



SHORT TITLE: Ethics Commission rules; deleting requirement for contributor statement; modifying amounts of contributions and expenditures to which certain provisions applicable; effective date.



STATE OF OKLAHOMA

1st Session of the 45th Legislature (1995)  
SENATE BILL NO. 491 By: Shurden

AS INTRODUCED

An Act relating to Ethics Commission rules; amending Ethics Commission Rules 257: 1-1-7, 10-1-2, 10-1-7, 10-1-10 and 10-1-14, which relate to administration and campaign reporting; stating legislative intent and findings; deleting requirement that persons accepting contributions must obtain certain statement; modifying dollar amount of contributions and expenditures to which certain provisions applicable; modifying information required to be reported; and providing an effective date.

BE IT ENACTED BY THE PEOPLE OF THE STATE OF OKLAHOMA:

SECTION 1. It is the intent of the Oklahoma State Legislature that the process of campaigning for state office in Oklahoma be made accessible to all. It is the finding of the Oklahoma State Legislature that certain provisions in the rules of the Ethics Commission deny those without the financial resources to employ professionals, including but not limited to accountants and attorneys, the right to become candidates for state office without risk of prosecution and imposition of severe penalties for minor and even inadvertent violations.

SECTION 2. AMENDATORY Ethics Commission Rule 257:1-1-7 is amended to read as follows:

OS 257-1-1-7. Forms and publications.

The Executive Director shall devise forms and publications to conform with this title, subject to the approval of the Commission, which shall include, but not be limited to, the following forms and publications and shall make such forms and publications available to the public:

(1) Copy of Article XXIX of the Oklahoma Constitution, the Act, and this title;

(2) Statement of organization;

(3) Campaign contributions and expenditures report;

(4) Campaign contributions and expenditures report for ballot measure campaigns;

(5) Statement of inactivity;

(6) Last minute contributions report;

(7) Last minute independent expenditures report;

(8) Contributor statement;

(9) Statement of financial interests;

(10) (9) Lobbyist expenditure report;

(11) (10) Request for ethics interpretation;

(12) (11) Prohibited acts of classified state employees; and

(13) (12) Notices, instructions, and educational manuals for filling out forms and complying with this title.

SECTION 3. AMENDATORY Ethics Commission Rule 257:10-1-2 is amended to read as follows:

OS 257-10-1-2. Contributions.

(a) Limitations on contributions from a person.

(1) No person or family may contribute more than five thousand dollars (\$5,000) to a political action committee or a party committee in any calendar year. No political action committee or party committee shall knowingly accept a contribution from a person or family in excess of five thousand dollars (\$5,000) in a calendar year.

(2) No person or family may contribute more than five thousand dollars (\$5,000) to a candidate for state office or to a candidate committee authorized by such a candidate to accept contributions or make expenditures on his behalf during a campaign as defined in Chapter 1, Section 2. No candidate or candidate committee shall knowingly accept a contribution in excess of five thousand dollars (\$5,000) from a person or family during a campaign.

(3) These restrictions do not apply to:

(A) a committee supporting or opposing a ballot measure; or

(B) a candidate making a contribution of his or her own funds, to his or her campaign.

(b) Contributor statement. Persons accepting contributions must obtain from each contributor a statement which shall include:

- (1) the date the contribution was given;
- (2) the name and address, occupation and employer, or principal business activity of the contributor;
- (3) the amount and whether the contribution was by cash or written instrument; if in-kind, a description of the contribution and a good faith estimate of its fair market value;
- (4) a declaration that the contribution is freely and voluntarily given from the contributor's personal property;
- (5) a declaration that the contributor has not been directly or indirectly compensated or reimbursed for the contribution; and
- (6) the signature of the contributor, or in the case of a committee, the treasurer of the committee.

Persons accepting contributions from contributors who contribute by payroll deduction, dues check-off, or similar process shall be required to obtain only one contributor statement annually or at such other times as a change is made in the deduction, check-off, or similar process.

(c) Prohibitions and exceptions to corporate contributions.

(1) No corporation shall contribute to any campaign fund of any party committee of this state or to any other person for the benefit of such party committee or its candidates, nor shall it, through any agent, officer, representative, employee, attorney, or any other person or persons, so contribute. Nor shall any such corporation, directly or through such other person, make any loan of money or anything of value, or give or furnish any privilege, favor or other thing of value to any party committee, or to any representative of a party committee, or to any other person for it, or to any candidate upon the ticket of any political party.

(2) A corporation shall not make a contribution or expenditure to, or for the benefit of, a candidate or committee in connection with an election, except that this provision shall not apply to:

(A) a campaign or committee solely for or against a ballot measure or local question; or

(B) the establishment, administration, and solicitation of contributions to a political action committee to be utilized for political purposes by a corporation.

(3) The provisions of Paragraphs (1) and (2) shall not apply to a bank, savings and loan association or credit union loaning money to a candidate in connection with his own campaign which is to be repaid with interest at a rate comparable to that of equivalent loans for other purposes.

(d) (c) Prohibitions relating to committee solicitations and funds. It shall be prohibited for:

(1) a political action committee to accept a contribution or make an expenditure by using anything of value secured:

(A) by physical force, job discrimination, financial reprisals, or threat of the same; or

(B) by dues, fees, or other monies required as a condition of membership in a labor organization or as a condition of employment, unless the making of such contributions is authorized by the organization's members;

(2) a person to solicit a contribution from an employee in exchange for any advantage or promise of an advantage conditioned upon making a contribution, or reprisal or threat of reprisal related to the failure to make a contribution;

(3) a corporation or political action committee of a corporation to solicit contributions to the political action committee from a person other than its shareholders, directors, executive and administrative personnel, and their families; and

(4) corporate contributions to a committee or person for or against a ballot measure to be commingled with a fund established by such person or committee to contribute to candidate committees or committees which support or oppose candidates.

(e) (d) Prohibition on Transfer of Funds Between Committees.

(1) A candidate committee shall not make a contribution to another candidate or make an independent expenditure on behalf of another candidate.

(2) This subsection shall not prohibit a candidate from making a contribution from the candidate's personal funds to his or her own candidate committee or on behalf of his or her own candidacy or to the committee of another candidate for a different office.

(3) This subsection shall not prohibit a candidate committee from providing its surplus funds or material assets to the state or local central committee of a political party in accordance with the procedures for dissolution of a candidate committee under Sections 19 and 20 of this chapter.

(f) (e) Aggregation of contributions. For purposes of the contribution limitations, the following apply:

(1) Two (2) or more political action committees are treated as a single entity if the committees:

(A) share the majority of members on their boards of directors;

(B) are owned or controlled by the same majority shareholder or shareholders;

(C) are in a parent-subsidiary relationship; or

(D) have by-laws so stating.

(2) A candidate committee and a committee other than a candidate committee are treated as a single committee if the committees both have the candidate or a member of the candidate's immediate family as an officer.

(g) (f) Attribution and aggregation of family contributions.

(1) Contributions by a husband and wife are aggregated.

(2) Contributions by children under eighteen (18) years of age shall be considered to be contributions made by their parent, parents or legal guardian and shall be attributed to the family limit specified in Subsection (a) of this section. In the case of a single custodial parent, the total amount of such a contribution shall be considered to be a contribution made by the single custodial parent.

(h) (g) Restrictions on loans.

(1) A loan is considered a contribution from the lender, guarantor, and endorser of the loan and is subject to the contribution limitations of this section.

(2) A loan to a candidate or the candidate committee shall be by written agreement.

(3) The proceeds of a loan, regardless of the amount, made to a candidate:

(A) by a commercial lending institution;

(B) made in the regular course of business;

(C) on the same terms ordinarily available to members of the public;

and

(D) which is secured or guaranteed solely by the candidate; are not subject to the contribution limits of this section.

(i) (h) Anonymous and earmarked contributions.

(1) A person shall not make to a committee and a committee shall not accept an anonymous contribution. The recipient of an anonymous contribution shall, within two (2) business days, remit the contribution to the Commission to be deposited with the State Treasurer to the credit of the General Revenue Fund.

(2) For purposes of the contribution limitations imposed by this section, all contributions made by a person, either directly or indirectly, to or for the benefit of a particular candidate committee, including contributions which are in any way earmarked or otherwise directed through an intermediary or conduit to such candidate committee, shall be treated as contributions from such person to such candidate committee. It shall be prohibited for an intermediary or a conduit to make a contribution to a committee in his or her own name rather than the name of the original source of such contribution. For purposes of this paragraph, an intermediary or conduit means a person, who is not the treasurer or agent of a committee, but who is given a contribution by another with the understanding that it will be contributed to that committee. The reports shall show the correct name of the person actually making the contribution.

(j) (i) Reimbursement for contribution prohibited. A person shall not, directly or indirectly, reimburse a person for a contribution to a candidate or committee.

(k) (j) Cash contributions.

(1) An individual shall not make to a candidate committee and a candidate committee shall not accept a contribution of more than fifty dollars (\$50) two hundred dollars (\$200.00) in cash. Agents accepting and delivering cash shall deliver contributor statements disclosing cash contributions equal to the aggregate amount of cash delivered.

(2) A committee, or a person other than an individual, shall not make a contribution in cash.

(l) (k) Certain contributions required to be by written instrument.

(1) An individual shall not make a contribution of more than fifty dollars (\$50) two hundred dollars (\$200.00), other than an in-kind contribution, except by written instrument containing the name of the contributor and the name of the payee.

(2) A committee, or a person other than an individual, shall not make a contribution, other than in-kind, except by written instrument containing the name of the contributor and the name of the payee.

(m) (l) Use of other funds.

(1) Anything of value which is solicited from the public in the name of or for the benefit of an elective officer or candidate, and which is accepted by an elective officer or candidate, shall be subject to the reporting requirements of this chapter. This would include, but not be limited to, things of value given for an inauguration or renovation of public property. Anything of value accepted by an agent or representative of an elective officer or candidate or by a committee established by, in the name of, or for the benefit of, an elective officer or candidate shall be deemed to be accepted by such elective officer or candidate for purposes of this section.

(2) The use of such things of value shall be limited to the stated purpose or purposes for which such things of value were solicited.

(3) Any surplus things of value which are not needed for the stated purpose or purposes shall be returned to the donors pursuant to a formula by which no donor receives more than his or her original donation or deposited with the State Treasurer to the credit of the General Revenue Fund.

(n) (m) Auctions. When an auction is held by a committee as a fundraiser, a contributor statement shall be required with respect to each person donating an item to be auctioned and shall include the fair market value of each item donated.

(1) If an item is sold for a price in excess of the established fair market value, the buyer thereof shall be deemed to have made a contribution in the amount of the price paid in excess of the established fair market value and the donor thereof shall be deemed to have made an in-kind contribution in the amount of the established fair market value.

(2) If an item is sold at the established fair market value, the donor thereof shall be deemed to have made an in-kind contribution in the amount of the established fair market value and the buyer thereof shall not be deemed to have made a contribution.

(3) If an item is sold at less than the established fair market value, the fair market value shall be reduced to the actual sale price and the donor thereof shall be deemed to have made an in-kind contribution in the amount of the sale price and the buyer thereof shall not be deemed to have made a contribution.

SECTION 4. AMENDATORY Ethics Commission Rule 257:10-1-7 is amended to read as follows:

OS 257-10-1-7. Expenditures.

(a) Limitation on expenditures.

(1) An expenditure may not be authorized or made by a committee while there is a vacancy in the office of treasurer.

(2) An expenditure of more than one hundred dollars (\$100) two hundred dollars (\$200.00), except for expenditures made by a candidate from his or her own funds:

(A) may not be made in cash; and

(B) shall be made by written instrument drawn upon a campaign account containing the name of the committee and the name of the recipient.

(3) An expenditure of more than fifty dollars (\$50) two hundred dollars (\$200.00) shall be accounted for by a written receipt indicating:

(A) the date of the expenditure;

(B) the amount of the expenditure;

(C) the name and address of the recipient; and

(D) the item or service purchased.

(4) An expenditure may not be made, other than for overhead or normal operating expenses, by an agent, independent contractor, or advertising agency, on behalf of or for the benefit of a committee unless the expenditure is reported by the committee as if the expenditure were made directly by the committee. The agent, independent contractor, or advertising agency shall make all information required to be reported available to the committee.

(5) An expenditure may not be made that is in excess of the fair market value of services, materials, facilities, or other things of value received in exchange.

(b) Independent expenditures.

(1) A committee or a person which makes an independent expenditure of one hundred dollars (\$100) or more more than two hundred dollars

(\$200.00) for a written or broadcast communication to voters supporting or opposing a candidate shall include the following statement: "This advertisement is not authorized or approved by any candidate. It is paid for by (name)."

(2) The statement for a written communication shall:

(A) appear on each page or fold of the written communication in at least ten (10) point type or in type at least ten percent (10%) of the largest size type used in a written communication directed at more than one voter, such as a billboard or poster, whichever is larger;

(B) not be subject to the half-tone or screening process; and

(C) be in a printed or drawn box set apart from any other printed matter.

(3) The statement for a broadcast communication shall:

(A) be clearly spoken on any radio broadcast advertisement; and

(B) appear on a television screen with letters equal to or greater than four percent (4%) of the vertical picture height for not less than four seconds.

(4) The requirements of this subsection do not apply to bumper stickers, pins, buttons, pens and similar small items upon which the disclaimer cannot be conveniently printed nor to skywriting, water towers or other means of displaying an advertisement of such a nature that the inclusion of a disclaimer would be impracticable.

SECTION 5. AMENDATORY Ethics Commission Rule 257:10-1-10 is amended to read as follows:

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

(a) A committee, other than an out-of-state committee, shall establish one or more campaign depositories:

(1) in financial institutions that ordinarily conduct business within the state; and

(2) in offices located within the state that ordinarily conduct business with the general public.

(b) The committee shall maintain a campaign account in each depository in the name of the committee, with no use of acronyms permitted.

(c) Expenditures of a committee of more than one hundred dollars (\$100) two hundred dollars (\$200.00), except for expenditures made by the candidate from his or her own funds, shall be drawn from a campaign account and issued on a check signed by the candidate, treasurer or the chair of said committee.

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

(e) A committee shall be required to disclose the location of its campaign account or accounts to the Commission.

SECTION 6. AMENDATORY Ethics Commission Rule 257:10-1-14 is amended to read as follows:

OS 257-10-1-14. Report contents.

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

(1) the following administrative information:

(A) committee name and address;

(B) candidate's name and mailing address, if a candidate committee; or title or number of ballot measure if supporting or opposing a ballot measure;

(C) type of report (required, amended or final);

(D) period covered by the report; and

(E) date of the general election or special general election for the candidate that is supported or opposed by the committee; or the date of the election for the ballot measure, if known, that is supported or opposed by the committee;

(2) the information reported pursuant to Paragraph (16) of this subsection on the last campaign contributions and expenditures report.

(A) For purposes of this paragraph, the beginning of the reporting period for the initial report of a candidate committee shall be the date the first contribution was accepted or expenditure was made or declaration of candidacy was filed, whichever is earlier; the beginning of the reporting period for subsequent reports shall be the day following the last day of the previous reporting period.

(B) For purposes of this paragraph, the beginning of the reporting period for the initial report of a committee, other than a candidate committee, shall be the date the first contribution was accepted or expenditure was made for a new reporting committee; the beginning of the reporting period for subsequent reports shall be the day following the last day of the previous reporting period;

(3) the following information about monetary contributions:

(A) the total sum of all contributions accepted during the current reporting period;

(B) the total of contributions accepted for the campaign-to-date or calendar year-to-date;

(C) the total of contributions in the amount of fifty dollars (\$50) two hundred dollars (\$200.00) or less in the aggregate accepted during the reporting period; and

(D) the name and address, occupation and employer, or principal business activity, of each contributor contributing in excess of fifty dollars (\$50) two hundred dollars (\$200.00) in the aggregate during the reporting period; the date accepted, amount and nature (cash, draft, or in-kind) of each contribution by the contributor during the reporting period; and the total contributions of the contributor to the campaign-to-date for candidate committees and year-to-date for other committees;

(4) the following information about loans, promissory notes, or security agreements which are campaign contributions to be used by or for the benefit of the candidate or political action committee made by any person:

(A) the total amount of all loans, promissory notes, or security agreements received during the reporting period, and the total amount of loans, promissory notes, or security agreements for the campaign-to-date for candidate committees and year-to-date for other committees;

(B) the amount of each loan, promissory note, or security agreement in the aggregate from one (1) source during the reporting period, and

(i) the date and amount of each loan, promissory note, or security agreement,

(ii) the name and address of the lending institution,

(iii) the name and address of each lender, guarantor or endorser,

(iv) the year-to-date or campaign-to-date total, and

(v) the terms of the loan, promissory note, or security agreement including the interest rate and repayment schedule;

(5) written agreements to make a contribution to be reported separately and in the same manner as other monetary contributions;

(6) the same information for in-kind contributions as for monetary contributions, and shall also include a description of the in-kind contribution;

(7) the following information about other receipts:

(A) the total of refunds, rebates (other than those that qualify as contributions), interest, or other receipts not previously identified during the reporting period; and

(B) the campaign-to-date total for candidate committees and year-to-date total for other committees;

(8) the amount of funds loaned or donated by a corporation, labor organization, or other person to its political action committee for the establishment and for solicitation costs of the committee;

(9) the aggregate total of contributions, loans, and other receipts, including payment of costs described in Paragraph (8) of this subsection, during the reporting period, and the campaign-to-date aggregate total for candidate committees and year-to-date aggregate total for other committees;

(10) the following information about expenditures:

(A) the total of expenditures made during the reporting period and the year-to-date or campaign-to-date total;

(B) the amount, the date, and a brief description of what was purchased for each campaign expenditure made during the reporting period, and the purpose of the expenditure. Disbursements to consultants, advertising agencies, and similar firms; credit card expenses; and candidate reimbursements shall be itemized to permit a reasonable person to determine the ultimate intended purpose of the expenditure all campaign expenditures in detail grouped into the following categories or objects of expenditure:

(i) personal services,

(ii) printing,

(iii) radio and television,

(iv) billboards,

(v) advertising-general,

(vi) payments to petition circulators, and

(vii) miscellaneous;

(11) the following information about independent expenditures:

(A) the total of independent expenditures made during the reporting period and the year-to-date or campaign-to-date total;

(B) the amount, the date and a brief description of what was purchased for each independent expenditure made during the reporting period, and the purpose of the expenditure;

(12) the following information about loans made:

(A) the total value of loans made to others during the reporting period and the campaign-to-date total for candidate committees and year-to-date total for other committees;

(B) the amount or value and date of each loan made during the reporting period, the name and address of the recipient of the loan, the terms of the loan (repayment schedule and interest rate), the purpose, and the campaign-to-date total for candidate committees and year-to-date total for other committees;

(13) the following information about transfers to other committees, subject to the restrictions in Subsection (e) of Section 2 of this chapter and Subsection (a) of Section 20 of this chapter:

(A) the total amount of transfers to other committees for the reporting period;

(B) the total amount of all transfers to other committees for the campaign-to-date for candidate committees and the year-to-date for other committees;

(C) the amount of each transfer during the reporting period, the name and address of each recipient, the date tendered, the nature of the transfer, and the total transfers to the recipient for the campaign-to-date for candidate committees and year-to-date for other committees;

(14) the following information about expenditures incurred:

(A) the total amount of all expenditures incurred; and

(B) the amount of each expenditure incurred, a brief description of what was purchased, the purpose of the purchase, and the date the goods or services were delivered all expenditures incurred in detail grouped into the categories or objects of expenditure specified in subparagraph (B) of paragraph (10) of this paragraph.

An expenditure incurred shall be reported on each report filed after the date of receipt of goods or services until payment is made to the vendor. A payment shall be listed as an expenditure when the payment is made;

(15) the following information about unpaid loans, promissory notes, or security agreements which were campaign contributions:

(A) the total balance of loans, promissory notes, and security agreements owed by the committee during the reporting period;

(B) each loan, promissory note, or security agreement owed by the committee, itemized by name and address, and the date of the loan, promissory note and/or security agreement;

(C) the total balance of loans, promissory notes, and security agreements owed to the committee;

(D) each loan, promissory note, or security agreement owed to the committee, itemized by name and address, and date of the loan, promissory note, or security agreement;

(16) the difference between the sum of contributions, other than in-kind contributions, loans, and other receipts reported under Paragraphs (3), (4) and (7) of this subsection, and expenditures, other than in-kind expenditures, as of the end of the reporting period; and

(17) with respect to a candidate committee, the signatures of the candidate and the treasurer, and, with respect to a committee other than a candidate committee, the signatures of the chair and the treasurer of said committee, who shall each attest to the report's accuracy and veracity. All signatures shall be notarized.

(b) Statement of inactivity.

(1) A statement of inactivity must include the same information as required by Subsection (a), Paragraphs (1) and (17) of this section; and a statement that a contribution was not accepted and an expenditure was not made during the reporting period.

(2) Interest earned, filing fees paid or service charges to financial institutions paid shall not be considered to be activity by the committee which would prevent the committee from filing a statement of inactivity but shall be reported on the next campaign contributions and expenditures report filed.

SECTION 7. This act shall become effective September 1, 1995.

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