Such expenses shall be specifically identified as such in all reports required under this chapter.
2. Travel expenses of the candidates, as that term is defined in N.J.A.C. 19:25-15.27(a), or of any person other than the candidates if such traveling expenses are voluntarily paid by such person without any understanding or agreement with such candidates that they shall be, directly or indirectly, repaid to that person by the candidates, shall not be deemed expenditures within the meaning of N.J.S.A. 19:44A-7.
3. The reasonable value of food and beverage to persons who attend a testimonial affair on behalf of or in aid of a candidate and for whom a contribution in excess of the reasonable value of such food and beverages is reported as provided in N.J.A.C. 19:25-12.2.
4. Election night celebration or event expenses as defined in N.J.A.C. 19:25-15.47(c).

### **19:25-15.27 Expenditure reporting; travel expenses**

(a) Each expenditure from the depository account, matching fund account, or public funds account established by a gubernatorial candidate shall be reported on election fund reports and on submissions for public matching funds by providing the following information:

1. The date the expenditure was made;
2. The checking account title and number;
3. The full name and address of the payee;
4. The purpose of the expenditure;
5. The amount of the expenditure; and

6. The type of expenditure.

(b) In describing the purpose of an expenditure pursuant to (a)4 above, the specific election-related reason for the expenditure shall be provided. Descriptions such as "operations," "campaign expense" or "reimbursement" do not satisfy the reporting requirement because they do not provide any specific election-related information. Examples of satisfactory descriptions include such information as "newspaper advertising," "telephone expense," "postage," "printing of campaign flyers," "headquarters rental" and similarly specific items.

(c) "The traveling expenses of the candidates" as used in N.J.A.C. 19:25-15.26, shall mean the reasonable and necessary expenses of transportation, food and lodging in connection with travel related to the candidacies of the candidates, and shall include expenses of the candidates and of members of the political campaign staff and immediate family of the candidates traveling with the candidates in the same or accompanying vehicles. The phrase does not include travel expenses of members of the candidates' staff when they are traveling not in the company of the candidates, nor does it include expenses of members of the media or others who are not members of the staff, whether or not those media members are accompanying the candidates.

(d) All of the expenditures, including those excluded from the expenditure limitation contained at N.J.S.A. 19:44A-7, must be disclosed in the preelection and postelection reports and on all submissions for matching funds.

(e) If any individual, including a candidate, uses a government-owned or government-leased vehicle for transportation to aid or promote a campaign for election to the offices of Governor and of Lieutenant Governor, such use shall:

1. Be reported as a travel expense pursuant to this section;
2. Be valued for purposes of reports required to be filed under the Act and for purposes of the expenditure limit contained in the Act (N.J.S.A. 19:44A-7) by the reasonable commercial value of the transportation services to the candidate pursuant to N.J.A.C. 19:25-15.31; and
3. Be reimbursed immediately from campaign funds to the appropriate government entity providing the conveyance or vehicle.

**19:25-15.28 Independent expenditures**

(a) A person, candidate committee, joint candidates committee, political committee, or continuing political committee that makes, incurs or authorizes an independent expenditure, as that term is defined in N.J.A.C. 19:25-12.7, for a communication to support or defeat a gubernatorial candidate in a general election shall:

1. Report the independent expenditure pursuant to N.J.A.C. 19:25-12.8;

2. Clearly state on the communication the name and address of the person, candidate committee, joint candidates committee, political committee, or continuing political committee making the independent expenditure pursuant to N.J.A.C. 19:25-13.2(a), and that the communication has been paid for by that person or committee; and
3. Include in the communication a clear and conspicuous statement that the communication was not made with the cooperation or prior consent of, or in consultation with or at the request or suggestion of, any candidate, or any person or committee acting on behalf of any candidate.

(b) An independent expenditure made by a person, candidate committee, joint candidates committee, political committee, or continuing political committee pursuant to (a) above shall not be deemed to be an expenditure of a gubernatorial candidate in the general election within the meaning of N.J.S.A. 19:44A-7.

**19:25-15.28A Prohibition on independent expenditures by State political party committees and legislative leadership committees**

No State committee of a political party and no legislative leadership committee shall make an independent expenditure to support or defeat a candidate for Governor or Lieutenant Governor or in aid of the candidacy of a candidate for Governor or Lieutenant Governor in the general election.

**19:25-15.28B Limit on county and municipal political party committee expenditures**

The county committee of a political party in a county and the municipal committees of that political party in the same county may make an expenditure or expenditures, whether coordinated or independent expenditures, in the aggregate total amount of \$10,000 in aid of the candidacy of or on behalf of any candidates for election to the offices of Governor and of Lieutenant Governor in a general election.

**19:25-15.28C Determination of independence or coordination of an expenditure**

(a) To determine whether or not a person, candidate committee, joint candidates committee, or continuing political committee has made an independent expenditure, pursuant to N.J.A.C. 19:25-15.28, for a communication to support or defeat a gubernatorial candidate in the general election, the Commission shall consider, but not be limited to, the factors set forth in (c) below.

(b) To determine whether or not a person or entity, other than the gubernatorial candidate or his or her candidate committee, expending funds to make a communication shall be deemed to have made a coordinated expenditure, pursuant to N.J.A.C. 19:25-15.29, the Commission shall consider, but not be limited to, the factors set forth in (c) below.

(c) The Commission shall determine whether or not the gubernatorial candidate, his or her candidate committee, any member of the staff of the gubernatorial candidate or his or her candidate committee, or any agent of the gubernatorial candidate or his or her candidate committee:

1. Cooperated with, consented to, authorized, or exercised control over the production or circulation of the communication expenditure;
2. Requested or suggested that the communication expenditure be made;
3. Provided information to the person or entity making the communication expenditure with regard to the content, timing, location, mode, intended audience, distribution, or placement of the television, radio, direct mail, or other form of communication;
4. Discussed or negotiated with the purchaser, creator, producer, or distributor of the communication concerning the content, timing, location, mode, intended audience, distribution, or placement of the communication;
5. Shared information or held discussions on campaign or media strategy with the person or entity making the communication expenditure or with the purchaser, creator, producer, or distributor of the communication;
6. Shared its polling or other research with the person or entity making the communication expenditure or whether or not the person or entity making the communication expenditure shared its polling or other research with the gubernatorial candidate, his or her candidate committee, or with any agent of the gubernatorial candidate or his or her candidate committee; or
7. Used the same consultants, employees, staff, or agents as the person or entity making the communication expenditure to create, target, or place the communication.

#### **19:25-15.29 Coordinated expenditures**

(a) Any person or entity expending funds to make a communication shall be deemed to have made a coordinated expenditure for a gubernatorial candidate if:

1. The communication makes a reference to the gubernatorial candidate in an audio, visual, printed, or electronic format which reference names, depicts, pictures, characterizes, represents, dramatizes, or in any written, spoken, visual, or electronic manner represents a gubernatorial candidate or opponent;
2. The gubernatorial candidate or his or her campaign committee has consented to, authorized, or exercised control over the production or circulation of the communication; and



3. The expenditure for the communication was made on or after the date upon which the gubernatorial candidate or committee described at (a)2 above applied to receive matching funds pursuant to N.J.A.C. 19:25-15.17.

(b) The amount expended for a coordinated expenditure for a gubernatorial candidate shall be a contribution by the person or entity making the expenditure to that gubernatorial candidate which contribution is subject to the gubernatorial candidate contribution limit established at N.J.A.C. 19:25-15.6(a) and allocable against the gubernatorial candidate expenditure limit established at N.J.A.C. 19:25-15.11(a)3.

(c) For each coordinated communication expenditure pursuant to (a) and (b) above, a gubernatorial candidate shall determine:

1. The cost of preparation and circulation of the communication; and
2. The value of the coordinated communication to the gubernatorial candidate.

(d) The value of a coordinated communication to a gubernatorial candidate may be determined at less than 100 percent of the total cost of preparation and circulation if the coordinated communication referred to one or more non-gubernatorial candidates in the same election, and the percentage of the cost to be allocated to the gubernatorial candidate shall be determined based upon the following:

1. The number of non-gubernatorial candidates identified or otherwise referred to; and
2. The prominence of the reference to the gubernatorial candidate in relation to references to non-gubernatorial candidates. For example, if a printed pamphlet is prepared and circulated at a cost of \$1,000 and features equally one page for a non-gubernatorial candidate and one page for a gubernatorial candidate, the value is 50 percent of the total cost of \$1,000 or \$500.00.

(e) A gubernatorial candidate determining the value to his or her candidacy of a coordinated communication pursuant to (d) above shall establish that value to the nearest five percent of the total cost of preparation and circulation. In no case shall the value be determined to be less than five percent of total cost.

### **19:25-15.29A Coordinated expenditures by non-gubernatorial candidates, political party committees, and legislative leadership committees**

(a) A reference to a gubernatorial candidate appearing in materials paid for by a non-gubernatorial candidate, as defined in (d) below, or by a political party committee, or legislative leadership committee, as defined in N.J.A.C. 19:25-1.7, of the same political party as the gubernatorial candidate, will be deemed insubstantial and not subject to allocation pursuant to N.J.A.C. 19:25-15.29 provided that:

1. The reference consists of the name or picture of the candidate for the office of Governor and/or the candidate for the office of Lieutenant Governor in equal or less than equal prominence to the prominence given the names or pictures of non-gubernatorial candidates;
2. The names or pictures of the gubernatorial candidate(s) and non-gubernatorial candidates appear on printed campaign materials used in connection with volunteer activities on behalf of the named or pictured non-gubernatorial candidates, such as materials consisting of buttons, pins, bumper stickers, handbills, brochures, posters, yard signs or palm cards; and
3. The materials in (a)2 above are not used in connection with any broadcasting, newspaper, magazine, billboard, electronic, or similar type of general public communication or political advertising.

(b) A reference to a gubernatorial candidate appearing in campaign literature or material circulated to voters by direct mail and paid for by a non-gubernatorial candidate, as defined in (d) below, or by a political party committee, or legislative leadership committee, as defined in N.J.A.C. 19:25-1.7, of the same political party as the gubernatorial candidate, shall be deemed insubstantial and not subject to allocation pursuant to N.J.A.C. 19:25-15.29 provided that:

1. The reference consists of no more than a single use of the name of the candidate for the office of Governor and/or the name of the candidate for the office of Lieutenant Governor in the text, and a single use of the names of the candidates for the offices of Governor and/or of Lieutenant Governor within a slate or listing of the names of gubernatorial and non-gubernatorial candidates, and a single photograph or depiction of the candidate for Governor and/or a single photograph or depiction of the candidate for Lieutenant Governor, provided that a photograph or depiction of each non-gubernatorial candidate larger or of equal size to the gubernatorial candidates' photograph or depiction are included;
2. The size of the print used to reproduce the name of the gubernatorial candidates are the same or smaller than the size of the print used for the names of the non-gubernatorial candidates; and
3. The predominant theme of the text promotes the candidacy or candidacies of the non-gubernatorial candidate or candidates and not that of the gubernatorial candidates.

(c) A reference to a gubernatorial candidate made in a telephone communication to a voter shall be deemed insubstantial and not subject to allocation pursuant to N.J.A.C. 19:25-15.29 provided that:

1. The telephone communication is part of a get-out-the-vote effort of the non-gubernatorial candidate, as defined in (d) below, or of a political party committee or legislative leadership committee, as defined in N.J.A.C. 19:25-

1.7, of the same political party as the gubernatorial candidate, conducted seven or fewer days before the gubernatorial general election; and

2. The reference to the gubernatorial candidate is limited to stating the name of the gubernatorial candidate as part of a slate or together with the names of non-gubernatorial candidates.

(d) For the purposes of this section, the term "non-gubernatorial candidate" shall mean any candidate of the same political party as the gubernatorial candidate, other than a gubernatorial candidate, acting alone in a candidate committee or jointly with other candidates in a joint candidates committee.

(e) For the purposes of this section, the references to gubernatorial candidates and pictures of gubernatorial candidates, described in (a), (b), and (c) above, which are deemed insubstantial and not subject to allocation pursuant to N.J.A.C. 19:25-15.29, shall be strictly limited to references and pictures of a gubernatorial candidate of the same political party as the non-gubernatorial candidate or candidates or political party committee or legislative leadership committee responsible for circulating or causing the circulation of the communication.

#### **19:25-15.30 Borrowing of funds; repayment**

Any candidates for the offices of Governor and of Lieutenant Governor, the candidates' campaign treasurer, or deputy campaign treasurer, may borrow funds from any national or State bank, provided that no person, candidate committee, joint candidates committee, political committee, continuing political committee, or legislative leadership committee other than the candidate or the State committee may in any way endorse or guarantee such loan in the aggregate in excess of the \$5,800 contribution limit. In the case of a participating candidate guaranteeing a loan to his or her own campaign, the amount so borrowed shall not at any one time in the aggregate exceed \$50,000 for the campaign, and must be repaid in full by such candidate or the campaign treasurer or deputy campaign treasurer from monies accepted or allocated pursuant to N.J.S.A. 19:44A-29 not later than 20 days prior to the general election. This limit does not apply to a candidate that does not participate in the public financing program. Repayment shall be evidenced on a report filed no later than the 11-Day Preelection reporting date with attached documentation. In the event of the failure of the borrower to repay timely the full amount of the loan or to certify properly such repayment to the Commission, all payment of public funds to such candidate shall promptly cease and the Commission shall take action as directed by the Act to prohibit the expenditure by the candidate of monies received from the fund and any other monies received by the candidate in aid of the candidate's campaign in such general election.

#### **19:25-15.31 Computation of value of goods and services**

(a) Goods and services shall, for purposes of the reports required to be filed under the Act and for purposes of the expenditure limitation contained at N.J.S.A. 19:44A-7 where applicable, be valued by the reasonable commercial value of such goods and services to the candidate, whether or not the cost or value of such goods or services to the contributor or other provider of those services is higher or lower than such reasonable commercial value.

(b) The costs of a political communication as defined in N.J.A.C. 19:25-10.10 which aids or promotes candidates for the offices of Governor and of Lieutenant Governor, and is undertaken, made or circulated with the cooperation or consent of the candidates, shall be reported by the candidates in the same manner as the receipt of any goods and services, and shall be valued for the purposes of the contribution limit in N.J.A.C. 19:25-15.6 and the expenditure limit in N.J.A.C. 19:25-15.11(a)3 in the same manner as any other contributed goods or services.

#### **19:25-15.32 Establishment of State committee account; contribution limit**

(a) A State committee may establish a State committee account in a national or State bank, authorized to do business in the State of New Jersey, on behalf of any candidates for election to the offices of Governor and of Lieutenant Governor in a general election.

(b) Upon, or after, establishment of a State committee account, such State committee may deposit contributions received by it in the account. Only a contribution of up to \$5,800 may be deposited, and only if such deposit does not result in the contributor exceeding a contribution of \$5,800 in the aggregate to such candidate.

(c) Notwithstanding any provision of this section, any contribution deposited in a State committee account must be of moneys or other things of value pledged to or received by such State committee in a calendar year in which the gubernatorial election being funded is held.

(d) Any deposit in a State committee account must be from contributions eligible for match, except that proceeds of a loan to the State committee made pursuant to N.J.S.A. 19:44A-44 may be deposited.

#### **19:25-15.33 State committee expenditures; ineligible for match; expenditure limit**

(a) Any expenditure by a State committee on behalf of candidates for election to the offices of Governor and of Lieutenant Governor shall be made only from the State committee account as defined in this subchapter of such State committee.

(b) Any contribution deposited in a State committee account and expended, and thereby unavailable for transfer and deposit in a matching fund account of a candidate, shall not be eligible for match.

(c) Any expenditure by a State committee in aid of the candidacy of a candidate shall be included in determining total expenditures of such candidate subject to the expenditure limit contained in N.J.A.C. 19:25-15.11(a)3.

#### **19:25-15.34 State committee treasurer**

The campaign treasurer or deputy campaign treasurer of any State committee, designated by such State committee pursuant to N.J.S.A. 19:44A-10, shall be the campaign treasurer or deputy campaign treasurer of any State committee account established by said State committee.

### **19:25-15.35 Notice by State committee to contributor**

(a) The campaign treasurer, or deputy campaign treasurer, of any State committee depositing any contribution in a State committee account of such State committee must give written notice of such deposit to the contributor within 48 hours of such deposit, and such notice shall contain the following information:

1. The State committee has allocated part or all, as the case may be, of a contribution made by the contributor to candidates for the offices of Governor and of Lieutenant Governor;
2. The allocated contribution counts toward the \$5,800 the contributor may contribute to candidates for the offices of Governor and of Lieutenant Governor, jointly;
3. The name and address of the contributor;
4. The amount and date of the contribution to the State committee; and
5. The amount of the contribution deposited on behalf of the candidates.

### **19:25-15.36 State committee statements**

(a) The campaign treasurer or deputy campaign treasurer of a State committee that has established a State committee account shall prepare and maintain a statement of contributors whose contributions have, in whole or part, been deposited in said State committee account. Such statement of contributors shall conform in content and form to that described in N.J.A.C. 19:25-15.17(d).

(b) The campaign treasurer, or deputy campaign treasurer, of a State committee shall prepare and maintain a statement of expenditures from a State committee account of such State committee. Such statement of expenditures shall contain a check or transaction number, date, name and address of payee, amount, and description of the purpose.

(c) The statement of contributors described in (a) above shall include a photocopy of the face of each check or other written instrument as described in N.J.A.C. 19:25-15.14 for each contribution reported on the statement of contributors. Where a check is endorsed by some person other than the campaign treasurer or deputy campaign treasurer of the State committee, the face and back must be photocopied. The photocopies shall be segregated by deposit, sorted in the order in which the contributors are listed pursuant to N.J.A.C. 19:25-15.17(d) and accompanied by copies of the relevant receipted deposit slips.

### **19:25-15.37 Certification and delivery of statements**

(a) The campaign treasurer, or deputy campaign treasurer, of a State committee that has established a State committee account on behalf of a candidate shall certify and transmit to the

campaign treasurer, or deputy campaign treasurer, of such candidate the correctness of the statements and photocopies prepared pursuant to N.J.A.C. 19:25-15.36.

(b) The statements and photocopies certified and transmitted pursuant to (a) above shall be delivered by the campaign treasurer, or deputy campaign treasurer, of such State committee to the campaign treasurer, or deputy campaign treasurer, of the candidate on whose behalf the statements and photocopies have been prepared no later than the Thursday preceding the dates of submission for matching fund applications of candidates set forth at N.J.A.C. 19:25-15.18.

(c) The statements and photocopies to be delivered pursuant to (b) above shall include all contributions and expenditures during the periods of time as follows:

1. The statement of contributors prepared pursuant to N.J.A.C. 19:25-15.36(a) shall include all contributions deposited in the State committee account from the date of the most previous statement of contributors delivered to the candidate or, if no previous statement has been delivered, from the date the State committee account was established, until the date preceding the transfer to the candidate;
2. The statement of expenditures prepared pursuant to N.J.A.C. 19:25-15.36(b) shall include all expenditures from the date of the most previous statement of expenditures delivered to the candidate or, if no previous statement has been delivered, from the date the State committee account was established, until the date preceding the transfer to the candidate;
3. Photocopies of checks prepared pursuant to N.J.A.C. 19:25- 15.36(c) shall pertain to contributions listed in the statement of contributors.

### **19:25-15.38 Transfer of deposits; certification**

(a) A State committee may transfer deposits made on behalf of a candidate in its State committee account to the matching fund account of such candidate, provided certified statements and photocopies relating to such deposits have been delivered to the treasurer or deputy campaign treasurer of such candidate as provided in N.J.A.C. 19:25-15.37.

(b) At the time of making a transfer pursuant to (a) above, the campaign treasurer, or deputy campaign treasurer, of the State committee shall certify in writing to the campaign treasurer, or deputy campaign treasurer, of the candidate in whose matching fund account a transfer is to be made that the deposit includes only contributions eligible for match and does not include any contribution that must be, or is intended by the contributor or recipient to be, refunded or repaid at any time and that no contribution by any county or municipal committee is included.

### **19:25-15.39 County and municipal committee expenditures; reports**

(a) The county committee of a political party in a county and the municipal committees of that political party in the same county may make an expenditure or expenditures in the aggregate

of \$10,000 in aid of the candidacy of or on behalf of candidates for election to the offices of Governor and of Lieutenant Governor in a general election.

(b) Candidates for election to the offices of Governor and of Lieutenant Governor, or their campaign treasurer, or deputy campaign treasurer shall determine the exact amount that individual county committees or municipal committees may contribute in aid of the candidacies of or on behalf of such candidates, and shall file a report of such determination with the Commission no later than the 11th day prior to the general election being funded.

(c) Any expenditures in aid of the candidacies of candidates for election to the offices of Governor and of Lieutenant Governor, jointly, by the county committee of a political party and the municipal committees of that political party in the same county, shall be included in determining the total expenditures of such candidates subject to the expenditure limit contained at N.J.A.C. 19:25-15.11(a)4.

#### **19:25-15.40 County and municipal committee reports**

Any county or municipal committee making any expenditure on behalf of any candidates for the offices of Governor and of Lieutenant Governor in a general election shall file quarterly reports pursuant to N.J.S.A. 19:44A-8 and shall provide written notice to the candidate pursuant to N.J.A.C. 19:25-12.3.

#### **19:25-15.41 County and municipal committees; prohibition on transfers**

No county committee or municipal committee may transfer or contribute any funds to any candidate or to any candidate's campaign treasurer or deputy campaign treasurer, or to any political committee supporting any candidate.

#### **19:25-15.42 Maintenance of records; audit**

(a) The campaign treasurer or deputy campaign treasurer of each candidate and each State committee shall retain all written instruments, checks, bank statements and all other records of contributions and expenditures, including originals or photocopies of all documents and instruments submitted to the Commission relating to the general election for a period of not less than four years after submission of the final report for the general election.

(b) Each candidate, campaign treasurer or deputy campaign treasurer, or State committee campaign treasurer or deputy campaign treasurer, shall furnish to the Commission any books and records, including bank records for all accounts and supporting documentation for matching fund submissions as may be requested by the Commission for purposes of an audit or other Commission examination.

(c) Each candidate, campaign treasurer or deputy campaign treasurer shall, in addition to the recordkeeping requirements in (a) above and in this chapter, make and maintain a written record of each expenditure made from a candidate's public fund account which results in the

purchase of time on radio and television stations, which record shall contain the exact amount of the total expenditure that was used for each of the following purposes:

1. The purchase of time on radio stations;
2. The amount of any credit for radio time that was not used;
3. The purchase of time on television stations;
4. The amount of any credit for television time that was not used;
5. The payment of the cost to produce the material aired on the radio and television stations;
6. The payment of any commission; and
7. The amount, if any, that is due to be refunded.

#### **19:25-15.43 Disclosure of information**

The Form P-1 submitted in accordance with N.J.A.C. 19:25-15.17, Matching of funds, shall not be a public record and shall not be available for public inspection; however, the Commission shall, from time to time, publish a listing of each contribution, except that it shall not include the name, address, or amount of contribution of any contributor whose contributions in the aggregate are \$200.00 or less, unless the candidate authorizes such disclosure.

#### **19:25-15.44 Prepared statement on behalf of candidates; reimbursement of ballot statement costs**

(a) Candidates for the office of Governor shall be entitled to have a statement submitted by the candidate to the Commission, to be posted on the county clerks' websites, the website of the Division of Elections and the website of the Election Law Enforcement Commission, together with a short explanation from the Commission that such statements are provided pursuant to the Act and this subchapter to assist the voters in making a determination among the candidates for the office of Governor.

(b) Candidates for the office of Governor who wish such statement to be posted on their behalf shall submit to the Commission a proposed statement, which shall not exceed 500 words in length. The statement shall be submitted to the Commission on or before the 80th day prior to the date on which the general election is to be held.

(c) On or before the 45th day prior to the date on which the general election is to be held, the Commission shall supply each county clerk with the text of the statement received from candidates for election to the office of Governor.



(d) On or before the 45th day prior to the date on which the general election is to be held, the Commission shall determine the total amount of funds available for reimbursement to all 21 counties of the cost of posting of such ballot statements. Such reimbursement shall be made on a pro rata basis, if adequate funds are not appropriated by the Governor and the Legislature to reimburse all counties fully. Reimbursement shall not be made to the counties if no funds are appropriated to the Commission by the Governor and the Legislature for that purpose.

(e) No later than December 15th following a general election for the office of Governor, each county clerk shall submit to the Commission on a form provided by the Commission a claim for reimbursement attributable directly to the posting of the gubernatorial candidates' statements.

#### **19:25-15.45 Postelection contribution; postelection payment of expenses**

(a) Any person, candidate committee, joint candidates committee, political committee, continuing political committee, or legislative leadership committee otherwise eligible to make political contributions to a candidate or a State committee may make a contribution in aid of the candidacies of candidates for the offices of Governor and of Lieutenant Governor, jointly, after the date of such general election, provided such person or committee does not exceed \$5,800 in the aggregate for such general election.

(b) Contributions received by candidates for the offices of Governor and of Lieutenant Governor, or a State committee, or a campaign treasurer or deputy campaign treasurer of candidates for the offices of Governor and Lieutenant Governor, or State committee pursuant to (a) above shall be expended in order to liquidate all obligations and to pay expenses incurred during the general election campaign.

(c) Every payment of expenditures for general election obligations made by candidates for the offices of Governor and of Lieutenant Governor, or State committee, or campaign treasurer or deputy campaign treasurer of candidates for the offices of Governor and of Lieutenant Governor, or State committee after the date of the general election (except as otherwise specifically provided by the Act or this subchapter, for example, compliance costs) shall be deemed to be expenditures for such general election within the meaning of N.J.S.A. 19:44A-7.

(d) Contributions received by candidates for the offices of Governor and of Lieutenant Governor, or State committee, or campaign treasurer or deputy campaign treasurer of candidates for the offices of Governor and of Lieutenant Governor, or State committee after the date of the general election for that election shall be eligible for matching of funds and shall be matched provided they are submitted pursuant to N.J.A.C. 19:25-15.17 and 15.18 up to the first Monday following the fifth month after the general election.

(e) Candidates for the offices of Governor and Lieutenant Governor may utilize the funds deposited in a housekeeping account established pursuant to N.J.S.A. 19:44A-10.2 to pay non-political expenses incurred following the election in which the candidates participated. Utilization of housekeeping funds shall be consistent with the provisions at N.J.A.C. 19:25-4.6(e).

#### **19:25-15.46 Funds or materials remaining from general election campaign**

Public moneys received by qualified candidates may be retained by such qualified candidates for a period not exceeding six months after the general election for which such moneys were received in order to liquidate all obligations and to pay expenses for the purposes permitted by N.J.A.C. 19:25-15.24 which expenses were incurred during the general election campaign.

**19:25-15.47 Repayment of public or other funds**

(a) All public moneys received by qualified candidates remaining after liquidation of all lawful obligations with respect to that election shall be repaid to the Commission (for return to the Treasurer of the State of New Jersey) not later than six months after the date of such general election. All moneys other than public moneys, remaining available to any qualified candidates after the liquidation of all obligations, shall also be repaid to the Commission (for return to the Treasurer of the State of New Jersey) not later than six months after the date of such general election; provided, however, that nothing herein contained shall require any candidate to pay to the State Treasurer, a total amount of moneys in excess of the total amount of public moneys received by such qualified candidates from the public fund.

(b) No candidate who has received public funds shall incur any debt or make any expenditure after the date of the 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.

(c) An election night celebration or event conducted by a candidate who has received public funds will be deemed a reasonable and necessary cost of closing the campaign provided that it is conducted on the date of the general election.

**19:25-15.47A Disposal of assets**

Any materials remaining from the general election campaign of publicly financed candidates, including, but not limited to, campaign literature, buttons, office supplies, and any other equipment, may not be transferred or given to any other election campaign of such candidates or of any other candidate or entity, but must be purchased by a person or entity for cost or other reasonable value.

**19:25-15.47B Application for termination of reporting with net liabilities by publicly financed candidates**

(a) Publicly financed candidates who have returned all public moneys to the Commission in compliance with the requirements of N.J.A.C. 19:25-15.47, but who have continued to file postelection quarterly reports to report net liabilities, that is, outstanding obligations in excess of the total assets of the candidate committee, including its cash balance in all of its depository accounts, may apply to the Commission to file a final report to terminate the reporting of the candidates' committee as set forth in (b) through (e) below.

(b) Such application shall not be made earlier than seven years after the date of the election.

(c) Each candidate for the office of Governor, candidate for the office of Lieutenant Governor, and their treasurer filing an application for termination of reporting shall certify the following:

1. For each outstanding obligation, the date each obligation was incurred and the date it was first reported on a report filed with the Commission;
2. A statement describing the efforts made by the campaign to retire the outstanding obligations, including, without limitation, efforts to compromise or resolve the debt with the vendor or service provider;
3. That the candidate committee expects to receive no further contributions to retire its net liabilities in the election;
4. That the candidate committee has liquidated all assets and applied proceeds from such liquidation to retire debt;
5. That the candidate committee expects to make no further expenditures except to bring any remaining depository account balance to zero; and
6. All reports required by the Reporting Act and this chapter have been timely filed and correctly stated, except for good cause shown.

(d) For each outstanding obligation described in (c)1 above, the candidate for the office of Governor, the candidate for the office of Lieutenant Governor, and the treasurer shall each make a separate certification that no pledge or commitment has been made or received by any candidate or treasurer, or other authorized person or representative of the campaign, or by the candidate committee, that the payment of such obligation will be forgiven or assumed by any party other than the candidate committee.

(e) The Commission shall review each such application and shall grant its approval to such application based upon consideration of all factors set forth in (c) and (d) above, and whether or not all outstanding audit issues have been resolved with the candidate committee.

#### **19:25-15.47C Final report certification with net liabilities for publicly financed candidates**

(a) Upon approval by the Commission pursuant to the provisions of N.J.A.C. 19:25-15.47B, publicly financed candidates for the offices of Governor and of Lieutenant Governor and their treasurer may file a final report and certify it as finalized.

(b) The final report shall show a zero balance in all campaign depository accounts and all final expenditures of campaign funds shall be made in accordance with N.J.A.C. 19:25-15.45, Post-election payment of expenses, and 15.47, Repayment of public or other funds.

(c) An outstanding obligation reported on a final report filed pursuant to (a) and (b) above shall not be considered a “contribution” as defined at N.J.A.C. 19:25-1.7.

(d) Notwithstanding (c) above, by enacting this subsection, the Commission does not waive its authority pursuant to N.J.S.A. 19:44A-6.b(10) to make a referral to the Office of the Attorney General for possible violations of N.J.S.A. 19:44A-21.a and b, upon subsequent receipt of evidence of false certification or misrepresentation of contributions or expenditures.

#### **19:25-15.48 (Reserved)**

#### **19:25-15.49 Statement of candidates electing to participate in debates**

(a) Candidates for the offices of Governor and Lieutenant Governor that do not qualify for receipt of public funds may elect to participate in the series of interactive gubernatorial general election debates by filing the following no later than September 1 preceding the general election in which the offices of Governor and Lieutenant Governor are to be filled:

1. Form G-1A separately, indicating their intent to participate in the series of debates; and
2. Form P-1 establishing the candidates’ deposited contributions of at least \$580,000 and that at least \$580,000 of the contributions have been expended or are committed to be expended.
  - i. Form P-1 shall include scanned images of all documentation that substantiate contribution and expenditure thresholds have been met.
  - ii. The use of personal funds can be used to meet all or part of the contribution threshold.
  - iii. The candidate may not use any loan repayment amount to meet any part of the expenditure threshold.

#### **19:25-15.50 Application to sponsor debates for the offices of Governor and of Lieutenant Governor**

(a) To be eligible for selection by the Commission to sponsor one or both of the interactive general election debates for the office of Governor, or the debate for the office of Lieutenant Governor, an organization:

1. Must be unaffiliated with any political party or with any holder of or candidate for public office; and

2. Must not have endorsed any candidate in the pending general election for the offices of Governor and of Lieutenant Governor and must agree not to make any such endorsement until the completion of any debate sponsored by the organization.

(b) Any association of two or more separately owned news publications or broadcasting outlets, including newspapers, radio stations or networks, and television stations or networks, having between or among them a substantial readership or audience in this State, and any association of print or broadcast news or press service correspondents having among them a substantial readership or audience in this State, shall be eligible to sponsor any such gubernatorial general election debate.

(c) Written applications by organizations to sponsor one or both of the general election debates for the office of Governor, or the debate for the office of Lieutenant Governor, shall be submitted to the Commission on a form provided by the Commission not later than July 1 of any year in which a general election is held for the office of Governor. The written application shall set forth the following information:

1. The time and date of broadcast of the debate or debates;
2. The specific television and radio stations and other media outlets which have committed to air, broadcast, or simulcast the debate or debates, and the specific New Jersey counties and number of households reached by those specific television and radio stations and other media outlets;
3. The specific television and radio stations and other media outlets which have committed to rebroadcast the debate or debates, and the specific dates and times of such rebroadcast;
4. Plans for coverage of the debate or debates by media outlets broadcasting in a foreign language;
5. The location of the debate or debates, and a description of the building or facility including legal seating capacity and accessibility for persons with physical disabilities;
6. A specific description of the format of the debate or debates, including plans for interactive exchanges among the candidates and opportunities for the public to direct questions to the candidates;
7. Specific plans, including plans for newspaper advertisements, to disseminate information to the public concerning the date, time, location, and media outlets airing or broadcasting the debate or debates;
8. Plans for accessibility of the debate or debates to hearing-impaired persons in the broadcast audience;

9. Arrangements for a debate moderator or moderators; and

10. Sources of financial support to the organization to underwrite costs associated with the debate or debates.

(d) If the applicant anticipates the presence of an audience at the debate or debates, the written application shall in addition to the information required under (c) above, set forth 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;
3. Plans for interaction between the candidates and the audience; and
4. Plans for accessibility of the debate to hearing-impaired members of the audience.

(e) If the applicant anticipates imposing an admission fee or ticket price for attendance at the debate, the application shall state the amount of the admission fee or ticket price and include an explanation of why such an admission fee or ticket price is being charged.

#### **19:25-15.51 Selection of debate sponsor(s)**

(a) Based upon the eligibility criteria in N.J.A.C. 19:25-15.50(a) above, the Commission shall select the organization or organizations to sponsor the general election debates within 30 calendar days of the July 1 deadline for receipt of sponsor applications and shall provide written notification to the organization or organizations so selected.

(b) The Commission shall provide each debate sponsor it has selected with a list of candidates who are required to participate in the gubernatorial general election debates or who have elected to participate.

(c) In making its selection among potential debate sponsors, the Commission shall consider the information set forth on the written application pursuant to N.J.A.C. 19: 25-15.50(c), (d), and (e).

(d) The Commission shall also consider in making its selection under (c) above, whether or not the applicant is a previously selected sponsor that:

1. Made changes in submitted plans or arrangements and notified the Commission of such changes pursuant to the provisions of N.J.A.C. 19:25-15.52A(a); and
2. Received approval from the Commission pursuant to the provisions of N.J.A.C. 19:25-15.52A(b).

## **19:25-15.52 Dates, times, and location of debates**

(a) Not later than five calendar days after receipt of notification from the Commission that an organization has been selected to sponsor one or both of the general election debates for the office of Governor or the debate for the office of Lieutenant Governor, each sponsoring organization shall:

1. Submit a written calendar to the Commission and to all candidates who are required to or have elected to participate in the debates containing the date, time, location, and plans for television and other media coverage of the debate or debates assigned to the sponsor; and
2. Submit to the Commission a description of the physical facilities available at the debate site or sites for use by television, broadcast and other media personnel.

(b) The debate date or dates selected by each sponsoring organization in the written calendar required in (a) above for the office of Governor shall be no earlier than the third Tuesday following the first Monday in September of the year in which a general election is held for the office of Governor and no later than the 11th day prior to the pending general election. The debate date selected by each sponsoring organization in the written calendar required in (a) above for the office of Lieutenant Governor shall be scheduled between the time of the first debate for the office of Governor and the second debate for the office of Governor.

(c) Upon the vote of a majority of the candidates participating in the second general election debate for the office of Governor that an emergency condition exists requiring postponement of that debate, the debate sponsor shall:

1. Reschedule the second debate to occur no later than the second calendar day preceding the general election; and
2. Take whatever actions are necessary to notify all participating candidates and the Commission of the date, time, and location of the rescheduled debate.
  - i. Actions to notify the participating candidates and the Commission of the rescheduled debate shall include, but not be limited to, telephone contact and first class mail, return receipt requested.

(d) The Commission shall review and approve the debate calendars submitted by the debate sponsoring organizations pursuant to (a) above prior to the occurrence of any general election debate and shall create a master debate calendar which ensures compliance with the date requirements of (b) above and ensures that the debates are scheduled for different dates.

(e) Upon the vote of a majority of the candidates participating in the debate for the office of Lieutenant Governor that an emergency condition exists requiring postponement of that debate, the debate sponsor shall:

1. Reschedule the debate to occur between the time of the first debate for the office of Governor and the second debate for the office of Governor; and
2. Take whatever actions are necessary to notify all participating candidates and the Commission of the date, time, and location of the rescheduled debate.
  - i. Actions to notify the participating candidates and the Commission of the rescheduled debate shall include, but not be limited to, telephone contact and first class mail, return receipt requested.

(f) In the event that the Commission determines in its review pursuant to (d) above that a conflict exists in the scheduled debates, the Commission shall direct the debate sponsors to submit a revised debate schedule or schedules within two calendar days containing new debate dates and times which eliminate the conflict.

#### **19:25-15.52A Notification to Commission of change in debate plans**

(a) An organization or organizations selected pursuant to N.J.A.C. 19:25-15.51 to sponsor a gubernatorial general election debate shall provide written notification to the Commission within 48 hours of any change made in the plans or arrangements for the debate submitted on the application pursuant to N.J.A.C. 19:25-15.50(c), (d) or (e). Such written notification shall include the reason for each change. A selected sponsor may use a facsimile transmission (fax) to the Commission at (609) 292-4238 for the limited purpose of filing this notification. Such fax shall contain identifying information as to transmitter, and the date and time of transmission.

(b) The Commission shall review any change submitted pursuant to (a) above and notify the organization or organizations whether or not the change is approved. The Commission's determination shall be based upon the degree to which the changes vary from the original approved application and the nature of the changes, including, but not limited to, whether or not such changes:

1. Are within the control of the sponsor(s);
2. Affect the interactive nature of the debates; or
3. Compromise the ability to maximize outreach to the voting public.

#### **19:25-15.53 Rules for conduct of debates**

(a) Each debate between or among candidates for the office of Governor shall be of at least one hour's duration, and the debate between or among candidates for the office of Lieutenant Governor shall be of at least one hour's duration.



(b) Promulgation of the rules for the conduct of each debate shall be the responsibility of the organization selected by the Commission as the sponsor of each debate and such rules shall not be made final without consultation with a representative designated by each of the participating candidates.

(c) Immediately upon notification of its selection as a sponsor and no later than five calendar days before each debate is to occur, the sponsor shall forward the written rules for conduct of the interactive general election debate to the representatives of the participating candidates, to the Commission, and to the relevant candidates who are required to or have elected to participate in the debate.

(d) The candidates participating in the debate and the Commission shall be notified by the sponsor in writing of any modifications or changes to the rules for conduct of a debate no later than two calendar days before the debate is scheduled to occur.

#### **19:25-15.54 Complaint alleging failure to participate in a required debate**

(a) Any complaint filed with the Commission alleging failure of a general election candidate to participate in a required debate shall:

1. Be in writing and be verified; and
2. 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 required 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.

#### **19:25-15.55 Temporary cessation of distribution of public funds**

(a) Upon receipt by the Commission of a verified complaint alleging failure to participate in a debate, 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 and certification of any public fund amounts which have been requested by the respondent candidate from the Commission and which have not previously been approved; and

2. Schedule a hearing before it 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.

### **19:25-15.56 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.
3. Justification and excuse shall be deemed to be affirmative defenses for the purposes of this subsection.

(b) 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.

### **19:25-15.57 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 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 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.

### **19:25-15.58 Final decision of non-participation**

(a) At the conclusion of a hearing, the Commission shall determine by majority vote:

1. Whether a candidate required to participate in a general election debate has failed to do so;
2. 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 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 public moneys distributed by the Commission pursuant to N.J.S.A. 19:44A-33 to the respondent candidate for campaign expenses; and
2. Notify the respondent candidate and campaign treasurer 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 public fund amounts to the candidate.

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

(e) In the case of a final decision of non-participation of a candidate for election to the office of Lieutenant Governor, the candidate for election to the office of Governor shall jointly be

liable for return of one-half of the monies previously received for use by the candidates, jointly, to pay general election expenses.

### **19:25-15.59 Inaugural event contribution limit; reporting**

(a) No person, candidate, candidate committee, joint candidates committee, political committee, or continuing political committee otherwise eligible to make political contributions, shall make any contribution or contributions for the purpose of any gubernatorial inaugural fundraising event or events in the aggregate in excess of \$500.00. A contributor to a gubernatorial inaugural fundraising event may make a contribution not to exceed \$500.00 in the aggregate notwithstanding any contribution by such contributor to candidates for election to the offices of Governor and of Lieutenant Governor.

(b) No person or committee sponsoring a gubernatorial inaugural fund raising event shall accept for deposit in any bank account maintained for the purposes of such event any contribution or contributions from a contributor in the aggregate in excess of \$500.00. Any contribution or contributions received from a single contributor in the aggregate in excess of \$500.00 shall be returned to the contributor pursuant to the requirements of N.J.A.C. 19:25-11.8.

(c) Any person or committee sponsoring a gubernatorial inaugural fund raising event shall appoint a treasurer and designate a bank account no later than the 10th day after receiving any contribution or expending any money for the gubernatorial inaugural fund raising event, and shall file with the Commission, the name and mailing address of the appointed treasurer and the bank name, mailing address and number of the designated bank account no later than the 10th day after receiving any contribution or expending any money for the gubernatorial inaugural fund raising event.

(d) Any person or committee sponsoring a gubernatorial inaugural fund raising event shall make a full report to the Commission of all contributions and expenditures with respect to the event within 45 days following the event in accordance with the provisions of the Act, and the designated treasurer shall certify the correctness of such report and shall file and shall certify the correctness of quarterly reports thereafter pursuant to N.J.A.C. 19:25-8.3(b), beginning on July 15 following the due date for the 45-day report, until all obligations are liquidated and the account closed.

### **19:25-15.60 Inaugural event contributions from joint checking account**

(a) A contribution to a gubernatorial fund raising event by check drawn on a joint checking account shall be deemed to be made by the joint checking account owner whose signature appears on the check.

(b) If a check drawn on a joint checking account bears the signatures of more than one contributing owner, the contribution will be deemed to have been made equally by all contributing owners whose signatures appear on the check.

(c) If a check drawn on a joint checking account is accompanied by a written statement signed by each contributing owner and containing information identifying the amount of contribution of each contributing owner, the amount of the contribution made by each contributing owner shall be determined as specified in the signed written statement.

#### **19:25-15.61 Inaugural event contributions from affiliated corporations or unions**

(a) A corporation, association or labor organization or any subsidiary, affiliate, branch, division, department or local unit of any such corporation, association or labor organization shall not make any contribution to a gubernatorial fund raising event which, when added to any other contribution by any related or affiliated corporation, association or labor organization, exceeds \$500.00 in the aggregate. Whether such corporation, association or labor organization is related or affiliated shall depend on the circumstances existing at the time of such contribution, including, but not by way of limitation, the degree of control or common ownership with related or affiliated corporations, associations or labor organizations, the source and control of funds used for such contributions and the degree to which the decisions whether or not to contribute, to what candidate and in what amount are independent decisions.

(b) For the purposes of (a) above, two or more corporations shall be considered affiliated where one individual owns more than a 30 percent interest in each of two or more corporations or where one corporation owns more than a 30 percent interest in each of one or more corporations.

#### **19:25-15.62 Partnership contributions to inaugural events prohibited**

(a) A partnership as defined in (b) below shall not be permitted to make contributions as an entity. A contribution received by an inaugural event treasurer and made by means of a check or written instrument drawn on a partnership account shall be signed by a partner or partners and shall be deemed to be a contribution from the partner or partners who signed the check or written instrument by which the contribution was conveyed, or in the case of a contribution of currency, the partner who has conveyed the currency. If the check or written instrument is drawn on a partnership account and is signed by an individual other than a partner, or if it is the intent of the contributor that any portion of the contribution received from a partnership account is to be attributed or allocated to a partner or partners who have not signed the check or written instrument, or in the case of a currency contribution if the currency contribution was conveyed by an individual who is not a partner, the following written information shall be received and maintained by the inaugural event treasurer:

1. Written instructions concerning the allocation of the contribution amount to a contributing partner, or among contributing partners;
2. A signed acknowledgment of the contribution from each contributing partner who has not signed the contribution check or other written instrument; and
3. Contributor information for each contributing partner as required by N.J.A.C. 19:25-7.1.

(b) For the purposes of this section, the term "partnership" means:

1. Any partnership or joint venture organized under or governed by Title 42 of the New Jersey Statutes, including general partnerships within the meaning of N.J.S.A. 42:1-1 et seq., limited liability partnerships organized pursuant to N.J.S.A. 42:1-45 et seq., limited partnerships organized pursuant to or governed by N.J.S.A. 42:2A-1 et seq., and limited partnership associations organized pursuant to N.J.S.A. 42:3-1 et seq., and
2. Any similar association of two or more persons to carry on as co-owners a business for profit including, but not limited to, joint ventures, general partnerships, limited liability partnerships and limited partnerships organized or governed by corresponding laws of any other jurisdiction.

(c) A limited liability company shall not be permitted to make contributions as an entity. A contribution received by an inaugural event treasurer drawn upon a limited liability company account and made by means of a check or written instrument drawn on the account of a limited liability company shall be signed by a member or members and shall be deemed to be a contribution from the member or members who signed the check or written instrument by which the contribution was conveyed or, in the case of the contribution of currency, the member who has conveyed the currency. If the check or written instrument is drawn on a limited liability company account and is signed by an individual other than a member, or if it is the intent of the contributor that any portion of a contribution received from a limited liability company account is to be attributed or allocated to a member or members who have not signed the check or written instrument, or in the case of a currency contribution, if the currency was conveyed by an individual who is not a member, the following written information must be received and maintained by the inaugural event treasurer:

1. Written instructions concerning the allocation of the contribution amount to a contributing member, or among contributing members;
2. A signed acknowledgment of the contribution from each contributing member who has not signed the contribution check or other written instrument; and
3. Contributor information for each contributing member as required by N.J.A.C. 19:25-7.1.

### **19:25-15.63 Inaugural event contributions from children or trusts**

(a) A contribution to a gubernatorial fund raising event by a child under the age of 18 shall be deemed made by the parent who is responsible for the contribution unless:

1. The child is 14 years of age or older and a signed statement from the child and the child's parent or guardian is submitted to the commission that the decision to contribute was solely that of the child and the funds used to make the

contribution were legally and beneficially controlled by the child and were not the proceeds of a gift made for the purpose of the contribution; or

2. The child is 11 years old or older and, in addition to the signed statements set forth in (a)1 above, evidence is submitted satisfactory to the commission that the child acted independently and with full knowledge of the contribution.

(b) A contribution to a gubernatorial fund raising event by a check drawn on a escrow or trust account shall be deemed to be made by the person who is the beneficial owner of the account, and the check or an accompanying written instrument must bear the signature of such beneficial owner.

**19:25-15.64 (Reserved)**

**19:25-15.65 Complaints alleging violation of general election expenditure limit**

(a) Any complaint filed with the Commission alleging violation by a general election candidate receiving public matching funds of the general election expenditure limit in N.J.A.C. 19:25-15.11(a)3 shall:

1. Be in writing and be verified;
2. Be brought solely against a gubernatorial candidate participating in the pending general election gubernatorial public financing program;
3. Specifically identify the name and address of the complainant and the name and address of the respondent; and
4. Contain a detailed statement alleging with specificity all facts known to the complainant pertinent to the alleged violation of the general election expenditure limit, including the complainant's best estimate of the amount expended by the gubernatorial candidate and alleged facts supporting that estimate.

(b) A complaint filed pursuant to (a) above which requests emergent review in a preelection time period shall:

1. Be accompanied by a certification requesting emergent disposition and providing specific reasons why emergent review is necessary, including evidence of irreparable harm to the complainant gubernatorial general election candidate and evidence that the alleged general election expenditure limit violation is in an amount of at least \$10,000;
2. Be brought by a gubernatorial candidate in the same general election as the respondent publicly financed gubernatorial candidate; and

3. Be filed sufficiently in advance of the date of the general election to permit emergent hearing proceedings to be conducted pursuant to (d) below.

(c) Service of a complaint alleging violation of the general election expenditure limit shall be made by the complainant by personal service or by certified mail, return receipt requested, upon the respondent candidate, the Commission, and any person named in the complaint.

(d) Any hearing conducted by the Commission arising from a complaint filed pursuant to this section shall be governed by the New Jersey Uniform Administrative Procedure Rules, N.J.A.C. 1:1, and the New Jersey Administrative Procedure Act, N.J.S.A. 52:14B-1 et seq.

(e) Relief in an action brought pursuant to this section shall be limited to either or both of the following:

1. A finding or findings that an expenditure or expenditures be counted toward the respondent's expenditure limit in N.J.A.C. 19:25-15.11(a)3; and/or
2. A finding or findings that the respondent shall return public matching funds to the State as directed by the Commission because the expenditure limit in N.J.A.C. 19:25-15.11(a)3 has been exceeded.

(f) The Executive Director of the Commission or his designee shall be authorized to find that a verified complaint requesting emergent review pursuant to (b) above is deficient and shall not be referred to the Commission for emergent hearing consideration. The Executive Director shall notify the complainant in writing that the verified complaint is deficient. The grounds for finding that a verified complaint is deficient shall include, but not be limited to, any one or more of the following:

1. The verified complaint names as the complainant a person or entity other than a gubernatorial candidate in the election that is the subject of the complaint;
2. The verified complaint names as the respondent a person or entity other than a publicly financed gubernatorial candidate in the election that is the subject of the complaint;
3. The verified complaint does not allege a violation of the general election expenditure limit; or
4. The verified complaint does not contain specific evidence that the alleged expenditure limit violation is in an amount of at least \$10,000.

### **19:25-15.66 Postelection proceedings for return of funds**

Candidates for election to the offices of Governor and of Lieutenant Governor who have jointly qualified to and receive public matching funds in an election shall be subject to postelection proceedings undertaken by the Commission seeking reimbursement if the expenditure limit in N.J.A.C. 19:25-15.11(a)3 has been exceeded, or if public funds have been spent in violation of



N.J.A.C. 19:25-15.24, or for any other alleged violation pertinent to the legality of funds awarded in the general election.

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## **SUBCHAPTER 16. PUBLIC FINANCING OF PRIMARY ELECTION FOR GOVERNOR**

### **19:25-16.1 Scope of subchapter**

The provision of this subchapter shall be applicable to the primary election campaign for nomination for election to the office of Governor of New Jersey in June 1981 and every such primary gubernatorial campaign held thereafter, except that the provisions shall not apply to any primary election campaign for nomination for the office of Governor for which the Legislature fails to make an appropriation for public funding.

### **19:25-16.2 Definitions; generally**

The words and terms used in this subchapter are used as defined in this subchapter or in N.J.A.C. 19:25-1.7.

### **19:25-16.3 Definitions**

The following words and terms, when used in this subchapter, shall have the following meanings unless the context clearly indicates otherwise.

"Candidate" means an individual who has filed a nominating petition, or has filed a form D-1 with the commission, or has solicited contributions or made or incurred expenditures on behalf of his or her candidacy, or has allowed others to solicit contributions or make or incur expenditures on behalf of his or her candidacy for nomination for election to the office of Governor of New Jersey, or who has received funds or other benefits or has made payments solely for the purpose of determining whether or not the individual should become a candidate for the office of Governor of New Jersey in any primary election for which the Legislature makes an appropriation for public funding.

"Contribution" is used as defined in N.J.A.C. 19:25-1.7 and includes loans, except that a loan in the ordinary course of business by a bank pursuant to section 15 of P.L. 1980, c.74 (N.J.S.A. 19:44A-44) is not a contribution by that bank.

"Contribution eligible for match" means contributions from one contributor to be matched from public funds on a two-for-one basis. No contribution, which must be, or is intended by the contributor or the recipient to be, refunded or repaid at any time, no loan obtained pursuant to N.J.S.A. 19:44A-44, no funds received from the housekeeping account of a State political party committee or county political party committee authorized pursuant to N.J.S.A. 19:44A-10.2, no amount of the candidate's own funds in the aggregate in excess of \$5,800, no in-kind contribution, and no other monies received by the candidate, the candidate's campaign treasurer, or deputy campaign treasurer, except those contributions described at N.J.S.A. 19:44A-29.a, shall be deemed contributions eligible for match.

"Debate sponsor" means the organization or organizations to which the Commission has delegated the responsibility for conducting one or more of the televised interactive primary election debates.

"Depository bank account" means the campaign bank account designated by a candidate pursuant to N.J.S.A. 19:44A-9 for the deposit pursuant to N.J.S.A. 19:44A-12 of funds received by the campaign treasurer.

"Gubernatorial candidate" means an individual seeking election to the office of Governor in a primary election, for purposes of this subchapter.

"Interactive primary election debate" means the moderated reciprocal discussion of issues among the candidates of a political party which involves responses by the candidates to questions posed by the representative or representatives of the sponsor organization.

"Matching fund account" means the campaign bank account or accounts opened pursuant to N.J.S.A. 19:44A-32 by a campaign treasurer of a candidate, or deputy campaign treasurer, in which only contributions eligible for match may be deposited.

"Non-participating candidate" means any candidate who does not make application for public funding in a primary election pursuant to N.J.A.C. 19:25-16.18, Matching of funds, or who is not a "qualified candidate" as that term is defined at N.J.A.C. 19:25-16.3. In no case shall a candidate who qualifies for and receives any public funding for a primary election be subsequently deemed a non-participating candidate for that election.

"Own funds" means funds to which the candidate is legally and beneficially entitled, but shall not include funds as to which he or she is a trustee or funds given or otherwise transferred to the candidate by any person other than the spouse of the candidate for use in aid of his or her candidacy.

"Person" includes an individual, a corporation, an association or a labor union. For purposes of this subchapter, person does not include a partnership. A spouse of any person is deemed to be a separate person.

"Public fund account" means the campaign bank account created by the Commission pursuant to N.J.A.C. 19:25-16.20 on behalf of a qualified candidate and for the deposit of public matching funds.

"Qualified candidate" means any candidate for nomination for election to the office of Governor who has deposited and expended \$580,000 pursuant to N.J.S.A. 19:44A-32; and who, not later than the last day for filing petitions to nominate candidates to be voted upon in a primary election for a general election in which the office of Governor is to be filled, applies to the Commission to receive public funds for gubernatorial campaign expenses; and who certifies and files required reports regarding any issue advocacy organization involvement; and who certifies their agreement to participate in two interactive gubernatorial primary election debates.

“Submission for matching funds” includes a list of all contributions received and all expenditures made or incurred, whether a qualified candidate or a non-participating candidate, filed for the purpose of receiving public funds for campaign expenses or for participation in the series of interactive debates.

#### **19:25-16.4 Appointment of treasurers and depositories**

(a) Each candidate in a primary election, whether or not intending to participate in public funding, shall:

1. Designate the name and address of his or her candidate committee for the primary election;
2. Appoint a campaign treasurer;
3. Designate a depository bank account; and
4. Notify the Commission pursuant to N.J.A.C. 19:25-4.1A of such appointment and designation no later than the 10th day after receipt of any contribution or after incurring or making any expenditure, whichever comes first.

#### **19:25-16.5 (Reserved)**

#### **19:25-16.6 Contribution limits; applicability**

(a) Each candidate, whether or not intending to participate in public funding, and each campaign treasurer, or deputy campaign treasurer, of such candidate shall not knowingly accept from any person, candidate committee, joint candidates committee, political committee, continuing political committee, political party committee, or legislative leadership committee any contribution in aid of the candidacy of, or in behalf of, such candidate in the aggregate in excess of \$5,800 in any primary election.

(b) Contributions from a joint account by one owner of the account may not be attributed to other owners of the account.

#### **19:25-16.7 Candidates deemed non-participating; effect**

Any candidate, who does not by the last day for filing petitions to nominate candidates to be voted upon in a primary election for Governor, make application for public funding in a primary election pursuant to N.J.A.C. 19:25-16.18 (Matching of funds) shall be deemed non-participating in public funding of that primary election and shall not receive public funds on behalf of the candidate’s campaign.

#### **19:25-16.8 Non-participating candidates**

(a) A non-participating candidate is subject to the \$5,800 limitation on contributions from a person, candidate committee, joint candidates committee, political committee, continuing political committee, political party committee, or legislative leadership committee pursuant to N.J.S.A. 19:44A-29.

(b) A non-participating candidate is subject to the \$5,800 limit on guarantors of bank loans, except if the guarantor is the non-participating candidate himself or herself.

(c) A non-participating candidate is not subject to the overall campaign expenditure limit contained in N.J.S.A. 19:44A-7; is not subject to the \$25,000 limit on own funds contained in N.J.S.A. 19:44A-29; is not subject to the \$50,000 limit on bank loans contained in N.J.S.A. 19:44A-44; and is not subject to any limits on the amount of bank loans to be guaranteed by the candidate personally.

(d) A non-participating candidate who elects to participate in the series of interactive debates pursuant to the provisions of N.J.S.A. 19:44A-45, is subject to the same qualifying contribution and expenditure thresholds as participating candidates.

### **19:25-16.9 Limitations on participating candidates**

(a) Each candidate intending to participate in public funding, in addition to any other requirement imposed by the Act or this subchapter, is subject to the following limitations:

1. No candidate receiving public funds may make expenditures from his or her own funds, including any contributions from his or her own funds, in aid of his or her candidacy in excess of \$25,000. Any loan guaranteed with such candidate's own funds must be included in calculating the aggregate contribution of the candidate in aid of his or her candidacy until such time as the loan is no longer outstanding.
2. No candidate, or his or her campaign treasurer or deputy campaign treasurer, shall borrow an amount that at any one time exceeds \$50,000 in the aggregate, and such loan must be repaid in full not later than 20 days prior to the primary election for which the loan was made from moneys accepted or allocated pursuant to N.J.S.A. 19:44A-29. Certification of such repayment shall be made by the borrower to the Commission in accordance with N.J.A.C. 19:25-16.31 Borrowing of funds, repayment.
3. The amount that any qualified candidate may spend in aid of his or her candidacy shall not exceed \$8.7 million, which amount shall include payments made solely for the purpose of determining whether to become a candidate. Such amount shall not include expenditures listed at N.J.A.C. 19:25-16.27.
4. Contributions by any candidate in excess of \$5,800 from his or her own funds in aid of his or her candidacy shall not be deposited in a matching fund account

and shall not be calculated in determining if such candidate is a qualified candidate eligible for public matching funds.

**19:25-16.10 Who may or may not contribute**

(a) No person, other than a candidate contributing the candidate's own funds to the candidate's campaign, candidate committee, joint candidates committee, political committee, continuing political committee, political party committee, or legislative leadership committee shall make any contribution to any candidate, the candidate's campaign treasurer, or deputy campaign treasurer, or to any other person or committee, in aid of the candidacy of, or on behalf of, a candidate, whether or not participating in public funding, for nomination for election to the office of Governor in a primary election, in the aggregate in excess of \$5,800. Any such contribution in excess of \$5,800 must be returned to the contributor pursuant to the requirements at N.J.A.C. 19:25-11.8, and evidence of the repayment shall be submitted to the Commission.

(b) A joint candidates committee established by candidates who has not established any candidate committees in an election may make a contribution to a candidate for nomination for election to the office of Governor in an amount not to exceed the sum of the number of candidates participating in the joint candidates committee multiplied by \$5,800. If a candidate has established both a candidate committee and a joint candidates committee in an election, the total amount that may be contributed by that candidate's joint candidates committee and candidate committee to a candidate for nomination for election to the office of Governor may not exceed \$5,800 per candidate participating in the joint candidates committee.

(c) Subject to the limitations contained in this subchapter and the Act, any person may contribute to more than one candidate.

(d) A corporation, association or labor organization or any subsidiary, affiliate, branch, division, department or local unit of any such corporation, association, or labor organization shall not make any contribution to, or on behalf of, a candidate that, when added to any other contribution by any related or affiliated corporation, association, or labor organization, exceeds \$5,800 in the aggregate. Whether such corporation, association, or labor organization is related or affiliated shall depend on the circumstances existing at the time of such contribution, including, but not by way of limitation, the degree of control or common ownership with related or affiliated corporations, associations, or labor organizations, the source and control of funds used for such contribution, and the degree to which the decisions whether to contribute, to what candidate, and in what amount are independent decisions.

(e) In considering the criteria set forth in (d) above, two or more corporations shall be conclusively deemed to be affiliated if:

1. Any individual, corporation, partnership, company, association, or other entity owns, directly or indirectly, more than a 30 percent interest in each of such corporations; or

2. One such corporation owns, directly or indirectly, more than a 30 percent interest in the other such corporation.

(f) Contributions by minors shall be attributed to the legal guardian(s) of the minor for the purpose of N.J.A.C. 19:25-16.6, and not to the minor unless:

1. The minor is 14 years or older;
2. The contribution is made from funds comprised of the minor's earned income as defined in N.J.A.C. 19:25-1.7; and
3. Sworn statements made by the minor and by the minor's legal guardian(s) are submitted with the contribution which state that the decision to contribute was solely that of the minor and that the funds used to make the contribution were comprised solely of the minor's earned income.

(g) For the purposes of (f) above, if the minor has more than one legal guardian, the contribution shall be attributed equally to each legal guardian of the minor.

#### **19:25-16.11 Contributions eligible for match**

(a) To be eligible for matching with public funds for a gubernatorial primary election, a contribution must have been received by a candidate at a time when that candidate was seeking or had sought nomination for election for the office of Governor, or must have been received by the candidate for the purpose of determining whether or not to become a candidate for nomination for election to the office of Governor. Any funds received prior to the inception of such a candidacy shall not be eligible for match. Any funds received from the housekeeping account of a State political party committee or county political party committee authorized pursuant to N.J.S.A. 19:44A-10.2 shall not be eligible for match.

(b) The campaign treasurer, or deputy campaign treasurer, of the candidate shall open a matching fund account in a national or a State bank pursuant to N.J.S.A. 19:44A-32, which shall be the designated Matching Fund Account of (name of candidate for the office of Governor) and in which contributions eligible for match may be deposited. Such deposit shall be made within 10 days of receipt.

(c) Only contributions in cash or by check, money order, or negotiable instruments shall be contributions eligible for match. Loans shall not be eligible for match. In-kind contributions shall not be eligible for match, but will count toward the individual contribution limit of \$5,800 and the overall expenditure limit at N.J.S.A. 19:44A-7, except for expenses not subject to expenditure limits pursuant to N.J.A.C. 19:25-16.27. The total of all contributions eligible for match from any person, candidate committee, joint candidates committee, political committee, continuing political committee, political party committee, or legislative leadership committee shall not exceed \$5,800 in the aggregate.



(d) A maximum of \$5,800 in the aggregate of a candidate's own funds may be deposited in the matching fund account.

(e) Every contribution eligible for match must be accompanied by a written statement which shall identify the individual making the contribution by full name and full mailing address (number, street, city, state, zip code), the name of the candidate, the amount and date of receipt of the contribution, and shall bear the signature of the contributor. The requirement of such written statement will be deemed to be satisfied in the case where a contribution is made by means of a check, money order or other negotiable instrument payable on demand and to the order of, or specially endorsed without qualification to, the candidate or to his or her campaign committee, if such check, money order or instrument contains all of the foregoing information.

(f) A contribution received from a contributing member of a political committee or continuing political committee that has made a prior contribution to the candidate shall be eligible for matching funds, provided that the political committee is a bona fide political entity which was not created to circumvent the contribution limit contained in the Act.

#### **19:25-16.12 (Reserved)**

#### **19:25-16.13 Contributions eligible for match; checks and instruments; partnership contributions prohibited; contributions by electronic transfer or funds**

(a) In the case of a check drawn on a joint checking account, the contributor shall be deemed to be the owner whose signature appears on the check. The check will not be attributed equally or otherwise to other joint owners of the account, unless the check or other accompanying written instrument contains the signature of each contributing owner and information identifying the amount of contribution of each such owner. In the absence of specific instructions to the contrary, the contribution will be allocated equally among all owners whose signatures appear on the instrument. Where the maker of a check drawn on a joint checking account is different from the individual who signs the accompanying written instrument, the Commission shall deem the individual who signs the written instrument to be the contributor of the funds.

(b) In the case of a check drawn on an escrow or trust account, the contribution will be that of the person who is the beneficial owner of the account, and the check or other accompanying written instrument must bear the signature of such beneficial owner.

(c) A partnership as defined in (d) below shall not be permitted to make contributions as an entity. A contribution received by a campaign treasurer and made by means of a check or written instrument drawn on a partnership account shall be signed by a partner or partners and shall be deemed to be a contribution from the partner or partners who signed the check or written instrument by which the contribution was conveyed, or in the case of a contribution of currency, the partner who has conveyed the currency. If the check or written instrument is drawn on a partnership account and is signed by an individual other than a partner, or if it is the intent of the contributor that any portion of the contribution received from a partnership account is to be attributed or allocated to a partner or partners who have not signed the check or written instrument, or in the case of a currency contribution if the currency contribution was conveyed by an individual

who is not a partner, the following written information must be received and maintained by the campaign treasurer and accompany the check or written instrument being submitted for match pursuant to N.J.A.C. 19:25-16.18:

1. Written instructions concerning the allocation of the contribution amount to a contributing partner, or among contributing partners;
2. A signed acknowledgment of the contribution from each contributing partner who has not signed the contribution check or other written instrument; and
3. Contributor information for each contributing partner as required by N.J.A.C. 19:25-7.1.

(d) For the purposes of this section, the term "partnership" means:

1. Any partnership or joint venture organized under or governed by Title 42 of the New Jersey Statutes, including general partnerships within the meaning of N.J.S.A. 42:1-1 et seq., limited liability partnerships organized pursuant to N.J.S.A. 42:1-45 et seq., limited partnerships organized pursuant to or governed by N.J.S.A. 42:2A-1 et seq., and limited partnership associations organized pursuant to N.J.S.A. 42:3-1 et seq., and
2. Any similar association of two or more persons to carry on as co-owners a business for profit including, but not limited to, joint ventures, general partnerships, limited liability partnerships and limited partnerships organized or governed by corresponding laws of any other jurisdiction.

(e) A limited liability company shall not be permitted to make contributions as an entity. A contribution received by a campaign treasurer drawn upon a limited liability company account and made by means of a check or written instrument drawn on the account of a limited liability company shall be signed by a member or members and shall be deemed to be a contribution from the member or members who signed the check or written instrument by which the contribution was conveyed or, in the case of the contribution of currency, the member who has conveyed the currency. If it is the intent of the contributor that any portion of a contribution received from a limited liability company account is to be attributed or allocated to a member or members who have not signed the check or written instrument, or in the case of a currency contribution, if the currency was conveyed by an individual who is not a member, the following written information must be received and maintained by the campaign treasurer and accompany the check or written instrument being submitted for match pursuant to N.J.A.C. 19:25-16.18:

1. Written instructions concerning the allocation of the contribution amount to a contributing member, or among contributing members;
2. A signed acknowledgment of the contribution from each contributing member who has not signed the contribution check or other written instrument; and

3. Contributor information for each contributing member as required by N.J.A.C. 19:25-7.1.

(f) To be eligible for match pursuant to N.J.A.C. 19:25-16.18, a contribution received by means of an electronic transfer of funds, including a credit card, shall be deposited directly into a matching fund account established pursuant to N.J.A.C. 19:25-16.11(b). For each contribution received by an electronic transfer of funds, including a credit card, the matching fund submission shall include a deposit slip or dated receipt from the bank or financial institution that specifically identifies the contributor and the amount of the contribution and a written statement that includes the signature of the contributor, the name of the contributor as it appears on the account used for the electronic transfer of funds or credit card account, the name of the owner of the account used for the electronic transfer of funds or credit card account, and the billing address of the account used for the electronic transfer of funds or credit card. An electronic signature will satisfy the signature requirement in this section when:

1. A contributor or authorized representative provides the required information, as specified in this subsection;
2. The contributor or authorized representative attests to his or her intent to authorize the contribution and provides his or her signature by typing his or her name.
  - i. Electronically received contributions are prohibited to be made by partnerships, LLCs, or LLPs; and
3. The designated treasurer, or deputy treasurer, provides a certification to the Commission certifying that any and all credit card processing companies utilized to collect contributions performs the following verification process:
  - i. Confirms that the following characteristics correspond to each other for the transaction to be accepted or approved and documentation demonstrating the verification process shall be provided by the credit card processor and included as part of the treasurer's or deputy treasurer's certification:
    - (1) Cardholder name;
    - (2) Credit card number;
    - (3) Billing zip code;
    - (4) Expiration date; and
    - (5) Security code;
  - ii. Any inconsistency among the characteristics at (f)3i above shall cause the transaction to fail; and

- iii. The certification must be provided to the Commission prior to submitting electronically received contributions for match.
4. The campaign shall provide a receipt or confirmation of each contribution received electronically by credit card containing the following information:
    - i. The contributor's name as it appeared on the credit card;
    - ii. The contributor's or authorized representative's name as it appears on the signature line;
    - iii. The contributor's address;
    - iv. The amount of the contribution; and
    - v. The date the contribution was electronically submitted.

#### **19:25-16.14 Limitation on contributions eligible for match**

(a) Any contribution in the form of the purchase price paid for an item with significant intrinsic and enduring value (such as a watch) shall be eligible for match only to the extent the purchase price exceeds the fair market value of the item or benefit conferred on the contributor, and only the excess will be included in calculating the \$5,800 contribution limit.

(b) A contribution in the form of the purchase price paid for admission to a dinner or testimonial affair as defined at N.J.A.C. 19:25-1.7 shall be a contribution eligible for match and for purposes of the \$5,800 limitation.

(c) The purchase price paid to a candidate for a fund raising event or admission to any activity that primarily confers private benefits to the contributor in the form of entertainment (such as a concert, motion picture or theatrical performance) shall be deemed the amount of the contribution made to such candidate. The tickets for such an event and the promotional materials shall state that the purchase price represents a political contribution to the candidate.

#### **19:25-16.15 Contributions; primary and general elections**

(a) No moneys deposited in a candidate's campaign bank accounts for the primary election may be expended for any candidate's general election expenses.

(b) Any candidate may establish and designate a bank account pursuant to N.J.S.A. 19:44A-12 for the ensuing general election and may deposit contributions for said general election before the date of the primary election. However, no moneys deposited in such candidate's general election account may be transferred or expended until the day following the primary election and may not be expended at any time for primary election expenses.

(c) Contributions made in aid of the anticipated general election candidacy of a candidate in a primary election shall be returned to the contributors in the event such primary candidate fails to be nominated.

(d) The primary election campaign bank accounts of each candidate shall be separate from the general election campaign bank accounts of such candidate and shall be separately designated in reports required to be filed under the Act. Funds in primary election campaign accounts shall not be commingled with funds in general election campaign accounts.

(e) An expenditure made from a candidate's primary election bank account which is determined after the date of the primary election to be allocable in part to that candidate's general election candidacy shall be reimbursed to the candidate's primary election depository account, established pursuant to N.J.A.C. 19:25-16.4, with general election funds. In no case shall funds from a candidate's primary election public funds account established pursuant to N.J.A.C. 19:25-16.20 be used for any purpose attributable to the general election.

(f) Reimbursements pursuant to (e) above shall be made on a date after the date of the primary election and shall be limited strictly to reimbursements for the administrative and compliance costs associated with receipt of unsolicited general election contributions, and for ordinary office expenditures for such purposes as office, furniture, and equipment rental and insurance and salaries.

#### **19:25-16.16 Expenditure reporting**

(a) Each expenditure from the depository account, matching fund account, or public funds account established by a gubernatorial candidate shall be reported on election fund reports and on submissions for public matching funds by providing the following information:

1. The date the expenditure was made;
2. The checking account title and number;
3. The full name and address of the payee;
4. The purpose of the expenditure;
5. The amount of the expenditure; and
6. The type of expenditure.

(b) In describing the purpose of an expenditure pursuant to (a)4 above, the specific election-related reason for the expenditure shall be provided. Descriptions such as "operations," "campaign expense" or "reimbursement" do not satisfy the reporting requirement because they do not provide any specific election-related information. Examples of satisfactory descriptions include such information as "newspaper advertising," "telephone expense," "postage," "printing of campaign flyers," "headquarters rental" and similarly specific items.

### **19:25-16.17 Funds or materials remaining from primary campaign**

(a) Moneys received by a qualified candidate from the fund for primary election expenses may be retained by such qualified candidate for a period not exceeding six months after the primary election for which such moneys were received in order to liquidate all obligations and to pay expenses for the purposes permitted by N.J.A.C. 19:25-16.25 (Use of public funds) which expenses were incurred during the primary campaign.

(b) Materials such as campaign literature, buttons and office supplies and equipment remaining from the primary campaign of a candidate may not be transferred to the general election campaign of such candidate if nominated or to any other election campaign of such candidate or of any other candidate or political committee but may be purchased by the general election campaign for cost or other reasonable value.

### **19:25-16.18 Matching of funds**

(a) A candidate for the office of Governor seeking to qualify for receipt of public matching funds shall, no later than the last day for filing a petition to nominate candidates for the primary election for Governor, file with the Commission:

1. Form G-1A (Candidate Certification for Public Financing and Debate Participation);
2. Form P-1 establishing the candidate deposited contributions eligible for match of at least \$580,000 and that at least \$580,000 of the contributions have been expended or are committed to be expended.
  - i. Form P-1 shall report all contributions, regardless of whether they are eligible for, or being submitted for, match showing each contributor's full name and full mailing address (number, street, city, state, zip code); the date of receipt of each contribution; the dollar amount of each contribution; and, for each contributor who is an individual, and whose aggregate contributions to the candidates exceed \$200.00, or were made in currency in any amount, the occupation of the individual and the name and mailing address of the individual's employer.
  - ii. Form P-1 shall include scanned images of all documentation that is required as set forth at N.J.A.C. 19:25-16.11 and 16.13, as well as deposit slips, receipted deposit slips, bank ledgers, and/or statements or any other documentation to evidence that the contributions for match were deposited into the matching fund account. Additionally, scanned images of all adjustments to contributions shall be included.
  - iii. Form P-1 shall report all expenditures made or incurred pursuant to N.J.A.C. 19:25-16.16. The expenditures shall include scanned images of all documentation that is required to substantiate the initial

expenditure threshold. Thereafter, scanned images of expenditure documentation shall be required only as set forth at N.J.A.C. 19:25-16.20 and 16.25; and

3. Form P-2 or Form P-2A reporting each candidates' involvement or participation in an issue advocacy organization pursuant to N.J.A.C. 19:25-16.18A.

(b) Each submission for public funds following qualification shall contain no less than \$12,500 of contributions eligible for match.

### **19:25-16.18A Reporting of issue advocacy organization information**

(a) A candidate seeking to qualify for receipt of public matching funds who participated in an issue advocacy organization during the four years prior to the date upon which he or she became a candidate for nomination for election to the Office of Governor, or who is at the time of the application for receipt of public matching funds participating in an issue advocacy organization, shall be ineligible to receive public matching funds unless the candidate files an Issue Advocacy Organization Report of Contributions and Expenditures (Form P-2). For the purposes of this section, a candidate shall be deemed to be participating in an issue advocacy organization if the candidate forms or formed, assists or assisted in the formation of, or was or is involved in any way in the management of an issue advocacy organization.

(b) For the purposes of this section, the term "issue advocacy organization" shall mean:

1. An issue advocacy organization that is organized under section 527 of the Federal Internal Revenue Code (26 U.S.C. § 527);
2. An organization that is organized under paragraph (4) of subsection c. of section 501 of the Federal Internal Revenue Code (26 U.S.C. § 501); or
3. An organization that is organized under any other current or future section of the Federal Internal Revenue Code which the Election Law Enforcement Commission determines is similar to any of the organizations described above.

(c) The report filed pursuant to (a) above shall include the following:

1. The name(s) of the issue advocacy organization(s) in which the candidate was a participant during the four years prior to the date upon which he or she became a candidate for election to the Office of Governor or in which the candidate is a participant;
2. The section of the Federal Internal Revenue Code under which the issue advocacy organization is organized;
3. A list from each issue advocacy organization, verified as correct by the candidate, which shall report all contributions received from the inception of the issue advocacy organization, and which shall include for each contribution, the date of receipt, the name of the contributor, the amount of

the contribution, and if the contribution was a monetary contribution, an in-kind contribution, or loan;

4. A list from each issue advocacy organization, verified as correct by the candidate, which shall report all expenditures made from the inception of the issue advocacy organization, and which shall include for each expenditure, the date of the payment, the payee name, and the payment amount; and
5. A certification by the candidate of the correctness of the report.

(d) A candidate shall continue to file the Issue Advocacy Organization Report of Contributions and Expenditures (Form P-2) on each date that the candidate applies to receive public matching funds pursuant to N.J.A.C. 19:25-16.19 and on each date established for reporting by a candidate committee pursuant to N.J.A.C. 19:25-8, until such time as the candidate certifies that there are no funds remaining in the issue advocacy organization or organizations and that the issue organization or organizations have wound up their business and been dissolved.

(e) A candidate shall not be required to file the Issue Advocacy Organization Report of Contributions and Expenditures (Form P-2) if the candidate certifies and files the Candidate Certification-Issue Advocacy Organization Participation (Form P-2A) to the effect that:

1. The candidate was not during the four years prior to the date upon which he or she became a candidate for nomination for election to the Office of Governor a participant in any issue advocacy organization and is not at the time of the application for receipt of public matching funds participating in any issue advocacy organization; or
2. The candidate participated during the four years prior to the date upon which he or she became a candidate for nomination for election to the Office of Governor in an issue advocacy organization or organizations, or is a participant in an issue advocacy organization or organizations at the time of the application for receipt of public matching funds, but the organization or organizations file reports of contributions and expenditures with the Commission or with the Federal Election Commission.

#### **19:25-16.19 Dates of submission**

(a) Form P-1, and accompanying P-2, if applicable, may be submitted by candidates on or before 12:00 noon of the first Tuesday following January 1 of the year of a primary election for nomination for the office of Governor of New Jersey, and the fourth Tuesday following January 1, and every other Tuesday thereafter through March 31, and every Tuesday thereafter up to and including the date of the primary election being funded.

(b) Form P-1, and accompanying P-2, if applicable, may be submitted by candidates on or before 12:00 noon of the first Tuesday following the primary election and every other Tuesday



thereafter up to the first Tuesday following the fifth month after the primary election. No further requests shall be considered by the Commission thereafter.

(c) In the event that a date for submission shall fall on a holiday, then the submission may be on the next succeeding business day, which is not a holiday.

(d) Nothing in this section shall relieve any candidate or committee from the preelection or post-election reporting requirements contained in N.J.S.A. 19:44A-8 or 19:44A-16.

#### **19:25-16.20 Special account for public funds**

(a) The Commission shall facilitate the creation of, for each qualified candidate, a separate segregated public fund account for deposit of public funds. All public funds approved by the Commission will be transferred by the Commission into such public fund account. No funds other than such public funds shall be transferred to the public fund account, and all expenditures from the account shall be separately identified in all applicable reports filed with the Commission.

(b) The campaign treasurer of a candidate on whose behalf a public fund account has been established shall file with the Commission on each date upon which a submission for public matching funds has been made pursuant to N.J.A.C. 19:25-16.18, Matching of funds, and 16.19, Dates of submission, and for as long as said public fund account is open and such submissions are being made, a report identifying each disbursement made out of the public fund account since the last such submission for public matching funds. The identification of each disbursement from the public fund account shall include the transaction number, date of payment, full name of payee, full payee mailing address, and a complete statement of purpose of the expenditure indicating which of the permitted purposes set forth in N.J.A.C. 19:25-16.25, Use of public funds, is applicable. Failure to file any such report, failure to provide the identification information required in such report, or failure to expend public funds in compliance with N.J.A.C. 19:25-16.25, may result in immediate cessation of public fund deposits by the Commission.

(c) Any report filed pursuant to this section disclosing an expenditure in an aggregate sum exceeding \$5,000 for the purpose of media consultant services or other services shall be accompanied by a certification from the payee categorizing media advertising purchases or other services provided, incurred or contemplated, and certifying that such funds have been or will be expended in compliance with N.J.A.C. 19:25-16.25.

(d) Disbursements from the public fund account identified on submissions filed for matching funds will not be disclosed for public inspection until filed on election cycle reports.

#### **19:25-16.21 Receipt of public funds**

(a) The campaign treasurer, or deputy campaign treasurer, of any qualified candidate for election to the office of Governor in a primary election shall promptly receive on behalf of such qualified candidate from the funds for primary election campaign expenses monies in an amount equal to twice the amount of each contribution eligible for match and deposited in such qualified candidate's matching fund account, described at N.J.S.A. 19:44A-32, except that no payment shall

be made to any candidate from such fund for primary election campaign purposes for the first \$185,000 of the \$580,000 deposited in such qualified candidate's matching fund account.

(b) No candidate for nomination for election to the office of Governor or his or her campaign treasurer or deputy campaign treasurer shall receive any primary election public matching funds if the Commission determines that an application for matching funds, submitted pursuant to N.J.A.C. 19:25-16.18, contains a contribution or contributions in excess of the primary election contribution limit. The Commission shall permit the candidate or his or her campaign treasurer or deputy campaign treasurer to submit proof that the excessive portion of a contribution or contributions has been refunded.

#### **19:25-16.22 Receipt of public funds; limitation**

(a) No public funds shall be deposited by the Commission in the public fund account of any qualified candidate on or before January 1 of the year of the primary election for nomination for the office of Governor of New Jersey.

(b) The maximum amount, which any qualified candidate may receive from public funds shall not exceed \$5.5 million.

#### **19:25-16.23 Receipt of public funds; procedure**

Upon receipt and review of all required forms and documentation contained within a request for public funds, the Commission shall authorize the amount to be disbursed to the public fund account of the candidate and shall cause the authorized amount to be transferred therein.

#### **19:25-16.24 Disclosure of information**

The Form P-1 submitted in accordance with N.J.A.C. 19:25-16.18, (Matching of funds), shall not be a public record and shall not be available for public inspection; however, the Commission shall, from time to time, publish a listing of each contribution, except that it shall not include the name, address, or amount of contribution of any contributor whose contributions in the aggregate are \$200.00 or less, unless the candidate authorizes such disclosure.

#### **19:25-16.25 Use of public funds**

(a) Public funds received on behalf of a qualified candidate from the fund for primary election campaign expenses shall be deposited by the Commission in the candidate's public fund account and the candidate's use of such funds shall be strictly limited to the following purposes:

1. Purchase of time on radio and television stations;
2. Purchase of rental space on outdoor signs or billboards;
3. Purchase of advertising space in newspapers, regularly published magazines and periodicals, and on the internet;

4. Payment of the cost producing the material aired or displayed on radio, television, outdoor signs or billboards, and in newspapers, regularly published magazines and periodicals;
5. Payment of the cost of printing and mailing campaign literature and brochures distributed under the name of the candidate;
6. Payment of the cost of legal and accounting expenses incurred in complying with the public financing regulations of the Commission and with the public financing provisions of the Act;
7. Payment of the cost of telephone deposits, and installation charges and monthly billings in excess of deposits. Within six months after the primary election, a candidate shall return to the Commission the amount of any public funds used to pay telephone deposits, which are later returned;
8. Payment of the cost of website communications that are not used for fund-raising purposes;
9. Payment of the cost of email communications that are not used for fund-raising purposes; and
10. Payment for the purchase of lists of postal and email addresses.

(b) Expenditures made prior to the receipt of public funds, including expenditures made for the purpose of determining whether an individual should become a candidate for nomination for election to the office of Governor, which fit within (a)1 through 7 above, shall be expenses properly payable out of public funds.

(c) Any expenditure made from a candidate's public fund account which results in the purchase of time on radio and television stations pursuant to (a) above shall be documented by an invoice prepared by the radio or television station listing the media time used and the cost to the candidate. The invoice shall be obtained by the candidate, his or her campaign treasurer, or deputy campaign treasurer no later than 10 days following the due date for the 20-day postelection report and shall be maintained pursuant to N.J.A.C. 19:25-16.32.

(d) Any expenditure made from a candidate's public fund account shall be identified on election fund reports and submissions for public matching funds to include the check or transaction number, date of payment, full name of payee, full payee mailing address, amount of payment, a detailed description of the election-related purpose of the expenditure, which includes the applicable permitted use of public funds contained at (a) above, and the type of expenditure for each expenditure.

(e) A reimbursement made to the depository or matching fund account of a candidate from the public fund account of that candidate for an expenditure or expenditures permitted under (a) above shall:

1. Be made by individual transfer or transaction from the public fund account in the exact amount of the expenditure or expenditures being reimbursed;
2. Be specifically identified as a reimbursement, including the attachment of applicable documentation (invoice and/or certification of payee), on the report required pursuant to N.J.A.C. 19:25-16.20(b) and on campaign reports required by the Act; and
3. Contain a list of the previously paid expenditure or expenditures permissible under (a) above for which the reimbursement is being made.

(f) Contributions, other than public funds, received by, or on behalf of, any candidate (including contributions eligible for match) shall not be subject to the limitations of (a) above, but may be expended for any lawful purpose in furtherance or aid of the candidacy of the candidate.

(g) Transfer of public funds from the public funds account established pursuant to N.J.A.C. 19:25-16.20 to an interest-bearing account or other investment account or vehicle is prohibited.

#### **19:25-16.26 Use of transferred funds**

Notwithstanding the provisions of N.J.A.C. 19:25-6.2, any transfer of funds from the primary campaign of the gubernatorial candidate to any other candidate, political committee, political party committee or political club will be considered to be an expenditure on behalf of the gubernatorial candidate under N.J.S.A. 19:44A-7. No such transferee shall make any contribution to or on behalf of the gubernatorial candidate prior to or subsequent to such transfer.

#### **19:25-16.27 Expenses not subject to expenditure limits**

(a) The following expenditures by a qualified candidate shall not be subject to the expenditure limit described in N.J.A.C. 19:25-16.9(a)3, Limitations on participating candidates:

1. Reasonable and necessary compliance with the reporting and certification requirements imposed by the public finance provisions of the Act shall not be deemed to be expenditures within the meaning of N.J.S.A. 19:44A-7. Such expenses shall be specifically identified as such in all reports required under this chapter.
2. Travel expenses of the candidate, as that term is defined in N.J.A.C. 19:25-16.28(a) (Travel expenses), or of any person other than the candidate if such traveling expenses are voluntarily paid by such person without any understanding or agreement with such candidate that they shall be, directly or

indirectly, repaid to him or her by the candidate, shall not be deemed expenditures within the meaning of N.J.S.A. 19:44A-7.

3. The reasonable value of food and beverage to persons who attend a testimonial affair on behalf of or in aid of a candidate and for whom a contribution in excess of the reasonable value of such food and beverages is reported as provided in N.J.A.C. 19:25-12.2.
4. Election night celebration or event expenses incurred pursuant to N.J.A.C. 19:25-16.34(c).

### **19:25-16.28 Travel expenses**

(a) "The traveling expenses of the candidate" as used in N.J.A.C. 19:25-16.27 (Expenses not subject to expenditure limits), shall mean the reasonable and necessary expenses of transportation, food and lodging in connection with travel related to the candidacy of the candidate, and shall include expenses of the candidate and of members of the political campaign staff and immediate family of the candidate traveling with the candidate in the same or accompanying vehicles. The phrase does not include travel expenses of members of the candidate's staff when they are traveling not in the company of the candidate, nor does it include expenses of members of the media or others who are not members of the staff, whether or not those media members are accompanying the candidate.

(b) All of the expenditures, including those excluded from the expenditure limitation contained in section 7 of the Act, must be disclosed in the preelection and postelection reports and all submissions for matching funds on behalf of the candidate.

(c) If any individual, including a candidate, uses a government-owned or government-leased vehicle for transportation to aid or promote a campaign for nomination for election to the Office of Governor, such use shall:

1. Be reported as a travel expense pursuant to (b) above;
2. Be valued for purposes of reports required to be filed under the Act and for purposes of the expenditure limit contained in the Act by the reasonable commercial value of the transportation services to the candidate pursuant to N.J.A.C. 19:25-16.35; and
3. Be reimbursed immediately from campaign funds to the appropriate government entity providing the conveyance or vehicle.

### **19:25-16.29 Independent expenditures**

(a) A person, candidate committee, joint candidates committee, political committee, continuing political committee, county or municipal political party committee, State political party committee which has not voted to endorse a candidate for nomination for election to the office of

Governor, or legislative leadership committee that makes, incurs or authorizes an independent expenditure, as that term is defined in N.J.A.C. 19:25-12.7, for a communication to support or defeat a gubernatorial candidate in a primary election shall:

1. Report the independent expenditure pursuant to N.J.A.C. 19:25-12.8;
2. Clearly state on the communication the name and address of the person, candidate committee, joint candidates committee, political committee, or continuing political committee making the independent expenditure pursuant to N.J.A.C. 19:25-13.2(a), and that the communication has been paid for by that person or committee; and
3. Include in the communication a clear and conspicuous statement that the communication was not made with the cooperation or prior consent of, or in consultation with or at the request or suggestion of, any candidate, or any person or committee acting on behalf of any candidate.

(b) An independent expenditure made by a person, candidate committee, joint candidates committee, political committee, continuing political committee, county or municipal political party committee, State political party committee which has not voted to endorse a candidate for nomination for election to the office of Governor, or legislative leadership committee pursuant to (a) above shall not be deemed to be an expenditure of a gubernatorial candidate in the primary election within the meaning of N.J.S.A. 19:44A-7.

#### **19:25-16.29A Prohibition on independent expenditures by State political party committees**

No State committee of a political party whose members have voted to endorse a candidate for nomination for election to the office of Governor shall make an independent expenditure to support or defeat a candidate for nomination for election to the office of Governor or in aid of the candidacy of a candidate for nomination for election to the office of Governor in the primary election.

#### **19:25-16.29B Determination of independence or coordination of an expenditure**

(a) To determine whether or not a person, candidate committee, joint candidates committee, political committee, continuing political committee, county or municipal political party committee, State political party committee which has not voted to endorse a candidate for nomination for election to the office of Governor, or legislative leadership committee has made an independent expenditure, pursuant to N.J.A.C. 19:25-16.29, for a communication to support or defeat a candidate for nomination for election to the office of Governor in the primary election, the Commission shall consider, but not be limited to, the factors set forth in (c) below.

(b) To determine whether or not a person or entity, other than the gubernatorial candidate or his or her candidate committee, expending funds to make a communication shall be deemed to have made a coordinated expenditure, pursuant to N.J.A.C. 19:25-16.30, the Commission shall consider, but not be limited to, the factors set forth in (c) below.

(c) The Commission shall determine whether or not the gubernatorial candidate, his or her candidate committee, any member of the staff of the gubernatorial candidate or his or her candidate committee, or any agent of the gubernatorial candidate or his or her candidate committee:

1. Cooperated with, consented to, authorized, or exercised control over the production or circulation of the communication expenditure;
2. Requested or suggested that the communication expenditure be made;
3. Provided information to the person or entity making the communication expenditure with regard to the content, timing, location, mode, intended audience, distribution, or placement of the television, radio, direct mail, or other form of communication;
4. Discussed or negotiated with the purchaser, creator, producer, or distributor of the communication concerning the content, timing, location, mode, intended audience, distribution, or placement of the communication;
5. Shared information or held discussions on campaign or media strategy with the person or entity making the communication expenditure or with the purchaser, creator, producer, or distributor of the communication;
6. Shared its polling or other research with the person or entity making the communication expenditure or whether or not the person or entity making the communication expenditure shared its polling or other research with the gubernatorial candidate, his or her candidate committee, or with any agent of the gubernatorial candidate or his or her candidate committee; or
7. Used the same consultants, employees, staff, or agents as the person or entity making the communication expenditure to create, target, or place the communication.

### **19:25-16.30 Coordinated expenditures**

(a) Any person or entity expending funds to make a communication shall be deemed to have made a coordinated expenditure for a gubernatorial candidate if:

1. The communication makes a reference to the gubernatorial candidate in an audio, visual, printed, or electronic format, which references names, depicts, pictures, characterizes, represents, dramatizes, or in any written, spoken, visual, or electronic manner represents a gubernatorial candidate or opponent;
2. The gubernatorial candidate or his or her campaign committee has consented to, authorized, or exercised control over the production or circulation of the communication; and

3. The expenditure for the communication was made on or after the date upon which the gubernatorial candidate or committee described at (a)2 above applied to receive matching funds pursuant to N.J.A.C. 19:25-16.18.

(b) The amount expended for a coordinated expenditure for a gubernatorial candidate shall be a contribution by the person or entity making the expenditure to that gubernatorial candidate which contribution is subject to the gubernatorial candidate contribution limit established at N.J.A.C. 19:25-16.6(a) and allocable against the gubernatorial candidate expenditure limit established at N.J.A.C. 19:25-16.9(a)3.

(c) For each coordinated communication expenditure pursuant to (a) and (b) above, a gubernatorial candidate shall determine:

1. The cost of preparation and circulation of the communication; and
2. The value of the coordinated communication to the gubernatorial candidate.

(d) The value of a coordinated communication to a gubernatorial candidate may be determined at less than 100 percent of the total cost of preparation and circulation if the coordinated communication referred to one or more non-gubernatorial candidates in the same election, and the percentage of the cost to be allocated to the gubernatorial candidate shall be determined based upon the following:

1. The number of non-gubernatorial candidates identified or otherwise referred to; and
2. The prominence of the reference to the gubernatorial candidate in relation to references to non-gubernatorial candidates. For example, if a printed pamphlet is prepared and circulated at a cost of \$1,000 and features equally one page for a non-gubernatorial candidate and one page for a gubernatorial candidate, the value is 50 percent of the total cost of \$1,000 or \$500.00.

(e) A gubernatorial candidate determining the value to his or her candidacy of a coordinated communication pursuant to (d) above shall establish that value to the nearest five percent of the total cost of preparation and circulation. In no case shall the value be determined to be less than five percent of total cost.

### **19:25-16.30A Coordinated expenditures by non-gubernatorial candidates, political party committees and legislative leadership committees**

(a) A reference to a gubernatorial candidate appearing in materials paid for by a non-gubernatorial candidate, as defined in (d) below, or by a political party committee, or legislative leadership committee, as defined in N.J.A.C. 19:25-1.7, of the same political party as the gubernatorial candidate, will be deemed insubstantial and not subject to allocation pursuant to N.J.A.C. 19:25-16.30 provided that:



1. The reference consists of the name or picture of the gubernatorial candidate in equal or less than equal prominence to the prominence given the names or pictures of non-gubernatorial candidates;
2. The names or pictures of the gubernatorial and non-gubernatorial candidates appear on printed campaign materials used in connection with volunteer activities on behalf of the named or pictured non-gubernatorial candidates, such as materials consisting of buttons, pins, bumper stickers, handbills, brochures, posters, yard signs or palm cards; and
3. The materials in (a)2 above are not used in connection with any broadcasting, newspaper, magazine, billboard, electronic, or similar type of general public communication or political advertising.

(b) A reference to a gubernatorial candidate appearing in campaign literature or material circulated to voters by direct mail and paid for by a non-gubernatorial candidate, as defined in (d) below, or by a political party committee, or legislative leadership committee, as defined in N.J.A.C. 19:25-1.7, of the same political party as the gubernatorial candidate, shall be deemed insubstantial and not subject to allocation pursuant to N.J.A.C. 19:25-16.30 provided that:

1. The reference consists of no more than a single use of the gubernatorial candidate's name in the text, and a single use of the gubernatorial candidate's name within a slate or listing of the names of gubernatorial and non-gubernatorial candidates, and a single photograph or depiction of the gubernatorial candidate provided that a photograph or depiction of each non-gubernatorial candidate larger or of equal size to the gubernatorial candidate's photograph or depiction is included; and
2. The size of the print used to reproduce the name of the gubernatorial candidate is the same or smaller than the size of the print used for the names of the non-gubernatorial candidates; and
3. The predominant theme of the text promotes the candidacy or candidacies of the non-gubernatorial candidate or candidates and not that of the gubernatorial candidate.

(c) A reference to a gubernatorial candidate made in a telephone communication to a voter shall be deemed insubstantial and not subject to allocation pursuant to N.J.A.C. 19:25-16.30 provided that:

1. The telephone communication is part of a get-out-the-vote effort of the non-gubernatorial candidate, as defined in (d) below, or of a political party committee or legislative leadership committee, as defined in N.J.A.C. 19:25-1.7, of the same political party as the gubernatorial candidate, conducted seven or fewer days before the gubernatorial general election; and

2. The reference to the gubernatorial candidate is limited to stating the name of the gubernatorial candidate as part of a slate or together with the names of non-gubernatorial candidates.

(d) For the purposes of this section, the term "non-gubernatorial candidate" shall mean any candidate of the same political party as the gubernatorial candidate, other than a gubernatorial candidate, acting alone in a candidate committee or jointly with other candidates in a joint candidates committee.

(e) For the purposes of this section, the references to a gubernatorial candidate and pictures of a gubernatorial candidate, described in (a), (b) and (c) above, which are deemed insubstantial and not subject to allocation pursuant to N.J.A.C. 19:25-16.30, shall be strictly limited to references and pictures of a gubernatorial candidate of the same political party as the non-gubernatorial candidate or candidates or political party committee or legislative leadership committee responsible for circulating or causing the circulation of the communication.

### **19:25-16.31 Borrowing of funds; repayment**

Any candidate, campaign treasurer, or deputy campaign treasurer of the candidate may borrow funds from any national or State bank, provided that no person, candidate committee, joint candidates committee, political committee, continuing political committee, political party committee, or legislative leadership committee, other than the candidate, may in any way endorse or guarantee such loan in the aggregate in excess of the \$5,800 contribution limit. In the case of a participating candidate guaranteeing a loan to his or her own campaign, the amount so borrowed shall not at any one time in the aggregate exceed \$50,000 and must be repaid in full by such candidate or the campaign treasurer, or deputy campaign treasurer, from monies accepted or allocated pursuant to N.J.S.A. 19:44A-29 not later than 20 days prior to the primary election. This limit does not apply to a candidate that does not participate in the public financing program. Repayment shall be evidenced on a report filed no later than the 11-Day Preelection reporting date with attached documentation. In the event of the failure of the borrower to repay timely the full amount of the loan or to certify properly such repayment to the Commission, all payment of public funds to such candidate shall promptly cease and the Commission shall take action as directed by the Act to prohibit the expenditure by the candidate of monies received from the fund and any other monies received by the candidate in aid of the candidate's campaign in such primary election.

### **19:25-16.32 Maintenance of records; audit**

(a) The campaign treasurer or deputy campaign treasurer of each candidate shall retain all written instruments, checks, bank statements and all other records of contributions and expenditures, including originals or photocopies of all documents and instruments submitted to the Commission relating to the primary for a period not less than four years after submission of the final report for the primary election.

(b) Each candidate, campaign treasurer or deputy campaign treasurer shall furnish to the Commission any books and records, including bank records for all accounts and supporting

documentation for matching fund submissions as may be requested by the Commission for purposes of an audit or other Commission examination.

(c) Each candidate, campaign treasurer or deputy campaign treasurer shall, in addition to the recordkeeping requirements in (a) above and in this chapter, make and maintain a written record of each expenditure made from a candidate's public fund account which results in the purchase of time on radio and television stations, which record shall contain the exact amount of the total expenditure that was used for each of the following purposes:

1. The purchase of time on radio stations;
2. The amount of any credit for radio time that was not used;
3. The purchase of time on television stations;
4. The amount of any credit for television time that was not used;
5. The payment of the cost to produce the material aired on the radio and television stations;
6. The payment of any commission; and
7. The amount, if any, that is due to be refunded.

### **19:25-16.33 Postelection contributions; postelection payment of expenses**

(a) Any person, candidate committee, joint candidates committee, political committee, continuing political committee, political party committee, or legislative leadership committee, otherwise eligible to make political contributions to a candidate may make a contribution in aid of the candidacy of such candidate after the date of such primary provided such person or political committee does not exceed \$5,800 in the aggregate for such primary.

(b) Contributions received by a candidate, campaign treasurer or deputy campaign treasurer pursuant to (a) above shall be expended in order to liquidate all obligations and to pay expenses incurred during the primary campaign, but shall not be transferred to the general election campaign of each candidate.

(c) Every payment of expenditures for primary election obligations made by the candidate, campaign treasurer or deputy campaign treasurer, after the date of the primary election (except as otherwise specifically provided by the Act or this chapter, for example, compliance costs) shall be deemed to be expenditures for such primary election within the meaning of section 7 of the Act.

(d) Contributions received by a candidate, campaign treasurer or deputy campaign treasurer after the date of the primary election for that election shall be eligible for matching of funds and shall be matched provided they are submitted pursuant to N.J.A.C. 19:25-16.18 and 19:25-16.19 up to the first Monday following the fifth month after the primary election.

(e) A candidate may utilize the funds deposited in a housekeeping account established pursuant to N.J.S.A. 19:44A-10.2 to pay non-political expenses incurred following the election in which the candidate participated. Utilization of housekeeping funds shall be consistent with the provisions at N.J.A.C. 19:25-4.6(e).

#### **19:25-16.34 Repayment of public or other funds**

(a) All moneys received by a qualified candidate from the public fund for primary election campaign expenses remaining after the liquidation of all lawful obligations with respect to that election shall be repaid to the Commission (for return to the Treasurer of the State of New Jersey) not later than six months after the date of such primary election. All moneys, other than moneys received from the public fund, remaining available to any qualified candidate after the liquidation of all obligations, shall also be repaid to the Commission (for return to the Treasurer of the State of New Jersey) not later than six months after the date of such primary election provided however, that nothing herein contained shall require any candidate to pay into the public fund a total amount of moneys in excess of the total amount of moneys received by such qualified candidate from the public fund.

(b) No candidate who has received public funds shall incur any debt or make any expenditure after the date of the 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.

(c) An election night celebration or event conducted by a candidate who has received public funds will be deemed a reasonable and necessary cost of closing the campaign provided that it is conducted on the date of the primary election.

#### **19:25-16.34A Application for termination of reporting with net liabilities by publicly financed candidates**

(a) A publicly financed candidate who has returned all public moneys to the Commission in compliance with the requirements of N.J.A.C. 19:25-16.34, but who has continued to file postelection quarterly reports to report net liabilities, that is, outstanding obligations in excess of the total assets of the candidate committee, including its cash balance in all of its depository accounts, may apply to the Commission to file a final report to terminate the reporting of the candidate committee as set forth in (b) through (e) below.

(b) Such application shall not be made earlier than seven years after the date of the election.

(c) Each candidate and treasurer filing an application for termination of reporting shall certify the following:

1. For each outstanding obligation, the date each obligation was incurred and the date it was first reported on a report filed with the Commission;
2. A statement describing the efforts made by the campaign to retire the outstanding obligations, including, without limitation, efforts to compromise or resolve the debt with the vendor or service provider;
3. That the candidate committee expects to receive no further contributions to retire its net liabilities in the election;
4. That the candidate committee has liquidated all assets and applied proceeds from such liquidation to retire debt;
5. That the candidate committee expects to make no further expenditures except to bring any remaining depository account balance to zero; and
6. All reports required by the Reporting Act and this chapter have been timely filed and correctly stated, except for good cause shown.

(d) For each outstanding obligation described in (c)1 above, the candidate and the treasurer shall make a separate certification that no pledge or commitment has been made or received by any candidate or treasurer, or other authorized person or representative of the campaign, or by the candidate committee, that the payment of such obligation will be forgiven or assumed by any party other than the candidate committee.

(e) The Commission shall review each such application and shall grant its approval to such application based upon consideration of all factors set forth in (c) and (d) above, and whether or not all outstanding audit issues have been resolved with the candidate committee.

#### **19:25-16.34B Final report certification with net liabilities for publicly financed candidates**

(a) Upon approval by the Commission pursuant to the provisions of N.J.A.C. 19:25-16.34A, a publicly financed candidate may file a final report and certify it as finalized.

(b) The final report shall show a zero balance in all campaign depository accounts and all final expenditures of campaign funds shall be made in accordance with N.J.A.C. 19:25-16.33, Post-election payment of expenses, and 16.34, Repayment of public or other funds.

(c) An outstanding obligation reported on a final report filed pursuant to (a) and (b) above shall not be considered a “contribution” as defined at N.J.A.C. 19:25-1.7.

(d) Notwithstanding (c) above, by enacting this section, the Commission does not waive its authority pursuant to N.J.S.A. 19:44A-6.b(10) to make a referral to the Office of the Attorney General for possible violations of N.J.S.A. 19:44A-21.a and b, upon subsequent receipt of evidence of false certification or misrepresentation of contributions or expenditures.

### **19:25-16.35 Computation of value of goods and services**

(a) Goods and services shall, for purposes of the reports required to be filed under the Act and for purposes of the expenditure limitation contained at N.J.S.A. 19:44A-7 where applicable, be valued by the reasonable commercial value of such goods and services to the candidate, whether or not the cost or value of such goods or services to the contributor or other provider of those services is higher or lower than such reasonable commercial value.

(b) The costs of a political communication as defined in N.J.A.C. 19:25-10.10 which aids or promotes a candidate for Governor, and is undertaken, made or circulated with the cooperation or consent of the candidate, shall be reported by the candidate in the same manner as the receipt of any goods and services, and shall be valued for the purposes of the contribution limit in N.J.A.C. 19:25-16.6 and the expenditure limit in N.J.A.C. 19:25-16.9(a)3 in the same manner as any other contributed goods or services.

### **19:25-16.36 Corporate or labor organization communications**

Communications on any subject by a corporation to its stockholders and their families, or by a labor organization to its members and their families, and non-partisan registration and get-out-the-vote campaigns by a corporation aimed at its stockholders and their families, or by a labor organization aimed at its members and their families, shall not be construed to be in aid of the candidacy of, or on behalf of, a candidate for election to the office of Governor in any primary election.

### **19:25-16.37 (Reserved)**

### **19:25-16.38 Statement of candidates electing to participate in debates**

(a) A candidate for the office of Governor that does not qualify for receipt of public funds may elect to participate in the series of interactive gubernatorial primary election debates by filing the following no later than the last day for filing a petition to nominate candidates for the primary election for Governor:

1. Form G-1A, indicating their intent to participate in the series of debates; and
2. Form P-1 establishing the candidate deposited contributions of at least \$580,000 and that at least \$580,000 of the contributions have been expended or are committed to be expended.
  - i. Form P-1 shall include scanned images of all documentation that substantiate contribution and expenditure thresholds have been met.
  - ii. The use of personal funds can be used to meet all or part of the contribution threshold.
  - iii. The candidate may not use any loan repayment amount to meet any part of the expenditure threshold.

## **19:25-16.39 Application to sponsor debates**

(a) To be eligible for selection by the Commission to sponsor one or more of the interactive gubernatorial primary election debates, an organization:

1. Must be unaffiliated with any political party or with any holder of or candidate for public office; and
2. Must not have endorsed any candidate in the pending primary election for the office of Governor and must agree not to make any such endorsement until the completion of any debate sponsored by the organization.

(b) Any association of two or more separately owned news publications or broadcasting outlets, including newspapers, radio stations or networks, and television stations or networks, having between or among them a substantial readership or audience in this State, and any association of print or broadcast news or press service correspondents having among them a substantial readership or audience in this State, shall be eligible to sponsor any such gubernatorial primary election debate.

(c) Written applications by organizations to sponsor a gubernatorial primary election debate or debates shall be submitted to the Commission on a form provided by the Commission not later than March 15 of any year in which a primary election is held to nominate candidates for the office of Governor. The written application shall set forth the following information:

1. The time and date of broadcast of the debate or debates;
2. The specific television and radio stations and other media outlets which have committed to air, broadcast, or simulcast the debate or debates, and the specific New Jersey counties and number of households reached by those specific television and radio stations and other media outlets;
3. The specific television and radio stations and other media outlets which have committed to rebroadcast the debate or debates, and the specific dates and times of such rebroadcast;
4. Plans for coverage of the debate or debates by media outlets broadcasting in a foreign language;
5. The location of the debate or debates, and a description of the building or facility including legal seating capacity and accessibility for persons with physical disabilities;
6. A specific description of the format of the debate or debates, including plans for interactive exchanges among the candidates and opportunities for the public to direct questions to the candidates;

7. Specific plans, including plans for newspaper advertisements, to disseminate information to the public concerning the date, time, location, and media outlets airing or broadcasting the debate or debates;
8. Plans for accessibility of the debates or debates to hearing-impaired persons in the broadcast audience;
9. Arrangements for a debate moderator or moderators; and
10. Sources of financial support to the organization to underwrite costs associated with the debate or debates.

(d) If the applicant anticipates the presence of an audience at the debate or debates, the written application shall in addition to the information required under (c) above, set forth 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;
3. Plans for interaction between the candidates and the audience; and
4. Plans for accessibility of the debate to hearing-impaired members of the audience.

(e) If the applicant anticipates imposing an admission fee or ticket price for attendance at the debate, the application shall state the amount of the admission fee or ticket price and include an explanation of why such an admission fee or ticket price is being charged.

#### **19:25-16.40 Selection of debate sponsor**

(a) Based upon the eligibility criteria in N.J.A.C. 19:25-16.39(a), the Commission shall select the organization or organizations to sponsor the gubernatorial primary election debates within 30 calendar days of the March 15 deadline for receipt of sponsor applications and shall provide written notification to the organization or organizations so selected.

(b) The Commission shall determine the number of primary election debates for which each debate sponsor organization is responsible and the party affiliation of the candidates in each debate. The Commission shall provide each debate sponsor it has selected with a list of candidates who are required to participate in the gubernatorial primary election debates or who have elected to participate.

(c) Where the number of eligible applicants to sponsor gubernatorial primary election debates exceeds the number of prescribed primary election debates, in making its selection, the



Commission shall consider the information set forth on the written application pursuant to N.J.A.C. 19:25-16.39(c), (d) and (e).

(d) The Commission shall also consider in making its selection under (c) above, whether or not the applicant is a previously selected sponsor that:

1. Made changes in submitted plans or arrangements and notified the Commission of such changes pursuant to the provisions of N.J.A.C. 19:25-16.41A(a); and
2. Received approval for such changes from the Commission pursuant to the provisions of N.J.A.C. 19:25-16.41A(b).

### **19:25-16.41 Dates, times, and location of debates**

(a) Not later than five calendar days after receipt of notification from the Commission that an organization has been selected to sponsor one or more of the gubernatorial primary election debates, each sponsoring organization shall:

1. Submit a written calendar to the Commission and to all candidates who are required to or have elected to participate in the relevant debate or debates containing the date, time, location, and plans for television and other media coverage of the debate or debates assigned to the sponsor;
2. Submit to the Commission a description of the physical facilities available at the debate site or sites for use by television, broadcast and other media personnel; and
3. Submit a written statement to the Commission agreeing not to endorse any candidate for nomination in the pending primary election.

(b) The debate date or dates selected by each sponsoring organization in the written calendar required in (a) above shall be no earlier than the date upon which the ballot for the pending primary election is finally certified by the Secretary of State to the county clerks and no later than the 11th day prior to the pending primary election.

(c) Upon the vote of a majority of the candidates participating in the second in the series of primary election debates that an emergency condition exists requiring postponement of that debate, the debate sponsor shall:

1. Reschedule the second debate to occur no later than the second calendar day preceding the primary election; and
2. Take whatever actions are necessary to notify all participating candidates and the Commission of the date, time, and location of the rescheduled debate.

- i. Actions to notify the participating candidates and the Commission of the rescheduled debate shall include, but not be limited to, telephone contact and first class mail, return receipt requested.

(d) The Commission shall review and approve the debate calendars submitted by the debate sponsoring organizations pursuant to (a) above prior to the occurrence of any primary election debate and shall create a master debate calendar which ensures compliance with the date requirements of (b) above and ensures that no two or more debates are scheduled for the same date.

(e) In the event that the Commission determines in its review pursuant to (d) above that a conflict exists in two or more scheduled debates, the Commission shall direct a debate sponsor or sponsors to submit a revised debate schedule or schedules within two calendar days containing new debate dates and times which eliminate the conflict.

#### **19:25-16.41A Notification to Commission of change in debate plans**

(a) An organization or organizations selected pursuant to N.J.A.C. 19:25-16.40 to sponsor a gubernatorial primary election debate shall provide written notification to the Commission within 48 hours of any change made in the plans or arrangements for the debate submitted on the application pursuant to N.J.A.C. 19:25-16.39(c), (d) or (e). Such written notification shall include the reason for each change. A selected sponsor may use a facsimile transmission (fax) to the Commission at (609) 292-4238 for the limited purpose of filing this notification. Such fax shall contain identifying information as to transmitter, and the date and time of the transmission.

(b) The Commission shall review any change submitted pursuant to (a) above and notify the organization or organizations whether or not the change is approved. The Commission's determination shall be based upon the degree to which the changes vary from the original approved application and the nature of the changes, including, but not limited to, whether or not such changes:

1. Are within the control of the sponsor(s);
2. Affect the interactive nature of the debates; or
3. Compromise the ability to maximize outreach to the voting public.

#### **19:25-16.42 Rules for conduct of debates**

(a) Each debate in the series of interactive debates between or among candidates for nomination for the office of Governor shall be of at least one hour's duration.

(b) Promulgation of the rules of the conduct of each debate shall be the responsibility of the organization selected by the Commission as the sponsor of each debate and such rules shall not be made final without consultation with the chairpersons of the New Jersey Republican and Democratic State Committees.

(c) Immediately upon notification of its selection as a sponsor and no later than five calendar days before each date is to occur, the sponsor shall forward the written rules for conduct of the interactive primary election debate to the chairpersons of the New Jersey Republican State Committee and the New Jersey Democratic State Committee to the Commission, and to the relevant candidates who are required to or have elected to participate in the debate.

(d) The candidates participating in the debate and the Commission shall be notified by the sponsor in writing of any modification or changes to the rules for conduct of a debate no later than two calendar days before the debate is scheduled to occur.

#### **19:25-16.43 Complaint alleging failure to participate in a required debate**

(a) Any complaint filed with the Commission alleging failure of a primary election candidate to participate in a required debate shall:

1. Be in writing and be verified; and
2. Contain a detailed statement alleging with specifically 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 required primary election debate shall be made by the complainant by personal service or by certified mail, return receipt requested, upon the respondent candidate, the Commission, the debate sponsor, and any person named in the complaint.

#### **19:25-16.44 Temporary cessation of distribution of public funds**

(a) Upon receipt by the Commission of a verified complaint alleging failure to participate in a debate, 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 primary 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 and certification of any public fund amounts which have been requested by the respondent candidate from the Commission and which have not previously been approved; and
2. Schedule a hearing before it 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.

### **19:25-16.45 Response to a 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.
3. Justification and excuse shall be deemed to be affirmative defenses for the purposes of this subsection.

(b) 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.

### **19:25-16.46 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 Uniform Administrative 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 Uniform Administrative 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.

### **19:25-16.47 Final decision of non-participation**

(a) At the conclusion of a hearing, the Commission shall determine by majority vote:

1. Whether a candidate required to participate in a primary election debate has failed to do so;
2. 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; and

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

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

1. Calculate the total amount of public moneys distributed by the Commission pursuant to N.J.S.A. 19:44A-33 to the respondent candidate for campaign expenses;
2. Notify the respondent candidate and campaign treasurer 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 public fund amounts to the candidate.

(d) Within 10 calendar days of receipt of notification of the amount of repayment required to the Commission, the respondent candidate and his or her campaign shall submit to the Commission a written schedule for repayment of public funds which specifies dates and amount of repayment installments.

#### **19:25-16.48 Complaint alleging violation of primary election expenditure limit**

(a) Any complaint filed with the Commission alleging violation by a primary election candidate receiving public matching funds of the primary election expenditure limit in N.J.A.C. 19:25-16.9(a)3 shall:

1. Be in writing and be verified;
2. Be brought solely against a gubernatorial candidate participating in the pending primary election gubernatorial public financing program;
3. Specifically identify the name and address of the complainant and the name and address of the respondent; and

4. Contain a detailed statement alleging with specificity all facts known to the complainant pertinent to the alleged violation of the primary election expenditure limit, including the complainant's best estimate of the amount expended by the gubernatorial candidate and the alleged facts supporting that estimate.

(b) A complaint filed pursuant to (a) above which requests emergent review in a preelection time period shall:

1. Be accompanied by a certification requesting emergent disposition and providing specific reasons why emergent review is necessary, including evidence of irreparable harm to the complainant gubernatorial primary election candidate and evidence that the alleged primary election expenditure limit violation is in an amount of at least \$10,000;
2. Be brought by a gubernatorial candidate in the same primary election as the respondent publicly financed gubernatorial candidate; and
3. Be filed sufficiently in advance of the date of the primary election to permit emergent hearing proceedings to be conducted pursuant to (d) below.

(c) Service of a complaint alleging violation of the primary election expenditure limit shall be made by the complainant by personal service or by certified mail, return receipt requested, upon the respondent candidate, the Commission, and any person named in the complaint.

(d) Any hearing conducted by the Commission arising from a complaint filed pursuant to this subsection shall be governed by the New Jersey Uniform Administrative Procedure Rules, N.J.A.C. 1:1, and the New Jersey Administrative Procedure Act, N.J.S.A. 52:14B-1 *et seq.*

(e) Relief in an action brought pursuant to this section shall be limited to either or both of the following:

1. A finding or findings that an expenditure or expenditures be counted toward the respondent's expenditure limit in N.J.A.C. 19:25-16.9(a)3; and/or
2. A finding or findings that the respondent shall return public matching funds to the State as directed by the Commission because the expenditure limit in N.J.A.C. 19:25-16.9(a)3 has been exceeded.

(f) The Executive Director of the Commission or his designee shall be authorized to find that a verified complaint requesting emergent review pursuant to (b) above is deficient and shall not be referred to the Commission for emergent hearing consideration. The Executive Director shall notify the complainant in writing that the verified complaint is deficient. The grounds for finding that a verified complaint is deficient shall include, but not be limited to, any one or more of the following:

1. The verified complaint names as the complainant a person or entity other than a gubernatorial candidate in the election that is the subject of the complaint;
2. The verified complaint names as the respondent a person or entity other than a publicly financed gubernatorial candidate in the election that is the subject of the complaint;
3. The verified complaint does not allege a violation of the primary election expenditure limit; or
4. The verified complaint does not contain specific evidence that the alleged expenditure limit violation is in an amount of at least \$10,000.

**19:25-16.49 Postelection proceedings for return of funds**

A candidate for nomination for election to the office of Governor who has qualified to and receives public matching funds in an election shall be subject to postelection proceedings undertaken by the Commission seeking reimbursement if the expenditure limit in N.J.A.C. 19:25-16.9(a)3 has been exceeded, or if public funds have been spent in violation of N.J.A.C. 19:25-16.25, or for any other alleged violation pertinent to the legality of funds awarded in the primary election.

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## **SUBCHAPTER 17. COMPLAINTS AND OTHER PROCEEDINGS; VIOLATIONS**

### **19:25-17.1 Opportunity for hearing**

In any penalty proceeding undertaken by the Commission pursuant to N.J.S.A. 19:44A-22 or 19:44A-41, each respondent shall be afforded the opportunity for a hearing pursuant to the provisions of the Administrative Procedure Act, N.J.S.A. 52:14B-1 et seq. and 52:14F-1 et seq., and N.J.A.C. 1:1.

### **19:25-17.1A Default for failure to answer complaint**

In any penalty proceeding undertaken by the Commission pursuant to N.J.S.A. 19:44A-22 or 19:44A-41, or other statutory authority, the Commission may enter a Final Decision, including penalty, against any respondent who fails to file with the Commission a written responsive pleading or answer within 20 days after service on such respondent in conformity with the rules of the New Jersey Office of Administrative Law of a copy of a complaint alleging a specific violation of the law within the Commission's jurisdiction to enforce.

### **19:25-17.2 Offenses**

(a) The term "reporting transaction" means the receipt of contribution, the making of an expenditure or the occurrence of any other event, which is subject to the reporting requirements of the Act or this chapter.

(b) The term "recordkeeping transaction" means the receipt of a contribution, the making of an expenditure or the occurrence of any other event, which is subject to the recordkeeping requirements of the Act or this chapter.

(c) Each reporting transaction that is not reported in the manner or not filed on the date established for reporting or filing by the Act or this chapter shall constitute an offense pursuant to the Act subject to the penalties provided in N.J.S.A. 19:44A-22.

(d) Each recordkeeping transaction, which is not made or maintained in the manner prescribed by the Act or this chapter shall constitute an offense pursuant to the Act subject to the penalties provided in N.J.S.A. 19:44A-22.

(e) Each disbursement or other use of contributions received by a candidate, candidate committee, joint candidates committee, legislative leadership committee, campaign treasurer or organizational treasurer for a purpose that is impermissible pursuant to N.J.S.A. 19:44A-11.2, or is prohibited pursuant to this chapter, shall constitute an offense pursuant to the Act subject to the penalties provided in N.J.S.A. 19:44A-22.

### 19:25-17.3 Penalties

(a) Any person, including any candidate, treasurer, candidate committee or joint candidates committee, political committee, continuing political committee, political party committee, legislative leadership committee, or independent expenditure committee, charged with the responsibility pursuant to the terms of the Act, for the preparation, certification, filing, or retention of any reports, records, notices, or other documents, who 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 omits or incorrectly states or certifies any of the information required by law to be included in such report, record, notice, or document, any person who proposes to undertake or undertakes a public solicitation, testimonial affair, or other activity relating to contributions or expenditures in any way regulated by the provisions of the Act who fails to comply with those regulatory provisions, and any other person who in any way 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 \$11,600 for the first offense and not more than \$24,000 for the second and each subsequent offense.

(b) Any corporation or labor organization of any kind, which provides to any of its officers, directors, attorneys, agents, or other employees any additional increment of salary, bonus, or monetary remuneration of any kind, which, in whole or in part, is intended by that corporation or labor organization to be used for the express purpose of paying or making a contribution, either directly or indirectly, of money or other thing of value to any candidate, candidate committee, joint candidates committee, political party committee, legislative leadership committee, political committee or continuing political committee shall, in addition to any other penalty provided by law, be liable to a penalty of not more than \$11,600 for the first offense and not more than \$24,000 for the second and each subsequent offense.

(c) A candidate, candidate committee, joint candidates committee, political committee, continuing political committee, political party committee, legislative leadership committee, or person that makes, incurs, or authorizes an expenditure for the purpose of financing a communication aiding or promoting the nomination, election, or defeat of any candidate or aiding the passage or defeat of any public question, which is an expenditure that the candidate, committee, individual, or group is required to report pursuant to the Act, and that fails, neglects or omits to include required political identification information in the manner prescribed by the Act or this chapter shall be liable to a penalty of not more than \$11,600 for the first offense and not more than \$24,000 for the second and each subsequent offense.

(d) An independent expenditure committee that fails, neglects, or omits to include required political identification information in the manner prescribed pursuant to the Act or this chapter on an independent expenditure or electioneering communication shall be liable to a penalty of not more than \$11,600 for the first offense and not more than \$24,000 for the second and each subsequent offense.

### **19:25-17.3A Penalties for failure to file**

(a) In determining the amount of penalties to be imposed for the failure to file a report or a reporting transaction, the Commission shall consider such offenses as more egregious than the late filing of that report or that reporting transaction, and the Commission shall impose penalties as provided in this section, in the absence of any aggravating or mitigating factors set forth in N.J.A.C. 19:25-17.3C.

(b) In determining the amount of a penalty to be imposed for failure to file a Candidate - Sworn Statement (Form A-1), a Joint Candidates Committee - Sworn Statement (Form A-2), a Committee – Sworn Statement (Form A-3), or a Recall Committee – Sworn Statement (Form A-4), the Commission shall impose a penalty in an amount that is equal to the maximum penalty provided in N.J.A.C. 19:25-17.3.

(c) In determining the amount of penalties to be imposed for failure to file a Report of Contributions and Expenditures (Form R-1) or a Receipts and Expenditures Quarterly Report (Form R-3), where the total dollar amount of all contribution and expenditure reporting transactions required to be reported on that election fund or quarterly report is less than or equal to the maximum penalty provided in N.J.A.C. 19:25-17.3, the Commission shall impose the maximum penalty provided in N.J.A.C. 19:25-17.3 for each report that is not filed.

(d) In determining the amount of penalties to be imposed for failure to file a Report of Contributions and Expenditures (Form R-1) or a Receipts and Expenditures Quarterly Report (Form R-3), where the total dollar amount of all contribution and expenditure reporting transactions required to be reported on that election fund or quarterly report is greater than the maximum penalty provided in N.J.A.C. 19:25-17.3, the failure to report each contribution reporting transaction and each expenditure reporting transaction that was required to be reported on that election fund or quarterly report shall constitute a separate offense, pursuant to N.J.A.C. 19:25-17.2. The Commission shall impose a penalty for each such separate offense in an amount that is not less than the dollar amount of the unreported contribution or expenditure reporting transaction, up to the maximum penalty provided in N.J.A.C. 19:25-17.3 for each unreported contribution or expenditure reporting transaction.

(e) In determining the amount of penalties to be imposed for failure to file a Supplemental Contributor and Expenditure Information (Form 72/24-HR), a Report of Independent Expenditures (Form IND), a Supplemental Contributor Information (Form C-1), a Supplemental Contributor Information (Form C-3), a Supplemental Expenditure Information (Form E-1), or a Continuing Political Committee Supplemental Expenditure Information (Form E-3), the failure to report each contribution reporting transaction and each expenditure reporting transaction that was required to be reported on such report(s), shall constitute a separate offense, pursuant to N.J.A.C. 19:25-17.2. The Commission shall impose a penalty for each failure to report a contribution reporting transaction or an expenditure reporting transaction, and each penalty shall be not less than the dollar amount of each such unreported contribution or expenditure reporting transaction, up to the maximum penalty provided at N.J.A.C. 19:25-17.3 for each unreported contribution or expenditure reporting transaction.

(f) In determining the amount of a penalty to be imposed for failure to report a contribution reporting transaction or an expenditure reporting transaction on a filed report, the Commission shall impose a penalty in an amount that is not less than the dollar amount of each such unreported contribution or expenditure reporting transaction, subject to the maximum penalty provided in N.J.A.C. 19:25-17.3 for each unreported contribution or expenditure reporting transaction.

(g) In determining the amount of a penalty to be imposed for failure to file any report not described at (b) through (f) above, including, but not limited to, a Single Candidate Committee - Certificate of Organization and Designation of Campaign Treasurer and Depository (Form D-1), a Joint Candidates Committee - Certificate of Organization and Designation of Campaign Treasurer and Depository (Form D-2), a Political Committee – Registration Statement and Designation of Campaign Treasurer and Depository (Form PC), a Political Party Committee - Designation of Organizational Treasurer and Depository (Form D-3), a Continuing Political Committee - Registration Statement and Designation of Organizational Depository (Form D-4), and a Legislative Leadership Committee - Registration Statement and Designation of Organizational Depository (Form D-5), and an Independent Expenditure Committee — Registration Statement and Designation of Campaign Treasurer and Depository (Form D-6), the Commission shall impose a penalty that is not less than one quarter (25 percent) of the maximum penalty provided at N.J.A.C. 19:25-17.3.

(h) In determining the amount of a penalty to be imposed for failure to make and maintain a record keeping transaction, the Commission shall impose a penalty in an amount that is not less than the dollar amount of the record keeping transaction, up to the maximum penalty provided in N.J.A.C. 19:25-17.3 for each record keeping transaction, but where an Affidavit for Missing Records is filed pursuant to N.J.A.C. 19:25-7.4, the Commission shall impose a penalty in an amount that is not more than one half (50 percent) of the dollar amount of the record keeping transaction.

### **19:25-17.3B Late filing of reports or reporting transactions**

(a) The Commission shall consider the late filing of a report or reporting transaction a less egregious offense than the failure to file that report or that reporting transaction.

(b) In determining the amount of a penalty to be imposed pursuant to N.J.A.C. 19:25-17.3 for late filing of a Candidate - Sworn Statement (Form A-1), a Joint Candidates Committee - Sworn Statement (Form A-2), a Committee – Sworn Statement (Form A-3), or a Recall Committee – Sworn Statement (Form A-4), the Commission shall consider the following factors:

1. Failure to provide preelection reporting or disclosure;
2. The number of days late; and
3. The presence or absence of any expenditures.

(c) In determining the amount of a penalty to be imposed pursuant to N.J.A.C. 19:25-17.3 for late filing of a Report of Contributions and Expenditures (Form R-1), a Receipts and Expenditures Quarterly Report (Form R-3), a Report of Independent Expenditures (Form IND), a Supplemental Contributor Information (Form C-1), or a Supplemental Contributor Information (Form C-3), the Commission shall impose a penalty that is a proportion of the amount of each contribution and expenditure reporting transaction that was reported late, subject to (d) below. The proportion to be imposed by the Commission shall be based upon the following factors:

1. Failure to provide preelection reporting or disclosure;
2. The number of days late; and
3. The dollar amount reported late.

(d) In determining the amount of a penalty to be imposed pursuant to N.J.A.C. 19:25-17.3 for a Supplemental Contributor and Expenditure Information (Form 72/24-HR), a Supplemental Contributor Information (Form C-1), a Supplemental Contributor Information (Form C-3), a Supplemental Expenditure Information (Form E-1), a Continuing Political Committee Supplemental Expenditure Information (Form E-3), or any other report which was required to be filed for the purpose of preelection 72/24-hour notice of the receipt of a contribution or the making of an expenditure immediately before an election, pursuant to N.J.A.C. 19:25-8.6, 8.6A, 8.9, 8.10, 9.3, 9.4, 9.4A, or 12.8A, and where such report was filed after the date of the election, the Commission shall treat the failure to file such report on or prior to the date of the election as a failure to file, subject to the penalties provided at N.J.A.C. 19:25-17.3A(e).

(e) In determining the amount of a penalty to be imposed pursuant to N.J.A.C. 19:25-17.3 for late filing of any other report or reporting transaction not described in (b) through (d) above, the Commission shall consider the late filing of a report or reporting transaction pertinent to contributions or expenditures to be a more serious offense than the late filing of other reporting transactions, such as the late filing of the name or mailing address of the bank at which a campaign or organizational depository has been established.

### **19:25-17.3C Other penalty factors**

(a) In determining the amount of a penalty to be imposed pursuant to N.J.A.C. 19:25-17.3, 17.3A and 17.3B, the Commission shall consider the factors described in (b) through (f) below.

(b) The Commission shall consider previous offenses on record in Commission Final Decisions against a candidate, political committee, continuing political committee, political party committee, or legislative leadership committee.

(c) The Commission shall consider the amounts of penalties imposed in prior cases for similar offenses committed under similar circumstances.

(d) The Commission shall consider aggravating circumstances, which shall include, but not be limited to, the following:

1. Failing to disclose or delaying disclosure of a preelection reporting transaction until after the date of the election;
2. Delaying disclosure of a reporting transaction for any material reason pertinent to the election or political interest of the candidate or committee;
3. Gross neglect of reporting or record keeping responsibility;
4. Issuance of a subpoena intended to compel production of documents;
5. Failure to obey a subpoena to appear before the Commission or to produce records; and
6. Failure to cooperate with an investigation being conducted by the Commission.

(e) The Commission shall consider mitigating circumstances, which shall include, but not be limited to, the following:

1. The serious and unanticipated illness or unanticipated hospitalization of a candidate, campaign treasurer or organizational treasurer, or a member of the immediate family of a candidate, campaign treasurer or organizational treasurer at the time a report was required to be filed pursuant to the Act and this chapter; and
2. The undue financial hardship of a candidate, campaign treasurer, or organizational treasurer; and
3. Receipt of full or partial payment of a pending penalty amount prior to Commission Final Decision action.

(f) The Commission shall consider whether or not all required contributor information, such as occupation and employer information, has been filed for a reported contribution, or whether or not all required expenditure information, such as payee address and purpose information, has been filed for a reported expenditure.

### **19:25-17.3D Penalty payment schedule**

Where the Commission determines that the dollar amount of a penalty imposed pursuant to N.J.S.A. 19:44A-22 would jeopardize the ability of the candidate to conduct a candidacy in a future election, or jeopardize the ability of a committee to participate in a future election, or would otherwise cause undue financial hardship to a candidate, committee, treasurer, or other person, the Commission may, in its discretion, permit the candidate or committee to pay a penalty in installments on a schedule established by the Commission.

#### **19:25-17.4 Penalty for impermissible use of contributions**

In determining the amount of a penalty to be imposed for each disbursement or other use of contributions that is for a purpose that is impermissible pursuant to N.J.S.A. 19:44A-11.2, or is prohibited pursuant to this chapter, in the absence of factors described in N.J.A.C. 19:25-17.3C, the Commission shall impose a penalty in an amount that is at least equal to the amount of the impermissible use, subject to the maximum penalty provided in N.J.S.A. 19:44A-22.

#### **19:25-17.5 Penalty for making or accepting a contribution in excess of the contribution limit**

(a) A candidate, candidate committee, joint candidates committee, political committee, continuing political committee, political party committee, legislative leadership committee, campaign treasurer, organizational treasurer, or person, who knowingly, willfully, or intentionally makes or accepts a contribution that, either alone or when aggregated with prior contributions from the same contributor, is in excess of the limits pursuant to N.J.A.C. 19:25-11.2, shall be subject to the penalties prescribed by N.J.S.A. 19:44A-22e.

(b) The knowing, willful, or intentional acceptance of a contribution that, either alone or when aggregated with prior contributions from the same contributor, is in excess of the limits pursuant to N.J.A.C. 19:25-11.2, shall refer to the act of receiving a contribution and retaining for a period of more than 48-hours the amount of the contribution that is in excess of the applicable limit established pursuant to N.J.A.C. 19:25-11.2.

(c) The knowing, willful, or intentional making of a contribution that, either alone or when aggregated with prior contributions from the same contributor, is in excess of the limits pursuant to N.J.A.C. 19:25-11.2, shall refer to the act of making a contribution in an amount that is in excess of the applicable limit established pursuant to N.J.A.C. 19:25-11.2 and delivering the contribution or causing the contribution to be delivered to a candidate, or to a campaign or organizational treasurer, or to any other person authorized to receive funds on behalf of a candidate committee, joint candidates committee, political committee, continuing political committee, political party committee, or legislative leadership committee.

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## SUBCHAPTER 18. ADVISORY OPINIONS

### 19:25-18.1 Requests for advisory opinions

(a) A person or committee subject to, or reasonably believing he, she or it may be subject to, any provision or requirement of the Campaign Reporting Act may request that the Commission provide an advisory opinion pursuant to N.J.S.A. 19:44A-6. Such request shall be in writing and shall include the following:

1. The full name, mailing address and daytime telephone number of the person or committee on whose behalf the opinion is requested;
2. A description of the current filing status, if any, of the person or committee and the name under which the person or committee is filing reports with the Commission if that name is different from the name given in (a)1 above;
3. A full and complete statement of all pertinent facts and contemplated activities that are the subject of the inquiry. Such statement must affirmatively state that the contemplated activities have not been previously undertaken by the person or committee requesting the opinion, and that the person or committee has standing to seek the opinion, that is the opinion will affect the person's or committee's reporting or other requirements under the Act;
4. A statement of the cognizable question of law arising under the Act, including specific citations to pertinent sections of the Act and this chapter;
5. A statement of the result that the person or committee seeks, and a statement of the reasoning supporting that result;
6. The signature of the person requesting the opinion, or in the case of a request submitted on behalf of a candidate or joint candidates committee, the signature of the candidate or candidates on whose behalf a candidate committee has been established, or in the case of any other committee, the signature of the committee treasurer; and
7. A statement of whether or not the person or committee seeking the advisory opinion consents to a 30-day period for issuance of the Commission's opinion, which period shall start from the date of Commission receipt of the completed advisory opinion request. Such consent shall be understood to be consent to an extension of the 10-day period provided in N.J.S.A. 19:44A-6f for issuance of the opinion.

(b) A request for an advisory opinion submitted by a New Jersey attorney on behalf of the attorney's client shall not require any signature other than that of the attorney provided that the attorney affirmatively states in writing that the attorney has been authorized to represent the person or committee seeking the opinion.

#### **19:25-18.2 Time for issuing advisory opinions**

(a) A request for an advisory opinion shall not be deemed as received by the Commission until all the requirements of N.J.A.C. 19:25-18.1 have been satisfied.

(b) Unless an extension of time is consented to by any person requesting an advisory opinion, the Commission shall issue its opinion within 10 days of receipt of the request for that opinion. For the purpose of this subchapter, the term "days" shall mean days that the Commission is open for the conduct of its business, and shall exclude Saturdays, Sundays, legal holidays and any day in which offices of the State of New Jersey are closed.

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## **SUBCHAPTER 19. PERSONAL FINANCIAL DISCLOSURE STATEMENTS**

### **19:25-19.1 Authority**

The provisions of this subchapter, covering personal financial disclosure statements of candidates for the offices of Governor and Lieutenant Governor or for State legislative office are promulgated pursuant to the Act requiring the filing of financial disclosure statements by certain candidates, Laws 1981, c. 129 (N.J.S.A. 19:44B-1, and following the Personal Financial Disclosure Statement Act, as amended by P.L. 2009, c. 66).

### **19:25-19.2 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.

“Candidate” means:

1. An individual seeking election to the office of Governor, office of Lieutenant Governor, Senate, or General Assembly;
2. An individual who has received funds or other benefits or has made payments solely for the purpose of determining whether the individual should become a candidate for the office of Governor, Senate, or General Assembly; and
3. An individual appointed to fill a vacancy, which vacancy occurs in the nomination of a candidate by primary election, or by direct petition for the office of Governor, Senate, or General Assembly, or in the office of Lieutenant Governor.

"Gift" means any money or thing of value received other than as income, and for which a consideration of equal or greater value is not received, but does not include any political contribution reported as otherwise required by law, any loan made in the ordinary course of business, or any devise, bequest, intestate estate distribution or principal distribution of a trust or gift received from a member of a person(s) household or from a relative within the third degree of consanguinity of the person or his spouse, or from the spouse of that relative.

"Income" means any money or thing of value received, or to be received, as a claim on future services, whether in the form of a fee, expense, allowance, forbearance, forgiveness, interest, dividend, royalty, rent, capital gain, or any other form of recompense, or any combination thereof.

"Member of household" means the spouse of a candidate for the office of Governor, the spouse of a candidate for the office of Lieutenant Governor, or the spouse of a candidate for the Senate or General Assembly residing in the same domicile, and any dependent children.

"Relative" shall mean a son, daughter, grandson, granddaughter, father, mother, grandfather, grandmother, greatgrandfather, greatgrandmother, brother, sister, nephew, niece, uncle, or aunt. Relatives by adoption, half-blood, marriage or re-marriage shall be treated as relatives of the whole kinship.

### **19:25-19.3 Reporting of earned income**

(a) The Personal Financial Disclosure Statement shall include the name and address of the corporation, professional association, partnership or sole proprietorship which is the source of each of the following categories of earned income totaling more than \$1,000 for the preceding calendar year: salaries, bonuses, royalties, fees, commissions, and profit sharing.

(b) Each source within any category which exceeds \$1,000 must be identified by name, except that identification of name and address shall not be required as to any source which totals \$100.00 or less for the year; an indication whether the total receipts from all sources within the categories exceeds \$1,000 shall be included in the statement.

1. **Example:** Candidate A receives commissions each year in the amount of \$990.00 from BCD Corporation, and also receives commissions each year in the amount of \$50.00 from EFG Corporation. The Personal Financial Disclosure Statement filed by Candidate A must include the name and address of BCD Corporation but not of EFG Corporation, as a source; the statement will also indicate receipts in excess of \$1,000 in commissions.

(c) Income received from a public body, other than from the State of New Jersey, must be included under the category of Earned Income.

### **19:25-19.4 Reporting of unearned income**

(a) The statement shall include the name and address of the corporation, professional association, partnership or sole proprietorship which is the source of each of the following categories of unearned income totaling more than \$1,000 for the preceding calendar year: rents, dividends and other income received from named investments, trusts and estates; except that no address need be provided with respect to a source of dividends if the source of dividends is a listed security.

(b) Each source within any category which exceeds \$1,000 must be identified by name, except that identification of name and address shall not be required as to any source which totals \$100.00 or less for the year; an indication whether the total receipts from all sources within the category exceeds \$1,000 shall be included in the statement.

**Example:** Candidate A receives dividends each year in the amount of \$990.00 from BCD Corporation, and also receives dividends each year in the amount of \$50.00 from EFG Corporation. The Personal Financial Disclosure Statement filed by Candidate A must include the name and address of BCD Corporation but not of EFG Corporation as a source; the statement will also indicate receipts in excess of \$1,000 in dividends.

(c) Where such rents, dividends or other income are received by joint owners, one of whom is the candidate, the interest of the candidate shall be reportable if the proportionate share of such rents, dividends or other income exceeds \$1,000.

(d) In calculating whether rental income exceeds \$1,000, the rental used shall be gross rental, without deduction of any of the expenses of operation or maintaining the rented property.

### **19:25-19.5 Advisory Opinions**

The Commission may issue advisory opinions as to the applicability of the Personal Financial Disclosure Act and this subchapter to a given set of facts and circumstances.

### **19:25-19.6 Offenses**

(a) The term “reporting transaction” means each source of earned or unearned income, fee, honorarium, reimbursement, gift, or any interest in land or building in any city in which casino gambling is authorized, which is subject to the reporting requirements of the Personal Financial Disclosure Statement Act or this subchapter.

(b) Each reporting transaction that is not reported in the manner or not filed on the date established for reporting or filing by the Personal Financial Disclosure Statement Act or this subchapter shall constitute an offense and shall be subject to a penalty of not more than \$1,000 for the first offense, and not more than \$2,000 for the second and each subsequent offense.

#### **19:25-19.6A Opportunity for hearing**

In any penalty proceeding undertaken by the Commission pursuant to N.J.S.A. 19:44B-8, each respondent shall be afforded the opportunity for a hearing pursuant to the provisions of the Administrative Procedure Act, N.J.S.A. 52:14B-1 et seq. and 52:14F-1 et seq., and N.J.A.C. 1:1.

#### **19:25-19.6B Default for failure to answer complaint**

In any penalty proceeding undertaken by the Commission pursuant to N.J.S.A. 52:13C-23.1 or other statutory authority, the Commission may enter a Final Decision, including penalty, against any respondent who fails to file with the Commission a written responsive pleading or answer within 20 days after service on such respondent in conformity with the rules of the New Jersey Office of Administrative Law of a copy of a complaint alleging a specific violation of the law within the Commission's jurisdiction to enforce.

### **19:25-19.7 Time and place for filing**

(a) Each candidate for nomination in a primary election to the office of Governor, Senate, or General Assembly, shall file and certify the correctness of the Personal Financial Disclosure Statement on or before the 10th day following the last day for filing a petition to appear on the ballot in the primary election.

(b) Each candidate nominated directly by petition for the general election to the office of Governor, Senate, or General Assembly shall file and certify the correctness of the Personal Financial Disclosure Statement on or before the 10th day following the day of the holding of the primary election for the general election.

(c) When a vacancy occurs in the nomination of a candidate by primary election or by direct petition for the office of Governor, Senate or General Assembly, the individual who is named to fill the vacancy shall file and certify the correctness of the Personal Financial Disclosure Statement on or before the 10th day following the filing with the Attorney General, Secretary of State or County Clerk of the petition of a successor nominee or the certificate to fill a vacancy.

(d) Each candidate for the office of Lieutenant Governor shall file and certify the correctness of the Personal Financial Disclosure Statement on or before the 30th day following the day such candidate is selected by the candidate for the office of Governor of the same political party. If appointed to fill a vacancy in the office of Lieutenant Governor, such individual appointed to fill the vacancy shall file and certify the correctness of the Personal Financial Disclosure Statement on or before the 30th day following such appointment.

(e) The Personal Financial Disclosure Statement shall be received by the Commission no later than 5:00 P.M. on the date the report is due for filing pursuant to (a), (b), (c), or (d) above in order to be deemed timely filed.

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## **SUBCHAPTER 20. REPRESENTED ENTITIES AND GOVERNMENTAL AFFAIRS AGENTS**

### **19:25-20.1 Authority**

The provisions of this subchapter are promulgated pursuant to the Legislative and Governmental Process Activities Disclosure Act (P.L. 1971, c.183), as amended, N.J.S.A. 52:13C-18, et seq., and following ("the Act").

### **19:25-20.2 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" shall mean the Legislative and Governmental Process Activities Disclosure Act, as amended, N.J.S.A. 52:13C-18 et seq.

"Benefit recipient" means any member of the Legislature, legislative staff, the Governor, the Governor's staff, or an officer or staff member of the Executive Branch who is the recipient of a benefit paid for or otherwise derived from a represented entity's or governmental affairs agent's expenditures providing that benefit or benefits.

"Commission" shall mean the New Jersey Election Law Enforcement Commission.

"Communication with a member of the Legislature," "with legislative staff," "with the Governor," "with the Governor's staff," or "with an officer or staff member of the Executive Branch" shall mean any communication, oral or in writing or any other medium, addressed, delivered, distributed or disseminated, respectively, to a member of the Legislature, to legislative staff, to the Governor, to the Governor's staff, or to an officer or staff member of the Executive Branch, as distinguished from communication to the general public, including, but not limited to, a member of the Legislature, legislative staff, the Governor, the Governor's staff, or an officer or staff member of the Executive Branch. If any person shall obtain, reproduce or excerpt any communication or part thereof which in its original form was not a communication under this definition and shall cause such excerpt or reproduction to be addressed, delivered, distributed or disseminated to a member of the Legislature, to legislative staff, to the Governor, to the Governor's staff, or to an officer or staff member of the Executive Branch, such communication, reproduction or excerpt shall be deemed a communication with the member of the Legislature, with legislative staff, with the Governor, with the Governor's staff, or with an officer or staff member of the Executive Branch by such person.

"Communication with the general public" means any communication that is:

1. Disseminated to the general public through direct mail or in the form of a paid advertisement in a newspaper, magazine, or other printed publication of general circulation or aired on radio, television, or other broadcast medium, including the Internet; and

2. Which explicitly supports or opposes a particular item or items of legislation or regulation, or the content of which can reasonably be understood, irrespective of whether the communication is addressed to the general public or to persons in public office or employment, as intended to influence legislation or to influence regulation;
3. A communication with the general public does not include:
  - i. A communication by a partnership, committee, association, corporation, labor union, or charitable organization made only to its members, partners, employees, and stockholders; or
  - ii. A communication in a newspaper, magazine, or other printed publication of general circulation, or aired on radio, television, or other broadcast medium, including the Internet, which communication is required to be made by law.

"Compensation," for the purposes of this subchapter, shall be included within the definition of the term "receipt."

"Contribution," for the purposes of this subchapter, shall be included within the definition of the term "receipt."

"Expenditure" includes every loan, gift, fee, salary, contribution, subscription, advance or transfer of money or other thing of value, including any item of real or personal property, tangible or intangible, and paid personal services (but not including volunteer services provided without compensation) made or paid by any governmental affairs agent or represented entity, and any pledge or other commitment or assumption of liability to make such transfer. Any such commitment or assumption shall be deemed to have been an expenditure upon the date when such commitment is made or liability assumed.

"Expenditures providing a benefit" or "expenditures providing benefits" means any expenditures for entertainment, food and beverage, travel and lodging, honoraria, loans, gifts or any other thing of value, except for:

1. Any money or thing of value paid for past, present, or future services in regular employment, whether in the form of a fee, expense, allowance, forbearance, forgiveness, interest, dividend, royalty, rent, capital gain, or any other form of recompense, or any combination thereof; or
2. Any dividends or other income paid on investments, trusts, and estates.

“Governmental affairs agent” shall mean any person who receives or agrees to receive, directly or indirectly, compensation, in money or anything of value (including reimbursement of his or her expenses where such reimbursement exceeds \$100.00 in any three-month period), to influence legislation, to influence regulation, or to influence governmental processes, or all of the above, by direct or indirect communication with, or by making or authorizing, or causing to be made or authorized, any expenditures providing a benefit to a member of the Legislature, legislative staff, the Governor, the Governor's staff, or any officer or staff member of the Executive Branch, or who holds himself or herself out as engaging in the business of influencing legislation, regulation, or governmental processes by such means, or who, incident to his or her regular employment, engages in influencing legislation, regulation, or governmental processes by such means. The term "governmental affairs agent" shall also include any person who receives or agrees to receive, directly or indirectly, compensation, in money or anything of value for the purpose of conducting communication with the general public, or who incident to his or her regular employment conducts communication with the general public, or who holds himself or herself out as engaging in the business of conducting communication with the general public. However, a person shall not be deemed a governmental affairs agent who, in relation to the duties or interests of his or her employment or at the request or suggestion of his or her employer, communicates with a member of the Legislature, with legislative staff, with the Governor, with the Governor's staff, or with an officer or staff member of the Executive Branch concerning any legislation, regulation, or governmental process, or who conducts communication with the general public, if such communication is an isolated, exceptional or infrequent activity in relation to the usual duties of his or her employment. For the purposes of this definition, activities to influence legislation, influence regulation, or influence governmental processes, or to conduct communication with the general public shall be deemed "isolated, exceptional or infrequent" if they constitute less than 20 hours of the time an employee spends working at his or her employment during a calendar year.

“Governmental process” means:

1. Promulgation of executive orders;
2. Rate setting;
3. Development, negotiation, award, modification or cancellation of public contracts.
4. Issuance, denial, modification, renewal, revocation or suspension of permits, licenses or waivers;
5. Procedures for bidding;
6. Imposition or modification of fines and penalties;
7. Procedures for purchasing;
8. Rendition of administrative determinations; and

9. Award, denial, modification, renewal or termination of financial assistance, grants and loans.

"Governor" includes the Governor or the Acting Governor.

"Governor's staff" includes the members of the Governor's Cabinet, the Secretary to the Governor, the Counsel to the Governor and all professional employees in the office of the Counsel to the Governor, and all other employees of the Office of the Governor.

"Influence governmental processes," "influencing governmental processes" or "influence governmental process" mean to make any attempt, whether successful or not, to assist a represented entity or group to engage in communication with, or to secure information from, an officer or staff member of the Executive Branch, or any authority, board, commission or other agency or instrumentality in or of a principal department of the Executive Branch of State Government, empowered by law to administer a governmental process or perform other functions that relate to such processes.

"Influence legislation" shall mean to make any attempt, whether successful or not, to secure or prevent the initiation of any legislation or to secure or prevent the passage, defeat, amendment or modification thereof by the Legislature, including efforts to influence the preparation, drafting, content, introduction and consideration of any bill, resolution, amendment, report or nomination or the approval, amendment or disapproval thereof by the Governor in accordance with his constitutional authority.

"Influence regulation" means to make any attempt, whether successful or not, to secure or prevent the proposal of any regulation or to secure or prevent the consideration, amendment, issuance, promulgation, adoption or rejection thereof by an officer or any authority, board, commission or other agency or instrumentality in or of a principal department of the Executive Branch of State Government empowered by law to issue, promulgate or adopt administrative rules and regulations.

"Legislation" includes all bills, resolutions, amendments, nominations and appointments, pending or proposed, in either House of the Legislature, and all bills and resolutions which, having passed both Houses, are pending approval by the Governor.

"Legislative staff" includes all staff, assistants and employees of the Legislature or any of its members in the member's official capacity, whether or not they receive compensation from the State of New Jersey.

"Legislature" includes the Senate and General Assembly of the State of New Jersey and all committees and commissions established by the Legislature or by either House thereof.

"Lobbyist" means the same as "represented entity" as defined in this section, in accordance with the Legislative and Governmental Process Activities Act, N.J.S.A. 52:13C-20(d).

“Member” means an individual or organization who or which pays dues to, makes a contribution of money or time to, or has made an affirmative request to receive materials from a committee, association, or organization.

"Member of the Legislature" includes any member or member-elect of, or any person who shall have been selected to fill a vacancy in, the Senate or General Assembly, and any other person who is a member or member-designate of any committee or commission established by the Legislature or by either House thereof.

"Officer or staff member of the Executive Branch" means any assistant or deputy head of a principal department in the Executive Branch of State Government, including all assistant and deputy commissioners; the members and chief executive officer of any authority, board, commission or other agency or instrumentality in or of such a principal department; and any officer of the Executive Branch of State Government other than the Governor who is not included among the foregoing or among the Governor's staff, but who is empowered by law to issue, promulgate or adopt administrative rules and regulations, or to administer governmental processes, and any person employed in the office of such an officer who is involved with the development, issuance, promulgation or adoption of such rules and regulations or administration of governmental processes in the regular course of employment.

"Person" includes an individual, partnership, committee, association, corporation, and any other organization or group of persons.

"Public contract" means a contract the cost or price of which is to be paid with or out of State funds or the funds of an independent authority created by the State or by the Legislature.

"Receipt" includes every loan, gift, contribution, fee, subscription, salary, advance or transfer of money or other thing of value, including any item of real property or personal property, tangible or intangible, and paid personal services (but not including voluntary services provided without compensation) made to any governmental affairs agent or represented entity and any pledge or other commitment or assumption of liability to make such transfer. Any such commitment or assumption shall be deemed to have been a receipt upon the date when such commitment is made or liability assumed.

1. For the purposes of this subchapter, the term "receipt" shall include, but not be limited to, compensation by way of salary, fees, allowances, retainers, reimbursement of expenses, or other similar compensation, when received by a governmental affairs agent. For purposes of this subchapter, the term "receipt" shall also include, but not be limited to, contributions by way of fees, dues, gifts or other similar contributions when received by a represented entity.

"Regulation" includes any administrative rule or regulation affecting the rights, privileges, benefits, duties, obligations, or liabilities of any one or more persons subject by law to regulation as a class, but does not include an administrative action:

1. To issue, renew or deny, or, in an adjudicative action, to establish or make rates that have particular applicability on named or specified petitioners or parties, or to suspend or revoke, a license, order, permit or waiver under any law or administrative rule or regulation;
2. To impose a penalty; or
3. To effectuate an administrative reorganization within a single principal department of the Executive Branch of State Government.

"Represented entity" shall mean any person, partnership, committee, association, corporation, labor union, or any other organization that employs, retains, designates, engages, or otherwise uses the services of any governmental affairs agent to influence legislation, regulation, or governmental processes. The term "represented entity" shall refer to "lobbyist" as used in The Legislative and Governmental Process Activities Act, N.J.S.A. 52:13C-18 et seq.

### **19:25-20.3 Exemptions from the Act**

(a) The provisions of the Act shall not apply to the following activities:

1. The acts of the government of the United States or of the State of New Jersey or of any other state or of any of the political subdivisions or authorities or commissions of any of the foregoing, or any interstate authority or commission, or any official, employee, counsel or agent of any of the above when acting in his or her official capacity.
2. The publication or dissemination, in the ordinary course of business, of news items, advertising which does not constitute communication with the general public, editorials or other comments by a newspaper, book publisher, regularly published periodical, or radio or television station or similar media, including an owner, editor or employee thereof, nor the acts of a recognized school or institution of higher education, public or private, in conducting, sponsoring or subsidizing any classes, seminars, forums, discussions or other events, in the normal course of its business in which political information or discussion thereof or comment thereon is an integral part.
3. The acts of bona fide religious groups acting solely for the purpose of protecting the public right to practice the doctrine of such religious group.
4. The acts of a duly organized national, state or local committee of a political party.

5. The acts of a person in testifying before a legislative committee or commission, at a public hearing duly called by the Governor on legislative proposals or on legislation passed and pending his or her approval, or before any officer or body empowered by law to issue, promulgate or adopt administrative rules and regulations in behalf of a nonprofit organization incorporated as such in this State, who receives no compensation therefor beyond the reimbursement of necessary and actual expenses, and who makes no other communication with a member of the Legislature, legislative staff, the Governor, the Governor's staff, or an officer or staff member of the Executive Branch in connection with the subject of his or her testimony.
6. The acts of a person in communicating with or providing benefits to a member of the Legislature, legislative staff, the Governor, the Governor's staff, or an officer or staff member of the Executive Branch if such communication or provision of benefits is undertaken by him or her by exclusive use of his or her personal funds as a personal expression and not incident to his or her employment, even if it is upon a matter relevant to the interests of a person by whom or which he or she is employed, and if he or she receives no additional compensation or reward, in money or otherwise, for or as a result of such communication or provision of benefits.
7. A communication by an individual with an employee of a principal department in the Executive Branch of State government, or with an employee of any authority, board, commission, or other agency or instrumentality in or of a principal department of the Executive Branch of State government for a routine, ministerial matter. A communication for a routine, ministerial matter includes, but is not limited to, a communication to:
  - i. Schedule a meeting date, time, and place;
  - ii. Request the status of an administrative matter;
  - iii. Request procedures or forms;
  - iv. Request information concerning requirements to comply with existing laws or regulations;
  - v. Apply for a permit or license as required by law;
  - vi. Participate in an inspection required by law;
  - vii. Respond to an audit conducted pursuant to law;
  - viii. Make a contact as a salesperson for the sole purpose of selling goods or services;

- ix. Inquire about the delivery of services or materials pursuant to an existing contract;
  - x. Provide advice or perform services pursuant to an existing contract;
  - xi. Prepare documents and materials in response to a request for proposal or to participate at a bid conference after bid specifications have been established;
  - xii. Respond to a subpoena;
  - xiii. Respond to a public emergency or condition involving public health or safety; or
  - xiv. Provide a response to a detailed request for specific information.
8. Participation by an individual in a task force, advisory board, or working group that is specifically established pursuant to statute or established by the head of a principal department in State government who has statutory authority to convene such groups, and where the following conditions are met:
- i. The individual has been specifically nominated or invited to participate; and
  - ii. The individual receives no separate compensation for his or her service.

(b) The provisions of the Act regarding attempts to influence governmental processes shall not apply to the following:

- 1. Any communications, matters or acts of an attorney falling within the attorney-client privilege while engaging in the practice of law to the extent that confidentiality is required in order for the attorney to exercise his or her ethical duties as a lawyer;
- 2. Any communications by an attorney representing a client in the regular course of a routine litigation or administrative proceeding with the State, or in the course of a quasi-judicial civil or administrative proceeding with the State; or
- 3. Any communications, matters or acts involving collective negotiations, or the interpretation or violation of collective negotiation agreements, of a labor organization of any kind which exists or is constituted for the purpose, in whole or in part, of collective bargaining, or of dealing with employers concerning the



grievances, terms or conditions of employment, or of other mutual aid or protection in connection with employment.

(c) An “administrative proceeding with the State” does not include attempts to influence legislation or to influence regulation, as those terms are used in this subchapter.

### **19:25-20.3A Presumption of lobbying activity**

It shall be a rebuttable presumption that a communication, except as provided in N.J.A.C. 19:25-20.3(b), by a governmental affairs agent is a communication for the purpose of influencing legislation, influencing regulation, or influencing a governmental process if the communication is made to the Governor, the Governor’s staff, or the Governor’s Chief of Staff, or to the Commissioner, Deputy Commissioner, Assistant Commissioner, Division Director, Chief of Staff, Executive Director, policy advisor, or a person in an analogous position in a principal department in the Executive Branch of State Government, or in any authority, board, commission or other agency or instrumentality in or of such a principal department, or to a person empowered by law to issue, adopt, or promulgate administrative rules.

### **19:25-20.3B \$250.00 Annual limit on gifts**

(a) Except as expressly authorized by N.J.S.A. 52:13D-24 and 52:13D-24.1, or when the represented entity or governmental affairs agent is a member of the immediate family of the officer or staff member of the Executive Branch or member of the Legislature or legislative staff, no represented entity or governmental affairs agent shall offer or give or agree to offer or give, directly or indirectly, any compensation, reward, employment, gift, honorarium or other thing of value to an officer or staff member of the Executive Branch or member of the Legislature or legislative staff, totaling more than \$250.00 in a calendar year.

(b) The \$250.00 limit in (a) above shall not apply to any compensation, reward, gift, honorarium or other thing of value if:

1. It is received in the course of employment, from an employer other than the State, of an individual covered in (a) above or a member of the immediate family; or
2. It is received from a member of the immediate family when the family member received such in the course of his or her employment.

(c) Calculation of the \$250.00 limit in (a) above on offering or giving, or agreeing to offer or give, any compensation, reward, gift, honorarium or other thing of value shall also include any compensation, reward, employment, gift, honorarium or other thing of value given, directly or indirectly, to each member of the immediate family of the officer or staff member of the Executive Branch or member of the Legislature or legislative staff.

(d) As used in this section, the term "member of the immediate family" shall mean a spouse, child, parent, or sibling of a member of the Legislature residing in the same household as the member of the Legislature.

(e) The \$250.00 limit in (a) above on offering or giving, or agreeing to offer or give, any compensation, reward, gift, honorarium or other thing of value shall not apply if an officer or staff member of the Executive Branch or member of the Legislature or legislative staff who accepted any compensation, reward, gift, honorarium or other thing of value offered or given by a represented entity or governmental affairs agent makes a full reimbursement, within 90 days of acceptance, to the represented entity or governmental affairs agent in an amount equal to the money accepted or the fair market value of that which was accepted if other than money. As used in this subsection, "fair market value" means the actual cost of the compensation, reward, gift, honorarium or other thing of value accepted.

(f) If a represented entity or governmental affairs agent receives reimbursement pursuant to (e) above, the represented entity or governmental affairs agent shall report the receipt and amount of such reimbursement in the Annual Report, and the receipt of such a reimbursement does not remove or alter the requirement that the represented entity or governmental affairs agent report the expenditure and the recipient of the compensation, reward, gift, honorarium or other thing of value on its Annual Report filed pursuant to this subchapter.

(g) Any reimbursement or payment of expenses for travel, subsistence, and entertainment, made by a represented entity or governmental affairs agent pursuant to N.J.S.A. 52:13D-24, shall be subject to reporting as an expenditure on the Annual Report filed by the represented entity or governmental affairs agent pursuant to this subchapter.

#### **19:25-20.4 Governmental affairs agent notice of representation**

(a) Each previously registered governmental affairs agent shall electronically file with the Commission a notice of representation on a form prescribed by the Commission containing the information required by N.J.S.A. 52:13C-21.

(b) The notice of representation shall be filed prior to making any communication with, or the making of any expenditures providing a benefit to, a member of the Legislature, with legislative staff, with the Governor, with the Governor's staff, or with an officer or staff member of the Executive Branch, or prior to making any communication concerning a governmental process with an officer or member of the Executive Branch, or any authority, board, commission, or other agency or instrumentality in or of a principal department of the Executive Branch of State Government, or shall be filed within 30 days of employment, retainer or engagement as a governmental affairs agent, whichever occurs earlier. A group of persons registered by the Commission as governmental affairs agents, that together represent more than one entity, shall be permitted to file a notice of representation particular to a represented entity on behalf of the group, provided the person filing indicates the involvement of the group or indicates the involvement of specific governmental affairs agent(s).

(c) Each governmental affairs agent must notify the Commission in writing of any material change in the information supplied in the notice of representation within 15 days of the effective date of such change, or not later than the filing date of the subsequent quarterly report, whichever occurs earlier, by electronically filing an amendment to the notice of representation required under (a) above.

(d) If a governmental affairs agent identifies a membership organization or corporation as the represented entity or person from whom he or she receives compensation for acting as a governmental affairs agent, and the name or occupation so identified does not, either explicitly or by virtue of the nature of the principal business in which the organization or its members, or the corporation or its shareholders, is commonly known to be engaged, clearly reveal the primary specific economic, social, political, or other interest which the organization or corporation may reasonably be understood to seek to advance or protect through its employment, retainer, or engagement of the governmental affairs agent, a description of that primary economic, social, political, or other interest and a list of the persons having organizational or financial control of the organization or corporation, including the names, mailing addresses and occupations of those persons, shall be included in the notice of representation of the governmental affairs agent.

#### **19:25-20.5 Governmental affairs agent quarterly report**

(a) Each governmental affairs agent shall electronically file with the Commission a quarterly report containing the information required by N.J.S.A. 52:13C-22.

(b) If there has been no activity in the calendar year quarter to influence legislation, influence regulation, or to influence governmental processes, the report shall so state.

(c) Such report shall be electronically filed on a form prescribed by the Commission no later than the 10th day following the end of the calendar year quarter during which activities influencing legislations, influencing regulation, or influencing governmental processes occurred.

(d) Calendar year quarters end on March 31, June 30, September 30 and December 31.

(e) A governmental affairs agent shall not be required to report the specific details of a trade secret on a quarterly report filed pursuant to this section, but shall be required to report that activity concerning a trade secret occurred during the quarter.

#### **19:25-20.6 Name tags**

(a) Each governmental affairs agent who is an individual shall wear a name tag issued by the Commission bearing the full name and photograph of the individual, which name tag shall be prominently displayed and visible at all times when such individual is in the State House, the State House Annex, or any other State building or other location when and where an authorized meeting of a legislative committee is being held for the purpose of influencing legislation or influencing regulation. A governmental affairs agent shall also wear the name tag issued by the Commission at any location when and where a meeting is being held at which there may be an attempt to influence a governmental process.

(b) On or about November 15, the Commission shall issue a name tag to a governmental affairs agent who is an individual, which name tag shall be effective for a 12-month period commencing on the following January 1.

(c) Name tags will be issued by the Commission only to a governmental affairs agent who has paid the annual fee and submitted two photographs as provided in N.J.A.C. 19:25-20.20, and has filed all required notices of representation and quarterly reports for the prior 12-month period.

(d) The Commission may terminate the active status of a governmental affairs agent who fails to renew his or her name tag on or prior to the expiration date provided in (b) above.

### **19:25-20.7 Notice of termination**

(a) Each governmental affairs agent shall electronically file with the Commission a notice of termination within 30 days after his or her activities influencing legislation, influencing regulation, or influencing governmental processes cease.

(b) Any person who has engaged a governmental affairs agent shall electronically file a notice of termination after that agent ceases to represent such person.

(c) The notice of termination shall be electronically filed on a form prescribed by the Commission. The completed form shall include:

1. The effective date of termination;
2. The name of the represented entity or person from whom service was terminated, and if filed by a group of governmental affairs agents, as described in N.J.A.C. 19:25-20.4(b), whether the termination applies to the entire group or to specific governmental affairs agent(s); and;
3. The date of the notice.

(d) A governmental affairs agent who files a notice of termination pursuant to (a) above, and who no longer is conducting activities to influence legislation, regulation, or governmental processes on behalf of any person, shall return the name tag issued to the agent pursuant to N.J.A.C. 19:25-20.6 at the time the agent files his or her notice of termination.

### **19:25-20.8 Voluntary statements**

(a) Governmental affairs agents filing pursuant to N.J.S.A. 52:13C-35 a voluntary notice of representation, a voluntary quarterly report, or a voluntary notice of termination shall file electronically, utilizing the forms prescribed by the Commission.

(b) Such statements shall be marked by the governmental affairs agent as "voluntary filing."

### **19:25-20.9 Annual report**

(a) Any represented entity or governmental affairs agent who or which receives receipts of more than \$2,500 or makes expenditures of more than \$2,500 in any calendar year for the purpose of communication with or providing benefits to any member of the Legislature, legislative staff, the Governor, the Governor's staff, or an officer or staff member of the Executive Branch, for the purpose of influencing legislation, regulations or governmental processes, or for the purpose of communication with the general public, shall electronically file with the Commission, not later than February 15th of each year, an annual report of receipts and expenditures for the previous calendar year on forms supplied by the Commission.

(b) A governmental affairs agent retained by or representing more than one represented entity shall, for purposes of determining aggregate threshold expenditure figures pursuant to this section, include receipts and expenditures made on behalf of all of the represented entities by whom the governmental affairs agent is employed.

(c) A represented entity or governmental affairs agent shall electronically file an annual report as defined in (a) and (b) above.

### **19:25-20.9A Annual report of communication with the general public**

(a) Any person other than a governmental affairs agent or represented entity who receives contributions or makes expenditures for the purpose of communication with the general public shall be required to electronically file and certify the correctness of an annual report of such contributions or expenditures in the same manner as governmental affairs agents if the contributions or expenditures made, incurred or authorized by the person for the purpose of communication with the general public exceed in the aggregate \$2,500 in any year.

(b) Any person who receives contributions or makes expenditures for the purpose of communication with the general public pursuant to (a) above shall make or obtain and maintain for a period of three calendar years following the year of the communication with the general public all records and documents relating to the communication with the general public. The records and documents shall include, but not be limited to, checks, bank statements, contracts and receipts to support the information filed in the annual report filed pursuant to (a) above, except that a record or document of any single expenditure in an amount of \$5.00 or less may be excluded from this requirement.

(c) A person communicating with the general public shall electronically file an annual report as defined in (a) above.

### **19:25-20.9B (Reserved)**

### **19:25-20.9C (Reserved)**

## 19:25-20.10 Receipts

(a) The following receipts of a represented entity or governmental affairs agent, which relate to communication with, or providing benefits to, any member of the Legislature, legislative staff, the Governor, the Governor's staff, or an officer or staff member of the Executive Branch, which relate to influencing legislation, regulations, or governmental processes, or to communication with the general public, shall be included in the annual report:

1. Fees, salary, allowances or other compensation paid to a governmental affairs agent. Receipts required to be reported pursuant to this paragraph shall be detailed as to amount, from whom received and for what purpose. A law firm, advertising agency, public relations firm, accounting firm or similar organization which spends only a portion of its time in legislative or regulatory activity, in influencing governmental processes, or for communication with the general public on behalf of a represented entity shall be required to report only that portion of its fees as are related to influencing legislation, influencing regulation, influencing governmental processes, or for communication with the general public.
2. Contributions, loans (except for loans made in the ordinary course of business on substantially the same terms as those prevailing for comparable transactions with other persons) or membership fees or dues received by a represented entity. Such contributions, loans, fees or dues received by a represented entity are reportable if they are made to a represented entity whose major purpose is to influence legislation, influence regulation, influence governmental processes, or conduct communication with the general public. For purposes of this paragraph, a represented entity shall be deemed to be engaged in influencing legislation, influencing regulation, influencing governmental processes, or conducting communication with the general public, as its major purpose for any calendar year in which expenditures related to such activity constitute more than 50 percent of its total expenditures for all purposes. If, under the above test, it is not the major purpose of the represented entity to influence legislation, influence regulation, influence governmental processes, or conduct communication with the general public, the contributions, loans, fees and dues received by the represented entity are not reportable by such organization, unless made to the represented entity with the specific intent that the contributions, loans, fees or dues be employed to influence legislation, influence regulation, influence governmental processes, or conduct communications with the general public (in which case they are reportable as outlined below). If the major purpose of the represented entity is to engage in influencing legislation, influencing regulation, influencing governmental processes, or conducting communication with the general public, the contributions, loans, membership fees or dues received by the represented entity shall be reported hereunder in the aggregate in the same proportion as the activities of the represented entity are related to influencing legislation, influencing regulation, influencing governmental processes, or conducting

communication with the general public, along with the name and address of the contributor(s) whose contribution(s), allocated as outlined above, aggregate more than \$100.00 during the calendar year.

**Example 1:** Trade Association XYZ engages in a wide range of activities, including trade shows, public relations, newsletters to its members, etc., and influencing legislation. This activity is done through a paid contract governmental affairs agent in Trenton as well as by communications by employees of the Trade Association. XYZ expends over \$2,500 during the course of the calendar year on this lobbying activity, although this expense constitutes less than 50 percent of its total expenditures for all purposes for that year. Trade Association XYZ is a represented entity required to file an annual report. However, it need not report its contributions.

**Example 2:** Trade Association EFG has the same fact situation as above, except that Trade Association EFG's lobbying expenses constitute more than 50 percent (for example, 80 percent) of its expenditures for all purposes for the year. EFG must file an annual report as a represented entity, including therein an aggregate allocated figure for lobbying contributions made to it (80 percent of each contribution must be allocated to lobbying for reporting purposes; the aggregate is then reported). EFG must also report the name and address of all those contributors whose contributions, after being allocated to lobbying, exceed \$100.00.

#### **19:25-20.10A Contingent fees, prohibited**

A governmental affairs agent shall not enter into any agreement, arrangement, or understanding under which the governmental affairs agent's compensation, or any portion thereof, is made contingent upon the success of any attempt to influence legislation, influence regulation, or influence a governmental process.

#### **19:25-20.11 Expenditures**

(a) The following expenditures of a represented entity or governmental affairs agent, which relate to communication with, or providing benefits to, any member of the Legislature, legislative staff, the Governor, the Governor's staff, or an officer or staff member of the Executive Branch, which relate to influencing legislation, regulations, or governmental processes, or to communication with the general public, shall be reported in the annual report, and shall be listed in the aggregate by category:

1. Fees, allowances, retainers, salary or other compensation paid by a represented entity to a governmental affairs agent. Compensation required to be reported pursuant to this paragraph shall be detailed as to amount, to whom paid and for what purpose and shall include consulting, legal or other fees, for services performed or to be performed, as well as expenses incurred in rendering such services. In the case of a volunteer, the above calculation shall not include any calculation of the value of the time for such volunteer, but shall include only that amount reimbursed to the volunteer for expenditures related to activities to influence legislation, influence regulation, influence governmental processes,

or related to communication with the general public on behalf of the represented entity.

2. Pro rata share of salary or other compensation paid to an employee of any organization whose activities on behalf of that organization qualify him or her as a governmental affairs agent.

**Example 1:** Jones engages in lobbying activity in New Jersey and Pennsylvania for ABC Corporation. He spends one-half of his time in lobbying activity in New Jersey. Jones' total salary, as reported on his W- 2 form, is \$30,000 per year. Since more than 20 hours of his time is spent on lobbying in New Jersey, Jones is a governmental affairs agent for ABC Corporation and one-half of his salary, \$15,000, is allocable to lobbying. ABC Corporation is a reporting represented entity and must include this amount as an expense.

**Example 2:** Smith, another ABC Corporation employee, has spent less than 20 hours of his time on direct lobbying on behalf of his employer, and therefore none of his salary is reportable by ABC Corporation.

3. Contributions or membership fees or dues paid by the represented entity, except that such contributions or fees shall not be deemed to be related to influencing legislation, influencing regulation, influencing governmental processes, or conducting communication with the general public, for the purpose of reporting under the Act and this subchapter unless made to a governmental affairs agent with the specific intent to influence legislation, influence regulation, influence governmental processes, or conduct communication with the general public or unless made to a represented entity whose major purpose is to engage in influencing legislation, influencing regulation, influencing governmental processes, or conducting communication with the general public. For the purpose of this paragraph, a represented entity shall be deemed to be engaged in influencing legislation, influencing regulation, influencing governmental processes, or conducting communication with the general public as its major purpose for any calendar year in which expenditures related to such activity constitute more than 50 percent of its total expenditures for all purposes. Such contributions, fees and dues (other than those made with the specific intent to influence legislation, or influence regulation) made by a represented entity to an organization, association or union, shall be reportable hereunder in the same proportion as the activities of the organization, association or union are related to influencing legislation, influencing regulation, influencing governmental processes, or conducting communication with the general public. Contributions, fees or dues made with the specific intent to influence legislation, influence regulation, influence governmental processes, or conduct communication with the general public, or all of the foregoing, shall be reported in full. Contributions, fees or dues required to be reported pursuant to this paragraph shall be reported in the aggregate, along with the name of any organization, association or union to whom the represented entity made a



contribution in excess of \$100.00 for the calendar year (when allocated as set forth above) as well as the date of each contribution, fee or dues.

4. Costs of preparation and distribution of material related to influencing legislation, influencing regulation, influencing governmental processes, or conducting communication with the general public, and paid for by a represented entity or governmental affairs agent, including all disbursements for preparation and distribution of printed materials, correspondence, flyers, publications, films, slides, audio and video recordings and video tapes.
5. Travel and lodging related to influencing legislation, influencing regulation, influencing governmental processes, or conducting communication with the general public, for the governmental affairs agent.
6. Allocated cost of support personnel for the represented entity or governmental affairs agent. The allocated cost of any support personnel for the represented entity or governmental affairs agent shall be included hereunder if, in relation to the usual duties of their employment, such personnel, individually, spend, over the course of the reporting year 450 hours in activity supporting the activity of the represented entity or governmental affairs agent in influencing legislation, influencing regulation, influencing governmental processes, or conducting communication with the general public. The term “support personnel” shall include costs related to the communication by an expert or employee, other than a governmental affairs agent, when the communication is made in the company of a governmental affairs agent for the sole purpose of providing technical or expert advice.

**Example:** Smith is in the government affairs department of ABC Corporation, a reporting represented entity, and spends all of her time engaged in activity related to lobbying. Brown, her secretary, spends his time doing work supporting Smith's activities. Jones, an analyst in the financial department at ABC Corporation, spends 50 percent of his time analyzing legislation for Smith and preparing memoranda to be used in Smith's lobbying activity. King, an attorney in ABC's legal department, does some drafting of proposed legislation for Smith. Over the course of the year, however, this accounts for less than 450 hours of his time at work. Ford spends one-third of her time preparing testimony on governmental processes for Smith. ABC Corporation, in its annual report, must include Smith's full salary (under (a)2 above), as well as Brown's full salary, one-half of Jones' salary, and one-third of Ford's full salary, as the cost of support personnel. None of King's salary will have to be included on ABC's report.

(b) The following expenditures of a represented entity or governmental affairs agent which relate to communication with, or providing benefits to, any member of the Legislature, legislative staff, the Governor, the Governor's staff, or an officer or staff member of the Executive Branch ("benefit recipient") shall be reported in the Annual Report and shall be listed in the aggregate by category, except that if the aggregate expenditures on behalf of any benefit recipient exceed \$25.00 per day, or exceed \$200.00 per calendar year, the expenditures, together with the name and office held of the intended recipient of the benefit, shall be stated in detail and shall

include the date and type of each expenditure providing a benefit, and either the reasonable commercial value of the benefit as provided in N.J.A.C. 19:25-20.12 with a description of the benefit sufficient for determining its reasonable commercial value, or if the cost is greater than the reasonable commercial value, the cost of the benefit to the represented entity or governmental affairs agent and the name and address of any person or entity to whom the represented entity or governmental affairs agent incurred any cost or obligation for providing the benefit.

1. Entertainment, including, but not limited to, disbursements for sporting, theatrical, and musical events provided to any member of the Legislature, legislative staff, the Governor, the Governor's staff, or an officer or staff member of the Executive Branch, and paid for by a represented entity or governmental affairs agent.
2. Food and beverages provided to any member of the Legislature, legislative staff, the Governor, the Governor's staff, or an officer or staff member of the Executive Branch, paid for by a represented entity or governmental affairs agent. Also included are payments by represented entities or governmental affairs agents for food or beverages for any member of the Legislature, legislative staff, the Governor, the Governor's staff, or an officer or staff member of the Executive Branch at conferences, conventions, banquets or other similar functions. This paragraph shall not apply to the food and beverages provided to an invited speaker who is a member of the Legislature, legislative staff, the Governor, the Governor's staff, or an officer or staff member of the Executive Branch, when the food and beverages are provided to all persons who attend the convention, banquet, or other similar function. "Invited speaker" shall mean a person who is announced as a speaker in advance of the convention, banquet, or other similar function, and shall not include a person who is merely identified and introduced to persons attending the event.
3. Travel and lodging expenses paid for or provided by a represented entity or governmental affairs agent on behalf of any member of the Legislature, legislative staff, the Governor, the Governor's staff, or an officer or staff member of the Executive Branch.
4. Honoraria paid to any member of the Legislature, legislative staff, the Governor, the Governor's staff, or an officer or staff member of the Executive Branch by a represented entity or governmental affairs agent.
5. Loans to any member of the Legislature, legislative staff, the Governor, the Governor's staff, or an officer or staff member of the Executive Branch from a represented entity or governmental affairs agent except for loans from financial institutions made in the ordinary course of business on substantially the same terms as those prevailing for comparable transactions with other persons.

6. Gifts to any member of the Legislature, legislative staff, the Governor, the Governor's staff, or an officer or staff member of the Executive Branch including, but not limited to, material goods or other things of value.

(c) For purposes of reporting under the Act or this subchapter, when an expenditure included in (b) above is made to a member of the immediate family of any member of the Legislature, legislative staff, the Governor, the Governor's staff, or an officer or staff member of the Executive Branch, such expenditure shall be deemed to be made on behalf of the member of the Legislature, legislative staff, the Governor, the Governor's staff, or the officer or staff member of the Executive Branch whose family member received it. A member of the immediate family shall mean a spouse, child, parent, or sibling residing in the same household, or any dependent children.

#### **19:25-20.12 Valuation of contributions and expenditures**

Where a contribution of goods or services is made to a represented entity or governmental affairs agent to influence legislation, to influence regulation, to influence governmental processes, or to conduct communication with the general public, the value of such receipt shall be its reasonable commercial value to the represented entity or governmental affairs agent receiving it. Where an expenditure of goods or services, including travel, is made by a represented entity or governmental affairs agent to any member of the Legislature, legislative staff, the Governor, the Governor's staff, or an officer or staff member of the Executive Branch ("benefit recipient"), the value of the expenditure shall be its reasonable commercial value to the benefit recipient.

#### **19:25-20.13 Notice of lobbying benefit**

(a) A represented entity or governmental affairs agent shall provide a written benefit notice, certified as correct by the represented entity or governmental affairs agent, to any member of the Legislature, legislative staff member, Governor, Governor's staff member, or an officer or staff of the Executive Branch ("benefit recipient") who has received from that represented entity or governmental affairs agent a benefit required to be reported on the represented entity's or governmental affairs agent's Annual Report pursuant to N.J.A.C. 19:25-20.14, and the benefit notice shall include the same information as required on the Annual Report.

(b) The certified benefit notice shall be transmitted by the represented entity or governmental affairs agent to the benefit recipient no later than February 1st of the year following the calendar year in which the benefit was received. Proof of service of the benefit notice shall be obtained and maintained for a period of at least three years.

(c) In the event that a represented entity or governmental affairs agent has provided a benefit recipient with more than one benefit during a preceding calendar year, the represented entity or governmental affairs agent may include all such benefits in a single written notice provided to the benefit recipient.

(d) In the event that a represented entity or governmental affairs agent receives reimbursement from any benefit recipient for the reasonable commercial value of any benefit

required to be reported on its Annual Report pursuant to N.J.A.C. 19:25-20.14, the represented entity or governmental affairs agent shall report the receipt and amount of such reimbursement in the Annual Report in which the benefit is required to be reported. The making of such a reimbursement does not remove or alter the requirement that the represented entity or governmental affairs agent report the expenditure and the benefit recipient on its Annual Report pursuant to N.J.A.C. 19:25-20.14.

#### **19:25-20.14 Contents of annual report**

(a) The annual report shall contain the following:

1. Name, business address, telephone number of the reporting represented entity or governmental affairs agent;
2. Name, address and occupation or business of governmental affairs agent(s) engaged by the reporting represented entity, or name, address and occupation or business of represented entity(ies) engaging the reporting governmental affairs agent, whichever is applicable;
3. The particular items of legislation, regulation, or governmental processes and any general category or type of legislation, regulation, or governmental processes regarding which the governmental affairs agent or represented entity influenced legislation, influenced regulation, or influenced governmental processes during the calendar year, except that a governmental affairs agent who has provided this information in his or her notice of representation and quarterly reports may satisfy this requirement by so indicating on the annual report;
4. Receipts received by the governmental affairs agent or represented entity as set forth in N.J.A.C. 19:25-20.10; and
5. Expenditures made by the represented entity or governmental affairs agent, as set forth in N.J.A.C. 19:25-20.11.

(b) With respect to any specific event, such as a reception, where expenditures required to be reported pursuant to N.J.A.C. 19:25-20.11(b) in the aggregate exceed \$100.00, the report shall include the date, type of expenditure, amount of expenditure and to whom paid. Any expenditure in excess of \$5.00 made to provide a benefit pursuant to N.J.A.C. 19:25-20.11(b) to a member of the Legislature, legislative staff, the Governor, member of the Governor's staff, or offices or staff members of the Executive Branch present, attending or participating in the event with the actual or constructive knowledge of the represented entity or governmental affairs agent shall be included in the calculation of the per day, or per calendar year, thresholds contained in N.J.A.C. 19:25-20.11(b).

(c) A governmental affairs agent retained by or representing more than one represented entity shall include in his or her annual report receipts received from and expenditures made on behalf of all represented entities by whom he or she is employed.

(d) An individual who is a governmental affairs agent and who serves as a member of any independent State authority, county improvement authority, or municipal utilities authority, or as a member from New Jersey on an interstate or bi-state authority, or as a member of any board or commission established by statute or resolution or by executive order of the Governor or by the Legislature or by any agency, department or other instrumentality of the State shall disclose such service, including the name of the authority, board or commission, and the date upon which his or her term as a member thereof expires, in the governmental affairs agent's annual report.

#### **19:25-20.15 Audit by Commission; recordkeeping**

(a) All annual reports of represented entities or governmental affairs agents required to be filed pursuant to the Act and this subchapter shall be subject to review and audit by the Commission.

(b) Each represented entity and governmental affairs agent subject to reporting under the Act shall make or obtain and maintain for a period of three calendar years following the year of his, her, or its activity all records and documents relating to his, her, or its activity in influencing legislation, influencing regulation, influencing governmental processes, or communicating with the general public, including, but not limited to, checks, bank statements, contracts and receipts, so as to provide evidence to support statements in reports filed with the Commission and to permit an adequate basis for auditing by the Commission, except that a record or document of any single expenditure in an amount of \$5.00 or less may be excluded from this requirement.

(c) The Commission shall conduct random audits of records kept and preserved pursuant to this section.

#### **19:25-20.16 Responsibilities for filing annual reports; certification**

(a) The represented entity and the governmental affairs agent shall have the responsibility of electronically filing annual reports.

(b) Each organization which itself has a filing obligation as a represented entity pursuant to this subchapter is not relieved of that obligation by virtue of the fact that a governmental affairs agent engaged, designated or employed by it has a filing obligation; except that a represented entity required to file an annual report pursuant to the Act may designate a governmental affairs agent in its employ or otherwise engaged or used by it to electronically file the annual report on its behalf, provided such designation is made electronically by the represented entity on a form prescribed by the Commission and is filed with the Commission on or before the date on which the annual report of the represented entity is due for filing, and further provided that any violation of the Act shall subject both the represented entity and the designated governmental affairs agent to the penalties provided by the Act and this subchapter.

(c) Each governmental affairs agent which has a filing obligation pursuant to this subchapter is not relieved of that obligation by virtue of the fact that the organization engaging, retaining or employing it has or may have a filing obligation as a represented entity or that the governmental affairs agent has been designated by which organization to file an annual report for it; except that any represented entity organization required to file a report pursuant to the Act which employs or otherwise engages or uses a governmental affairs agent or agents whose only reportable lobbying activity is on behalf of such organization, may file a single annual report required under N.J.A.C. 19:25-20.14 on behalf of its own lobbying activity and the activities of such governmental affairs agent or agents, provided that any violation of the Act shall subject the represented entity alone to the penalties provided by the Act and this subchapter.

(d) Each report electronically filed with the Commission by a represented entity or governmental affairs agent shall be certified as to the correctness of the report by the governmental affairs agent or, in the case of a represented entity, by a governmental affairs agent employed by the represented entity or a responsible financial or governmental affairs officer of the represented entity.

#### **19:25-20.17 Advisory opinions**

The Commission may render advisory opinions as to the applicability of the Act and this subchapter to a given specific set of facts and circumstances.

#### **19:25-20.18 Complaint proceedings; investigations; penalties**

(a) The term "violation" shall mean the failure to report timely or in the manner prescribed by the Act and this subchapter, or the failure to make and maintain a record as prescribed by the Act and this subchapter, of any event or transaction required to be reported or recorded by the Act or this subchapter.

(b) Upon receiving evidence of any violation of the Act or this subchapter, the Commission shall have the power to make investigations and bring complaint proceedings, to issue subpoenas for the production of witnesses and documents and to hold or cause to be held, by the Office of Administrative Law, hearings upon such complaint.

(c) In addition to any other penalty provided by law, any person who is found to have committed a violation of the Act or this subchapter shall be liable for a civil penalty of up to \$1,000 for that violation, which penalty may be collected in a summary proceeding pursuant to the "Penalty Enforcement Law of 1999" (N.J.S.A. 2A:58-10 et seq.).

#### **19:25-20.18A Opportunity for hearing**

In any penalty proceeding undertaken by the Commission pursuant to N.J.S.A. 52:13C-23.1, each respondent shall be afforded the opportunity for a hearing pursuant to the provisions of the Administrative Procedure Act, N.J.S.A. 52:14B-1 et seq. and 52:14F-1 et seq., and N.J.A.C. 1:1.

### **19:25-20.18B Default for failure to answer complaint**

In any penalty proceeding undertaken by the Commission pursuant to N.J.S.A. 52:13C-23.1 or other statutory authority, the Commission may enter a Final Decision, including penalty, against any respondent who fails to file with the Commission a written responsive pleading or answer within 20 days after service on such respondent in conformity with the rules of the New Jersey Office of Administrative Law of a copy of a complaint alleging a specific violation of the law within the Commission's jurisdiction to enforce.

### **19:25-20.18C One-year post-employment prohibition on lobbying**

(a) As used in this section, "person" means any member of the Legislature, the Governor, or the head of a principal department of the Executive Branch.

(b) No person, within one year next subsequent to the termination of the office or employment of such person, shall register as a governmental affairs agent.

(c) Any person who knowingly or willfully violates the provisions of (b) above shall be subject to a penalty of not more than \$10,000 and shall be barred from engaging in activity as a governmental affairs agent for up to an additional five years.

(d) Upon receiving evidence of any violation of this section, the Commission shall have the power to hold, or cause to be held, hearings about the violation and, upon finding any person to have committed a violation, to assess such penalty, within the limits set forth in (c) above, as it deems proper under the circumstances, which penalty may be collected in a summary proceeding pursuant to the "Penalty Enforcement Law of 1999" (N.J.S.A. 2A:58-10 et seq.).

### **19:25-20.19 Nonresident governmental affairs agents or represented entities**

(a) Any governmental affairs agent or represented entity not a resident of this State, or not a corporation of this State or authorized to do business in this State, shall electronically file with the Commission, before attempting to influence legislation, influence regulation, or influence governmental processes, its consent to service of process at an address within this State, or by regular mail at an address outside this State.

(b) Any person other than a governmental affairs agent or represented entity who receives contributions or makes expenditures for the purpose of communication with the general public and not a resident of this State, or not a corporation of this State or authorized to do business in this State, shall electronically file with the Commission, before engaging in communication with the general public, its consent to service of process at an address within this State, or by regular mail at an address outside this State.

(c) For purposes of the annual report described in N.J.A.C. 19:25-20.9 and 20.9A, a nonresident governmental affairs agent, represented entity, or person communicating with the general public must electronically file the consent to service of process as defined by (a) and (b) above.

## **19:25-20.20 Registration and annual fee**

(a) Each governmental affairs agent who is an individual and whose activities are subject to the Act during any part of a 12-month period commencing on January 1 and ending on the following December 31 shall pay an annual fee of \$575.00. Each governmental affairs agent shall submit two identical, two-by-two-inch, color photographs taken of the governmental affairs agent within six months showing a full-face, front view of the agent with a plain white or off-white background every five years, upon receiving notification from the Commission that the photographs must be submitted.

(b) In the event that the governmental affairs agent is a partnership, committee, association, corporation, or other organization or group of persons, the annual fee shall be \$575.00 for each individual from the partnership, committee, association, corporation, or other organization or group of persons, who is required to wear a name tag pursuant to N.J.A.C. 19:25-20.6.

(c) Payment of the annual fee set forth in (a) and (b) above shall be by check or money order payable to "State of New Jersey, Election Law Enforcement Commission," and shall be made no later than November 15th for the 12-month period which begins on the following January 1.

(d) A person filing as a governmental affairs agent for the first time shall appear at the office of the Commission to register as a governmental affairs agent by completing a registration form prescribed by the Commission. Such person must present valid state-issued identification, and shall submit photographs pursuant to (a) above, in order to receive a name tag pursuant to N.J.A.C. 19:25-20.6. The annual fee shall be due upon registration.

(e) No annual fee shall be required if the governmental affairs agent is an organization that is exempt from sales and use taxes under section 9(b) of chapter 30 of the laws of 1966, as amended (N.J.S.A. 54:32-9(b)).



## **SUBCHAPTER 21. PROFESSIONAL CAMPAIGN FUND RAISERS**

### **19:25-21.1 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.

"Candidate" means a candidate for nomination for election or election to the office of Governor or the office of member of the Senate or General Assembly, and any candidate committee, joint candidates committee, or both, of such a candidate.

"Committee" means a political committee, continuing political committee, political party committee, or legislative leadership committee.

"Person" means an individual, partnership, committee, association, corporation, or any other organization or group of persons.

"Professional campaign fund raiser" or "fund raiser" means a person who is employed, retained, or engaged for monetary compensation of at least \$5,000 per year in the aggregate to perform for any candidate or committee, or both, any service directly related to the solicitation of contributions for that candidate or committee. The terms "professional campaign fund raiser" and "fund raiser" do not include any person who is reimbursed only for incurred costs by a candidate or committee for performing any service directly related to the solicitation of contributions for that candidate or committee.

### **19:25-21.2 Registration**

(a) A professional campaign fund raiser shall register with the Commission within five business days of the earlier of the following:

1. The professional campaign fund raiser plans or organizes or is involved in the planning or organizing of, or attends, at least three events within a three-month period at which contributions are raised by the professional campaign fundraiser for a candidate or committee by whom he or she has been employed, retained or engaged; or
2. The professional campaign fund raiser raises money or any other thing of value at least equivalent to the maximum amount of contributions permitted to be made by an individual to a candidate for public office pursuant to N.J.S.A. 19:44A-11.3 in the aggregate in contributions for such a candidate or committee prior to a primary election or prior to a general election.

(b) The professional campaign fund raiser shall register by filing Form FRR with the Commission which shall include the following:

1. The name, business mailing address, and regular occupation or business of the fund raiser;
2. The resident mailing address of a State resident designated as the fund raiser's agent for the service of process;
3. The general nature of the services to be offered, the dates and locations of each fund raising event the person planned or organized, or was involved in the planning or organizing of, or attended;
4. The amount of money the person raised at each event;
5. The name of each individual employed by the professional campaign fund raiser who receives monetary compensation of at least \$5,000 per year from the fund raiser to perform for any candidate or committee, or both, any service directly related to the solicitation of contributions for that candidate or committee, or both.

(c) Upon registering, a professional campaign fund raiser shall pay a registration fee of \$1,000. The \$1,000 initial registration fee shall also be applicable to each individual employed by a professional campaign fund raiser who is employed, retained, or engaged for monetary compensation of at least \$5,000 per year in the aggregate to perform for any candidate or committee, or both, any service directly related to the solicitation of contributions for that candidate or committee, or both, and who meets either of the registration criteria at (a) above.

(d) A professional campaign fund raiser who has not registered with the Commission pursuant to this section but is required to be registered, and who has not paid the initial registration fee in (c) above, shall not, for compensation, perform for any candidate or committee any service directly related to the solicitation of contributions for that candidate or committee. A candidate or committee shall not pay any compensation to any fund raiser who is not registered pursuant to this section but is required to be registered, for performing any service directly related to the solicitation of contributions for that candidate or committee.

### **19:25-21.3 Quarterly reports**

(a) A registered professional campaign fund raiser shall file quarterly reports (Form FRQ) with the Commission, which shall include the following information:

1. The name of each candidate or committee for which fund raising services were provided;
2. The specific services provided to each named candidate or committee;
3. The gross and net amounts raised for each named candidate or committee;

4. The amount of compensation received by the professional campaign fund raiser from each candidate or committee;
5. An itemized list of expenditures made in connection with providing fund raising services.

(b) The term "quarterly reports" shall mean the reports described below, which reports shall be due for filing and shall include information described in (a) above relevant to the following periods of time:

1. The first quarterly report shall be due for filing on April 15 of a calendar year and shall include information for the period of time beginning with the first transaction occurring on or after January 1<sup>st</sup> of the calendar year of the filing date, and ending with the last transaction occurring on March 31<sup>st</sup> of that calendar year;
2. The second quarterly report shall be due for filing on July 15 of a calendar year and shall include information for the period of time beginning with the first transaction occurring on or after April 1<sup>st</sup> of the calendar year of the filing date, and ending with the last transaction occurring on June 30<sup>th</sup> of that calendar year;
3. The third quarterly report shall be due for filing on October 15 of a calendar year and shall include information for the period of time beginning with the first transaction occurring on or after July 1<sup>st</sup> of the calendar year of the filing date, ending with the last transaction occurring on September 30<sup>th</sup> of that calendar year; and
4. The fourth quarterly report shall be due for filing on January 15 of a calendar year and shall include all information for the period of time beginning with the first transaction occurring on or after October 1<sup>st</sup> of the calendar year preceding the calendar year of the filing date, and ending with the last transaction occurring on December 31<sup>st</sup> of the calendar preceding the calendar year of the filing date.

(c) A professional campaign fund raiser shall continue to file quarterly reports with the Commission regardless of the number of events that person plans, organizes or attends, or the amount of contributions that person receives, as long as the person remains employed, retained, or engaged as a professional fund raiser, and until such time as the professional campaign fund raiser notifies the Commission pursuant to N.J.A.C. 19:25-21.5 of the termination of fund raising services.

(d) A professional campaign fund raiser shall file and certify the correctness of each quarterly report.

#### **19:25-21.4 Annual fee**

(a) Each registered professional campaign fund raiser shall pay an annual fee of \$1,000, which shall be received by the Commission no later than January 31<sup>st</sup> for the calendar year which began on the preceding January 1<sup>st</sup>.

(b) The \$1,000 annual fee shall also be applicable to each individual employed by a professional campaign fund raiser who is employed, retained, or engaged for monetary compensation of at least \$5,000 per year in the aggregate to perform for any candidate or committee, or both, any service directly related to the solicitation of contributions for that candidate or committee, or both, and who meets either of the registration criteria at N.J.A.C. 19:25-21.2(a). The \$1,000 fee shall be received by the Commission no later than January 31<sup>st</sup> for the calendar year which began on the preceding January 1<sup>st</sup>.

#### **19:25-21.5 Termination**

A fund raiser who chooses to terminate fund raising services in this State shall file Form FRT with the Commission within 30 days after such termination of services.

#### **19:25-21.6 Violations; penalties**

(a) Any professional campaign fund raiser responsible for the preparation, certification, filing or retention of any reports, notices or other documents, who fails, neglects or omits to prepare, certify, file or retain any such report, record or notice or document by the time required by this section or who omits or incorrectly states or certifies any of the information required by this section to be included in such report, record, notice or document shall 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) Any penalty imposed pursuant to this subsection may be recovered in a summary proceeding pursuant to the "Penalty Enforcement Law of 1999" (P.L.1999, c.274).

## **SUBCHAPTER 22. SEVERABILITY CLAUSE**

### **19:25-22.1 Severability clause**

If any regulation, or sentence, paragraph or section of this chapter, or the application thereof to any persons or circumstances shall be adjudged by a court of competent jurisdiction to be invalid, or if by legislative action any regulation shall lose its force and effect, such judgment or action shall not affect, impair or void the remainder of these regulations.

## **SUBCHAPTER 23. (Reserved)**

Note: The New Jersey Fair and Clean Elections Pilot Project expired on May 4, 2008, pursuant to P.L. 2007, c.60.

## **SUBCHAPTER 24. STATE CONTRACTOR CONTRIBUTIONS PROHIBITED**

### **19:25-24.1 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.

“Business entity” means any natural or legal person, business corporation, professional services corporation, limited liability company, partnership, limited partnership, business trust, association or any other legal commercial entity organized under the laws of this State or any other state or foreign jurisdiction, and includes:

1. All principals who own or control more than 10 percent of the profits or assets of a business entity or 10 percent of the stock in the case of a business entity that is a corporation for profit, as appropriate;
2. Any subsidiaries directly or indirectly controlled by the business entity;
3. Any political organization organized under section 527 of the Internal Revenue Code that is directly or indirectly controlled by the business entity, other than a candidate committee or political party committee; and
4. If a business entity is a natural person, that person's spouse or child, residing with the natural person.

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

“Campaign treasurer” means the person or persons appointed as treasurer by a candidate committee or the person or persons undertaking activity relating to contributions and expenditures of a candidate committee pursuant to the Campaign Reporting Act.

“Candidate committee” means a committee established by a candidate pursuant to N.J.S.A. 19:44A-9(a) for the purpose of receiving contributions and making expenditures.

“Commission” means the New Jersey Election Law Enforcement Commission.

“Contribution” includes every loan, gift, subscription, advance or transfer of money or other thing of value, including any in-kind contribution, made to or on behalf of any candidate committee or joint candidates committee and any pledge or other commitment or assumption of liability to make such transfer. For the purposes of this subchapter, any such commitment or assumption shall be deemed to have been a contribution upon the date when such commitment is made or liability assumed. Funds or other benefits received solely for the purpose of determining whether an individual should become a candidate are contributions.

“Contribution reportable by the recipient” shall mean a currency contribution in any amount or a contribution or contributions in excess of \$200.00 in the aggregate per election made to or received by a candidate committee or joint candidates committee.

“Currency” means United States government notes and coins in circulation as a medium of exchange.

“Fair and open process” means, at a minimum, that the contract shall be:

1. Publicly advertised in newspapers or on the Internet website maintained by the public entity in sufficient time to give notice in advance of the contract;
2. Awarded pursuant to a process that provides for public solicitation of proposals or qualifications and awarded and disclosed pursuant to criteria established, in writing, by the public entity prior to the solicitation of proposals or qualifications; and
3. Publicly opened and announced when awarded.

A contract awarded pursuant to a process that includes public bidding or competitive contracting pursuant to State contracts law or the Local Public Contracts Law, N.J.S.A. 40A:11-1 et seq. (P.L. 1971, c. 198), shall constitute a fair and open process. The decision of a public entity as to what constitutes a fair and open process shall be final.

“File” or “filed” means deposited in the office of the Commission designated in N.J.A.C. 19:25-2.1.

“In-kind contribution” means a contribution of goods or services received by a candidate committee or joint candidates committee, which contribution is paid for by a person or entity other than the recipient committee, but does not include services provided without compensation by an individual volunteering a part of or all of their time on behalf of a candidate or committee.

“Legal person” means a corporation which possesses legal rights.

“Natural person” means a human being.

“Public contract” shall mean a contract with the State or any department or agency thereof or with its independent authorities, and shall include any division, board, bureau, office, commission or other instrumentality within or created by such department and any independent State authority, board, commission, instrumentality or agency.



### **19:25-24.2 Contributions by business entities prohibited**

(a) A business entity that agrees to any contract or agreement, except for a contract or agreement awarded pursuant to a fair and open process, with the State or any department or agency thereof or its independent authorities either for the rendition of services or furnishing of any material, supplies or equipment or for the acquisition, sale, or lease of any land or building, if the value of the transaction exceeds \$17,500, shall not knowingly solicit or make any contribution reportable by the recipient of money, or pledge of a contribution, including in-kind contributions, to a candidate committee of any candidate or holder of the public office of Governor prior to the completion of the contract or agreement.

(b) For the purposes of (a) above, a business entity shall have knowingly made a contribution if the business entity did not request, in writing, within 30 days of the date on which the contribution was made, that the recipient candidate committee of any candidate or holder of the public office of Governor repay the contribution and, if the business entity did not receive repayment within those 30 days.

(c) For the purposes of (a) above, it shall be presumed that a contribution made to a candidate committee of any candidate or holder of the public office of Governor within 60 days of a gubernatorial primary or general election was made knowingly.

### **19:25-24.3 Request for repayment of a contribution**

(a) If a business entity makes a contribution during the term of a contract that would constitute a violation of N.J.A.C. 19:25-24.2, the entity may request, in writing, that the recipient candidate committee of any candidate or holder of the public office of Governor repay the contribution in full and, if such repayment is received within 30 days after the date on which the contribution was made, the business entity would no longer be in violation of N.J.A.C. 19:25-24.2.

(b) It shall be presumed that a contribution or contributions made within 60 days of a gubernatorial primary or general election were not made inadvertently.

### **19:25-24.4 Applicability to State agencies and authorities**

The provisions of this subchapter shall apply to all contracts and agreements, other than a contract or agreement that is awarded pursuant to a fair and open process, with State agencies including contracts or agreements with any of the principal departments in the Executive Branch, and any division, board, bureau, office, commission or other instrumentality within or created by such department and any independent State authority, board, commission, instrumentality or agency.

### **19:25-24.5 Inapplicability under Federal law or eminent domain**

The provisions of this subchapter shall not apply in circumstances when it is determined by the Federal government or a court of competent jurisdiction that its application would violate Federal law or regulation or prevent the State, its executive departments, agencies or independent authorities from complying with all of the requirements, conditions and obligations of the Eminent Domain Act of 1971, P.L. 1971, c. 361 (N.J.S.A. 20:3-1 et seq.), as amended and supplemented.

### **19:25-24.6 Allegation of a violation**

(a) A request to the Commission to investigate an allegation that a business entity has made a contribution or contributions in violation of N.J.A.C. 19:25-24.2 shall be filed on a form prescribed by the Commission and shall include:

1. A copy of the contract awarded by the State or any department or agency thereof or its independent authorities to the business entity that is the subject of the request;
2. The name and address of the business entity, which is alleged to have made a contribution in violation of N.J.A.C. 19:25-24.2, and the amount of the alleged contribution; and
3. The name and address of the candidate committee of any candidate or holder of the public office of Governor that is alleged to have accepted a contribution or contributions from a business entity with a contract or agreement awarded by the State or any department or agency thereof or its independent authorities.

(b) The Commission shall forward to the State Treasury any evidence of a violation of N.J.A.C. 19:25-24.2 by a business entity and any evidence of a violation or violations of N.J.S.A. 19:44A-20.21, which was received pursuant to (a) above.

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## **SUBCHAPTER 25. LEGISLATIVE, COUNTY AND MUNICIPAL CONTRACTOR CONTRIBUTIONS PROHIBITED**

### **19:25-25.1 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.

“Business entity” means any natural or legal person, business corporation, professional services corporation, limited liability company, partnership, limited partnership, business trust, association or any other legal commercial entity organized under the laws of this State or of any other state or foreign jurisdiction.

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

“Campaign treasurer” means the person or persons appointed as treasurer by a candidate committee or joint candidates committee or the person or persons undertaking activity relating to contributions and expenditures of a candidate committee or joint candidates committee pursuant to the Campaign Reporting Act.

“Candidate committee” means a committee established by a candidate pursuant to N.J.S.A. 19:44A-9(a) for the purpose of receiving contributions and making expenditures.

“Commission” means the New Jersey Election Law Enforcement Commission.

“Contribution” includes every loan, gift, subscription, advance or transfer of money or other thing of value, including any in-kind contribution, made to or on behalf of any candidate committee or joint candidates committee and any pledge or other commitment or assumption of liability to make such transfer. For the purposes of this subchapter, any such commitment or assumption shall be deemed to have been a contribution upon the date when such commitment is made or liability assumed. Funds or other benefits received solely for the purpose of determining whether an individual should become a candidate are contributions.

“Contribution reportable by the recipient” shall mean a currency contribution in any amount or a contribution or contributions in excess of \$200.00 in the aggregate per election made to or received by a candidate committee or joint candidates committee.

“Currency” means United States government notes and coins in circulation as a medium of exchange.

“Fair and open process” means, at a minimum, that the contract shall be:

1. Publicly advertised in newspapers or on the Internet website maintained by the public entity in sufficient time to give notice in advance of the contract;

2. Awarded under a process that provides for public solicitation of proposals or qualifications and awarded and disclosed under criteria established in writing by the public entity prior to the solicitation of proposals or qualifications; and
3. Publicly opened and announced when awarded.

A contract awarded pursuant to a process that includes public bidding or competitive contracting pursuant to State contracts law or the Local Public Contracts Law, N.J.S.A. 40A:11-1 et seq. (P.L. 1971, c. 198.), shall constitute a fair and open process. The decision of a public entity as to what constitutes a fair and open process shall be final.

“File” or “filed” means deposited in the office of the Commission designated in N.J.A.C. 19:25-2.1.

“In-kind contribution” means a contribution of goods or services received by a candidate committee or joint candidates committee, which contribution is paid for by a person or entity other than the recipient committee, but does not include services provided without compensation by an individual volunteering a part of or all of their time on behalf of a candidate or committee.

“Interest” means the ownership or control of more than 10 percent of the profits or assets of a business entity or 10 percent of the stock in the case of a business entity that is a corporation for profit, as appropriate.

“Joint candidates committee” means a committee established pursuant to N.J.S.A. 19:44A-9(a) by at least two candidates for the same elective public offices in the same election in a legislative district, county, or municipality, but not more candidates than the total number of the same elective public offices to be filled in that election, for the purpose of receiving contributions and making expenditures. For the purposes of this definition, the offices of member of the Senate and members of the General Assembly shall be deemed to be the same elective public offices in a legislative district; the offices of member of the board of county commissioners and county executive shall be deemed to be the same elective public offices in a county; and the offices of mayor and member of the municipal governing body shall be deemed to be the same elective public offices in a municipality.

“Legal person” means a corporation which possesses legal rights.

“Natural person” means a human being.

“Public contract” shall mean a contract with a State agency in the Legislative Branch, a contract with a county, or any agency or instrumentality thereof, or a contract with a municipality, or any agency or instrumentality thereof.

“State agency in the Legislative Branch” means the Legislature of the State and any office, board, bureau or commission within or created by the Legislative Branch.

### **19:25-25.2 Contributions by business entities prohibited**

(a) Notwithstanding the provisions of any other law to the contrary, a business entity that has entered into a contract having an anticipated value in excess of \$17,500 with a State agency in the Legislative Branch, that requires approval by a presiding officer of either or both houses of the Legislature, except a contract that is awarded pursuant to a fair and open process, shall not during the term of that contract make a contribution, reportable by the recipient, to any candidate committee or joint candidates committee established by that presiding officer.

(b) Notwithstanding the provisions of any other law to the contrary, a business entity that has entered into a contract having an anticipated value in excess of \$17,500 with a county, or any agency or instrumentality thereof, except a contract that is awarded pursuant to a fair and open process, shall not during the term of that contract make a contribution, reportable by the recipient, to any candidate committee or joint candidates committee of any person serving in an elective public office of that county when the contract is awarded.

(c) Notwithstanding the provisions of any other law to the contrary, a business entity that has entered into a contract having an anticipated value in excess of \$17,500 with a municipality, or any agency or instrumentality thereof, except a contract that is awarded pursuant to a fair and open process, shall not during the term of that contract make a contribution, reportable by the recipient, to any candidate committee or joint candidates committee of any person serving in an elective public office of that municipality when the contract is awarded.

### **19:25-25.3 Prohibition on acceptance of contributions from a business entity**

(a) No candidate committee or joint candidates committee, as set forth at N.J.A.C. 19:25-25.2(a), shall accept a contribution from a business entity during the term of the contract between the business entity and the State agency in the Legislative Branch.

(b) No candidate committee or joint candidates committee, as set forth at N.J.A.C. 19:25-25.2(b), shall accept a contribution from a business entity during the term of the contract between the business entity and the county or its agency or instrumentality.

(c) No candidate committee or joint candidates committee, as set forth at N.J.A.C. 19:25-25.2(c), shall accept a contribution from a business entity during the term of the contract between the business entity and the municipality or its agency or instrumentality.

### **19:25-25.4 Contribution deemed to be a contribution by business entity**

(a) When a business entity is a natural person, a contribution by that person's spouse or child, residing therewith, shall be deemed to be a contribution by the business entity.

(b) When a business entity is other than a natural person, a contribution by any person or other business entity having an interest therein shall be deemed to be a contribution by the business entity.

### **19:25-25.5 Business entity duty to report to Commission**

(a) A business entity that has entered into a contract with a State agency in the Legislative Branch, a county, or any agency or instrumentality thereof, or a municipality, or any agency or instrumentality thereof, which contract has an anticipated value in excess of \$17,500 and was not awarded pursuant to a fair and open process, shall have a continuing duty to report to the Commission any contribution or contributions that are made during the duration of the contract in violation of N.J.A.C. 19:25-25.2.

(b) The report of a contribution or contributions made during the duration of a contract in violation of N.J.A.C. 19:25-25.2 shall be filed with the Commission by means of a letter and shall include:

1. The name and address of the business entity that made the contribution or contributions;
2. The name and address of the candidate committee or joint candidates committee to which the contribution was made;
3. The amount and date of each contribution; and
4. Information identifying the contract which shall include, but not be limited to, the name of the government entity with whom the contract is made, the purpose of the contract, and term of the contract.

### **19:25-25.6 Repayment of a contribution**

If a business entity makes a contribution during the term of a public contract that would constitute a violation of N.J.A.C. 19:25-25.2, the business entity may request, in writing, within 60 days of the date on which the contribution was made, that the recipient candidate committee or joint candidates committee repay the contribution and, if repayment is received within those 60 days, the business entity would no longer be in violation of N.J.A.C. 19:25-25.2.

### **19:25-25.7 Penalty for a violation by a business entity**

(a) A business entity which is determined by the Commission to have willfully and intentionally made a contribution that is in violation of N.J.A.C. 19:25-25.2, or failed to report a contribution, as required at N.J.A.C. 19:25-25.5, may be liable to a penalty of up to the value of its public contract.

1. For the purposes of this subsection, a business entity shall have willfully and intentionally made a contribution that is in violation of N.J.A.C. 19:25-25.2 if the business entity did not request, in writing, within 60 days of the date on which the contribution was made, that the recipient candidate committee or joint candidates committee repay the contribution and, if repayment was not received within those 60 days.

2. For the purposes of this subsection, a business entity shall have willfully and intentionally failed to comply with the continuing duty to report a contribution that is in violation of N.J.A.C. 19:25-25.5 if the business entity fails to file the report required at N.J.A.C. 19:25-25.5 within 60 days of making the contribution.

(b) Notwithstanding the provisions of any law, rule, or regulation to the contrary, a business entity that fails to disclose a contribution as required at N.J.A.C. 19:25-25.5 shall be subject to a fine of not less than \$250.00.

(c) The Commission shall forward to the State Treasurer any final decision finding a violation of N.J.A.C. 19:25-25.2 or 25.5 by a business entity that has a public contract.

### **19:25-25.8 Penalty for acceptance of an unlawful contribution**

(a) A candidate committee or joint candidates committee, or campaign treasurer thereof, who or which is determined by the Commission to have willfully and intentionally accepted a contribution in violation of N.J.A.C. 19:25-25.3, shall be liable to a penalty for each such violation equal to the penalties set forth at N.J.S.A. 19:44A-22e.

(b) For the purposes of (a) above, the willful and intentional acceptance of a contribution by a candidate committee, joint candidates committee, or campaign treasurer thereof, shall refer to the act of receiving a contribution that is in violation of N.J.A.C. 19:25-25.3 and retaining the contribution for a period of more than 60 days.

### **19:25-25.9 Allegation of a violation**

(a) A request to the Commission to investigate an allegation that a business entity has made a contribution or contributions in violation of N.J.A.C. 19:25-25.2, that a candidate committee or joint candidates committee has accepted a contribution or contributions in violation of N.J.A.C. 19:25-25.3, or that a business entity has failed to file a report required at N.J.A.C. 19:25-25.5, shall be filed on a form prescribed by the Commission and shall include:

1. A copy of the contract awarded by the State agency in the Legislative Branch, by the county, or any agency or instrumentality thereof, or by the municipality, or any agency or instrumentality thereof, to the business entity that is the subject of the request for investigation, or in the case of a contract awarded by a county, or any agency or instrumentality thereof, or by a municipality, or any agency or instrumentality thereof, a copy of the resolution, required pursuant to N.J.S.A. 40A:11-1 et seq., awarding the contract to the business entity that is the subject of the request;
2. The name and address of the business entity that is alleged to have made a contribution in violation of N.J.A.C. 19:25-25.2, and the amount of the alleged contribution;



3. The name and address of the spouse, child, person or other business entity whose contribution is deemed by N.J.A.C. 19:25-25.4 to be a contribution by a business entity and is alleged to have made a contribution in violation of N.J.A.C. 19:25-25.2; and
4. The name and address of the candidate committee or joint candidates committee that is alleged to have received a contribution or contributions in violation of N.J.A.C. 19:25-25.3.

#### **19:25-25.10 Opportunity for hearing**

In any penalty proceeding undertaken by the Commission pursuant to N.J.A.C. 19:25-25.7 or 25.8, or statutory authority, each respondent shall be afforded the opportunity for a hearing pursuant to the provisions of the Administrative Procedure Act, N.J.S.A. 52:14B-1 et seq., 52:14F-1 et seq., and N.J.A.C. 1:1.

#### **19:25-25.11 Default for failure to answer complaint**

In any penalty proceeding undertaken by the Commission pursuant to N.J.A.C. 19:25-25.7 or 25.8, or statutory authority, the Commission may enter a final decision, including penalty, against any respondent who fails to file with the Commission a written responsive pleading or answer within 20 days after service on such respondent in conformity with the rules of the New Jersey Office of Administrative Law of a copy of a complaint alleging a specific violation of the law within the Commission's jurisdiction to enforce.

## **SUBCHAPTER 26. CONTRIBUTION DISCLOSURE BY FOR-PROFIT ENTITIES**

### **19:25-26.1 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.

“Business entity” means a for-profit entity that is a natural or legal person, business corporation, professional services corporation, limited liability company, partnership, limited partnership, business trust, association or any other legal commercial entity organized under the laws of this State or of any other state or foreign jurisdiction.

“Candidate” means:

1. An individual seeking election to a public office of this State or of a county, municipality or school or fire district at any election;
2. An individual who shall have been elected or failed of election to an office, other than a party office, for which he or she sought election and who receives contributions and makes expenditures for any of the purposes authorized by N.J.S.A. 19:44A-11.2; and
3. An individual who has received funds or other benefits or has made payments solely for the purpose of determining whether the individual should become a candidate as defined in 1 and 2 above.

This definition does not include an individual seeking Federal elective office, or State, county or municipal political party office.

“Candidate committee” means a committee established by a candidate pursuant to N.J.S.A. 19:44A-9(a), for the purpose of receiving contributions and making expenditures.

“Commission” means the New Jersey Election Law Enforcement Commission.

“Continuing political committee” includes any group of two or more persons acting jointly, or any corporation, partnership or any other incorporated or unincorporated association, including a political club, political action committee, civic association or other organization, established pursuant to N.J.S.A. 19:44A-8(b) and N.J.A.C. 19:25-1.7 and 4.5.

“Contribution” includes every loan, gift, subscription, advance or transfer of money or other thing of value, including any in-kind contribution, made to or on behalf of any candidate committee, joint candidates committee, political committee or continuing political committee and any pledge or other commitment or assumption of liability to make such transfer. For the purposes of this subchapter, any such commitment or assumption shall be deemed to have been a contribution upon the date when such commitment is made or liability assumed. Funds or other benefits received solely for the purpose of determining whether an individual should become a candidate are contributions.

“Contribution reportable by the recipient” shall mean a currency contribution in any amount or a contribution or contributions in excess of \$200.00 in the aggregate per election made to or received by a candidate committee, joint candidates committee or political committee or per calendar year made to or received by a continuing political committee.

“County committee of a political party” means a committee organized pursuant to N.J.S.A. 19:5-3.

“Currency” means United States government notes and coins in circulation as a medium of exchange.

“Director” means any member of the governing board of a corporation, whether designated as a director, trustee, manager, governor or by any other title.

“Fair and open process” means, at a minimum, that the contract shall be:

1. Publicly advertised in newspapers or on the Internet website maintained by the public entity in sufficient time to give notice in advance of the contract;
2. Awarded under a process that provides for public solicitation of proposals or qualifications and awarded and disclosed under criteria established in writing by the public entity prior to the solicitation of proposals or qualifications; and
3. Publicly opened and announced when awarded.

A contract awarded under a process that includes public bidding or competitive contracting pursuant to State contracts law or the Local Public Contracts Law, N.J.S.A. 40A:11-1 et seq. (P.L. 1971, c. 198), shall constitute a fair and open process. The decision of a public entity as to what constitutes a “fair and open process” shall be final.

“In-kind contribution” means a contribution of goods or services received by a candidate committee, joint candidates committee, political committee or continuing political committee, which contribution is paid for by a person or entity other than the recipient committee, but does not include services provided without compensation by an individual volunteering a part of or all of their time on behalf of a candidate or committee.

“Interest” means the ownership or control of more than 10 percent of the profits or assets of a business entity or more than 10 percent of the stock, in the case of a business entity that is a corporation for profit, as appropriate.

“Joint candidates committee” means a committee established pursuant to N.J.S.A. 19:44A-9(a) by at least two candidates for the same elective public offices in the same election in a legislative district, county, or municipality, but not more candidates than the total number of the same elective public offices to be filled in that election, for the purpose of receiving contributions and making expenditures. For the purposes of this definition, the offices of member of the Senate and members of the General Assembly shall be deemed to be the same elective public offices in a legislative district; the offices of member of the board of county commissioners and county executive shall be deemed to be the same elective public offices in a county; and the offices of mayor and member of the municipal governing body shall be deemed to be the same elective public offices in a municipality.

“Legal person” means a corporation which possesses legal rights.

“Local unit” means a county, municipality, agency or instrumentality of a county or municipality, independent authority, board of education, or fire district.

“Natural person” means a human being.

“Officer” means a president, vice president with senior management responsibility, secretary, treasurer, chief executive officer, chief financial officer of a corporation or any person routinely performing such functions for a corporation.

“Partner” means one of two or more natural persons or other entities, including a corporation, who or which are joint owners of and carry on a business for profit, and which business is organized under the laws of this State or of any other state or foreign jurisdiction, as a general partnership, limited partnership, limited liability partnership, limited liability company, limited partnership association, or other such form of business organization.

“Principal” means a natural person or other entity who or which owns or controls more than 10 percent of the profits or assets of a business entity or 10 percent of the stock in the case of a business entity that is a corporation for profit.

“Public entity” means any State agency or any local unit, as those terms are defined herein.

“State agency” means any of the principal departments in the Executive Branch of the State government, and any division, board, bureau, office, commission or other instrumentality within or created by such department, the Legislature of the State and any office, board, bureau or commission within or created by the Legislative Branch, and any independent State authority, commission, instrumentality or agency.

### **19:25-26.2 Business entity disclosure to a State agency**

(a) Not later than 10 days prior to the execution of any contract with a State agency, which contract has an anticipated value in excess of \$17,500, except for a contract that is awarded pursuant to a fair and open process, a business entity bidding on or negotiating for the contract shall submit to the State agency, according to procedures established by the state agency, a list of contributions, including contributions deemed to be contributions of the business entity pursuant to N.J.A.C. 19:25-26.6, which shall contain the following:

1. The name of each continuing political committee, or candidate committee or joint candidates committee of a candidate for, or holder of, a State elective office to which the business entity made a contribution reportable by the recipient during the 12-month period preceding the date of the execution of the contract with the State agency;
2. The date of the contribution; and
3. The amount of the contribution.

(b) As used in this section, the term “State elective office” shall mean the offices of Governor, State Senate, and General Assembly.

(c) The provisions of this section shall not apply to a contract when a public emergency, as determined by a State agency, requires the immediate delivery of goods or services.

### **19:25-26.3 Business entity disclosure to a local unit**

(a) Not later than 10 days prior to the date of the resolution by a local unit awarding a contract which has an anticipated value in excess of \$17,500, except for a contract that is awarded pursuant to a fair and open process, a business entity bidding on or negotiating for the contract shall submit to the local unit, according to procedures established by the local unit, a list of contributions, including contributions deemed to be contributions of the business entity pursuant to N.J.A.C. 19:25-26.6, as set forth in (b) below.

(b) The business entity shall include the following information on the list of contributions submitted to a local unit pursuant to (a) above:

1. The names of all of the following to which the business entity made a contribution reportable by the recipient during the 12-month period preceding the date of the resolution awarding the contract with the local unit:
  - i. Any continuing political committee; and
  - ii. Any candidate committee or joint candidates committee of a candidate for, or holder of, an elective office of the local unit awarding the contract, the county in which that local unit is located, another local

unit within that county, and the legislative district in which that local unit is located or, when the local unit is a county, of any legislative district which includes all or part of the county;

2. The date of the contribution; and
3. The amount of the contribution.

(c) As used in this section, the term “elective office” shall include an office, other than party office, for which candidates appear on the ballot in a primary, general, municipal, school, or special election.

(d) The provisions of this section shall not apply to a contract when a public emergency, as determined by the local unit, requires the immediate delivery of goods or services.

#### **19:25-26.4 Business entity annual disclosure statement**

(a) A business entity shall file an annual disclosure statement with the Commission for each calendar year during which the business entity received \$50,000 or more in the aggregate through agreements or contracts with a public entity or public entities, which annual disclosure statement shall contain the information described in (b) below.

(b) A business entity shall report the following on the annual disclosure statement:

1. The name and mailing address of the business entity;
2. For each public entity from which the business entity received money in the calendar year:
  - i. The name of the public entity;
  - ii. The amount of money the business entity received from the public entity;
  - iii. The date of each contract or agreement with the public entity and information to identify the specific contract with the public entity; and
  - iv. A description of the goods, services or equipment provided or property sold to the public entity;
3. The name and address of the recipient candidate or committee, the contribution date, and the contribution amount for each contribution reportable by the recipient that was made by the business entity, including contributions deemed to be contributions of the business entity pursuant to N.J.A.C. 19:25-26.6, during the calendar year to the following:

- i. The candidate committee or joint candidates committee of a candidate for or holder of the office of Governor, State Senate, General Assembly, county executive, county commissioner, sheriff, clerk, surrogate, and member of a municipal, school board, and fire district governing body;
  - ii. A political committee; and
  - iii. A continuing political committee; and
4. The total amount contributed by the business entity during the calendar year to the candidates and committees described in (b)3 above.

(c) A business entity which has received \$50,000 or more in the aggregate during a calendar year through agreements or contracts with a public entity or public entities, but has made no contributions to candidates or committees, as set forth in (b) above, shall file the business entity annual disclosure statement with the Commission to report that no contributions were made during the calendar year.

#### **19:25-26.5 Filing the business entity annual disclosure statement**

A business entity, which has received \$50,000 or more in the aggregate through agreements or contracts with a public entity or public entities during a calendar year shall file the business entity annual disclosure statement (Form BE) with the Commission on or before March 30th immediately following the calendar year during which the business entity received \$50,000 or more in the aggregate through agreements or contracts with a public entity or public entities using the electronic filing system.

#### **19:25-26.6 Contribution deemed to be a contribution by a business entity**

(a) For the purposes of this subchapter, when a business entity is a natural person, a contribution made by that person's spouse or child, residing therewith, shall be deemed to be a contribution by the business entity.

(b) For the purposes of this subchapter, when a business entity is other than a natural person, a contribution made by any of the following shall be deemed to be a contribution by the business entity:

1. A person or other business entity having an interest in the business entity;
2. A principal, partner, officer, director, or trustee of the business entity;
3. The spouse of a principal, partner, officer, director, or trustee of the business entity;
4. A subsidiary directly or indirectly controlled by the business entity; and

5. A continuing political committee organized under section 527 of the Internal Revenue Code that is directly or indirectly controlled by the business entity.

(c) For the purposes of this section, where a corporation owns sufficient shares or voting interest in a second corporation to elect a majority of the directors or trustees of the second corporation, or where a business entity has sufficient control of a second business entity to direct the decision-making of the second business entity, the second corporation or second business entity shall be a subsidiary directly or indirectly controlled by a business entity.

(d) For the purposes of this section, the criteria to be applied to determine whether or not a business entity directly or indirectly controls a continuing political committee shall include, but not be limited to, whether or not the business entity participates as an organizer of the continuing political committee, participates in decision-making with regard to the specific activities of the continuing political committee, or participates in formation of the policies of the continuing political committee.

#### **19:25-26.7 Allegation of a violation; fine**

(a) A request to the Commission to investigate an allegation that a business entity has violated the provisions of this subchapter shall be filed on a form prescribed by the Commission and shall include:

1. The name and address of the person or entity requesting the investigation;
2. The name and address of the business entity which is alleged to have failed to comply with the requirements of this subchapter;
3. A copy of the contract awarded by the State agency to the business entity that is the subject of the request or a copy of the resolution of the local unit awarding the contract to the business entity that is the subject of the request; and
4. The name(s) and address(es) of the candidate committee, joint candidates committee, political committee, or continuing political committee that is alleged to have received a contribution from the business entity, which contribution was not disclosed by the business entity as required by this subchapter.

(b) A business entity that fails to comply with the requirements of this subchapter shall be subject to a fine to be imposed by the Commission in an amount **not less than \$250.00**, which shall be based upon the amount that the business entity failed to report.

#### **19:25-26.8 Opportunity for hearing**

In any penalty proceeding undertaken by the Commission to enforce the provisions of this subchapter, or statutory authority, each respondent shall be afforded the opportunity for a hearing pursuant to the provisions of the Administrative Procedure Act, N.J.S.A. 52:14B-1 et seq. and 52:14F-1 et seq., and N.J.A.C. 1:1.



### **19:25-26.9 Default for failure to answer complaint**

In any penalty proceeding undertaken by the Commission to enforce the provisions of this subchapter, or statutory authority, the Commission may enter a Final Decision, including penalty, against any respondent who fails to file with the Commission a written responsive pleading or answer within 20 days after service on such respondent in conformity with the rules of the New Jersey Office of Administrative Law of a copy of a complaint alleging a specific violation of the law within the Commission's jurisdiction to enforce.

### **19:25-26.10 Recordkeeping; period of retention**

All business entities subject to reporting under this subchapter shall make or obtain and maintain all records and documents relating to the annual disclosure statement, so as to provide evidence to support statements in disclosure statements filed with the Commission and to permit an adequate basis for auditing by the Commission. All such records and documents shall be maintained for a period of not less than four years after the date the annual report was filed, or a period of not less than four years after the due date for the annual report, whichever is longer.

(end)