

TEXAS ETHICS COMMISSION  
P.O. Box 12070, Austin, Texas 78711-2070  
(512) 463-5800

Chris Flood, Chair  
Patrick W. Mizell, Vice Chair  
Randall H. Erben  
Sean Gorman

Geanie W. Morrison  
Richard S. Schmidt  
Joseph O. Slovacek  
Mark Strama

## MEETING AGENDA

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Date and Time:	9:00 a.m., Wednesday, December 10, 2025
Location:	Room E1.014, Capitol Extension, Austin, Texas

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**INFORMATION ON HOW TO VIEW AND/OR PARTICIPATE IN THE ONLINE  
BROADCAST OF THIS MEETING WILL BE POSTED ON OUR WEBSITE ON THE  
DAY OF THE MEETING HERE:**

[https://www.ethics.state.tx.us/meetings/meetings\\_2025-2029.php#2029](https://www.ethics.state.tx.us/meetings/meetings_2025-2029.php#2029)

1. Call to order; roll call.

**Executive session pursuant to Section 551.071, Government Code, Consultation with Attorneys; Section 551.074, Government Code, Personnel Matters; Sections 571.139, .140, Government Code, confidential sworn complaint matters, Closed Meeting.**

### DISCUSSION OF PENDING LITIGATION AND TO SEEK LEGAL ADVICE

2. Cause No. D-1-GN-17-001878: *Texas Ethics Commission v. Michael Quinn Sullivan*, in the 250<sup>th</sup> Judicial District Court, Travis County, Texas; Cause No. 03-17-00392-CV: *Michael Quinn Sullivan v. Texas Ethics Commission*, in the Third Court of Appeals at Austin, Texas; Cause No. 03-21-00033, *Michael Quinn Sullivan v. Texas Ethics Commission*, in the Third Court of Appeals at Austin, Texas; and Cause No. 18-0580: *Michael Quinn Sullivan v. Texas Ethics Commission*, in the Supreme Court of Texas. Cause No. D-1-GN-21-003269: *Michael Quinn Sullivan v. Texas Ethics Commission*, in the 459th Judicial District Court, Travis County, Texas; and related case, Cause No. 03-22-00133-CV: *Michael Quinn Sullivan v. Texas Ethics Commission*, in the Third Court of Appeals, Austin, Texas.
  3. Case No. 4:23-cv-00808-P, *Institute for Free Speech, a nonprofit corporation and public interest law firm, vs. James Tinley in his official capacity as Executive Director of the Texas Ethics Commission, et al.*, in the U.S. District Court for the Western District of Texas, Austin Division.
  4. Cause No. PD-0310-23, *Ex Parte John Morgan Stafford*, in the Texas Court of Criminal Appeals.
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*For more information, contact James Tinley, Executive Director, at (512) 463-5800.*

5. Cause No. 2023-DCL-01478, *Valleywide Pharmacy and DMI, Inc., vs. Texas Ethics Commission, by and through its Executive Director, J.R. Johnson, in his official capacity*, in the 445th Judicial District Court, Cameron County, Texas.
6. Civil Action 1:24-CV-500, *LIA Network v. James Tinley in his official capacity as Executive Director of the Texas Ethics Commission, et al.*, in the United States District Court for the Western District of Texas, Austin Division.
7. Cause No. 2024-DCL-03953, *Ruben Cortez, Jr. v. Texas Ethics Commission*, in the 404<sup>th</sup> Judicial District Court, Cameron County, Texas.
8. Cause No. 25-0679, *Christopher D. Paddie, Sr. v. Texas Ethics Commission, et al.*, in the 71<sup>st</sup> Judicial District Court, Harrison County, Texas.
9. Discussion of contemplated litigation and to seek legal advice regarding the collection of imposed penalties.

#### OTHER MATTERS

10. Discussion to seek legal advice regarding entering into outside counsel contracts on behalf of the Texas Ethics Commission and its officers.
11. Discussion and possible action related to personnel matters.
12. Confidential sworn complaint matters under Section 571.139 of the Government Code.
13. Reconvene in open session.
14. Recess or continue to “Agenda 2” noticed for the same time and place as this agenda.

**CERTIFICATION:** I certify that I have reviewed this document and that it conforms to all applicable Texas Register filing requirements. Certifying Official & Agency Liaison: James Tinley, Executive Director.

**NOTICE:** Under the Americans with Disabilities Act, an individual with a disability must have an equal opportunity for effective communication and participation in public meetings. Upon request, the Texas Ethics Commission will provide auxiliary aids and services, such as interpreters for the deaf and hearing impaired, readers, and large print or Braille documents. In determining the type of auxiliary aid or service, the Commission will give primary consideration to the individual's request. Those requesting auxiliary aids or services should notify Margie Castellanos at (512) 463-5800 or RELAY Texas at (800) 735-2989 two days before this meeting so that appropriate arrangements can be made. Please also contact Ms. Castellanos if you need assistance in having English translated into Spanish.

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1. Call to order; roll call.
2. Presentation of certificates recognizing the contributions to the TEC by former Commissioners Chad Craycraft, Mary “Katie” Kennedy, and Steven D. Wolens.
3. Discussion and possible action related to outside counsel contracts for certain lawsuits filed against either the Texas Ethics Commission and/or commissioners.
4. Discussion and possible action related to a maintenance service contract for the Texas Ethics Commission Electronic Filing System.
5. Discussion regarding dates for the next quarterly Commission meeting.
6. Approve minutes for the following meetings:
  - Executive Session – September 17, 2025; and
  - Public Agenda – September 17, 2025.

**RULEMAKING**

**Rule Adoption**

7. Discussion and possible action on closing the rule review and the adoption, or proposal and publication in the Texas Register regarding re-adoption with amendments of Chapter 22 of the TEC rules, related to restrictions on contributions and expenditures.

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*For more information, contact James Tinley, Executive Director, at (512) 463-5800.*

8. Discussion and possible action on closing the rule review and the adoption, or proposal and publication in the Texas Register regarding re-adoption with amendments of Chapter 24 of the TEC rules, related to restrictions on contributions and expenditures applicable to corporations and labor organizations.

### **Rule Publication**

9. Discussion and possible action on the proposal and publication in the Texas Register regarding the re-adoption with amendments of Chapter 34 of the TEC rules, related to regulation of lobbyists.
10. Discussion and possible action on the proposal and publication in the Texas Register regarding re-adoption with amendments of Chapter 20 of the TEC rules, related to reporting political contributions and expenditures, including an amendment to §18.10 (Guidelines for Substantial Compliance for a Corrected/Amended 8-day Pre-election Report) which is affected by this re-adoption.
11. Discussion and possible action regarding the implementation of SB 293 (89R) related to the methodology by which the TEC may make equitable adjustments to the dollar amount on which the standard service retirement annuity is computed for the elected class of pension recipients. Possible action includes the proposal and publication in the Texas Register of 1 Tex. Admin Code § 50.3 regarding the equitable adjustments of pensions.
12. Discussion and possible action regarding TEC's comprehensive review of its rules.

### **ADVISORY OPINIONS**

13. Advisory Opinion Request No. AOR-731: Whether members of the State Employee Charitable Campaign are appointed officers required to file a Personal Financial Statement.

This opinion construes Chapter 572 of the Government Code.

14. Advisory Opinion Request No. AOR-734: Whether a current State Board of Education (SBOE) member can provide continuing professional development to educators in return for compensation during their SBOE service.

This opinion construes Chapter 572 of the Government Code and Chapter 36 of the Penal Code.

15. Advisory Opinion Request No. AOR-735: Whether the TEC has authority to assess a civil penalty for a late personal financial statement filed by a director of the Harris County-Houston Sports Authority.

This opinion construes Chapter 572 of the Government Code and Sections 335.1085 and 335.110 of the Local Government Code.

16. Advisory Opinion Request No. AOR-736: Whether an officeholder may use political contributions to pay for the purchase of business or formal attire typically associated with official duties.

This opinion construes Chapter 253 of the Election Code.

17. Advisory Opinion Request No. AOR-737: Whether a former state employee may accept a job with a company when he participated in a procurement involving that same company during his state service without violating Section 572.069 of the Government Code if he recuses himself from state projects.

This opinion construes section 572.069 of the Government Code.

18. Advisory Opinion Request No. AOR-738: Whether a public servant may accept admission to the Microsoft Most Valuable Professionals Program.

This opinion construes Sections 36.08 and 36.10 of the Penal Code.

19. Advisory Opinion Request No. AOR-739: Whether representing a party before the State Office of Administrative Hearings (SOAH) in a contested matter against a state agency of previous employment constitutes an appearance before that state agency for the purposes of Texas Government Code § 572.054(a).

This opinion construes Section 572.054 of the Government Code.

#### **ADMINISTRATIVE WAIVER OF FINES, TREASURER TERMINATIONS AND REPORTS MORE THAN 30 DAYS LATE**

20. Discussion and possible action on appeals of determinations made under 1 Tex. Admin. Code §§ 18.11, 18.25 and 18.26 relating to administrative waiver or reduction of a civil penalty to an untimely filed report, for the following filers:

##### **Staff Recommendation: Waiver**

- A. Carpenter, Shaun D. (00081984)
- B. El Paso Apartment Association Better Government Fund (00016829)
- C. Laird, Curtis (00088303)
- D. Moreno, Alex, Jr., Campaign Treasurer, Texas Democratic Alliance PAC (00088657)
- E. Mullins, Dee Howard (00088386)
- F. Thoman, Esme Elizabeth (00067347)

##### **Staff Recommendation: Reduction**

- G. Meza, Thresa A. (00069649)

**Staff Recommendation: No Further Reduction or Waiver**

- H. Ballengee, Billie, Campaign Treasurer, Citizens for Cedar Hill PAC (00084630)
- I. Biedermann, Kenneth K. (00080113)
- J. Caesar, Rosalind (00088147)

**OTHER MATTERS**

- 21. Briefing and discussion of legislation in the 89<sup>th</sup> Regular and Special Legislative Sessions and actions taken or in-progress to implement recommendations made in the Sunset Advisory Commission report on the TEC.
- 22. Adjourn.

**CERTIFICATION:** I certify that I have reviewed this document and that it conforms to all applicable Texas Register filing requirements. Certifying Official & Agency Liaison: James Tinley, Executive Director.

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The draft meeting minutes will be available  
on our website the day before the meeting, at  
<https://www.ethics.state.tx.us/DraftMinutes>.

If you would like a copy of the draft minutes, please  
provide your email address below, and return this sheet to  
Ethics Commission staff at the meeting.

Email address:

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1           **CHAPTER 22. RESTRICTIONS ON CONTRIBUTIONS AND EXPENDITURES**

2   **§22.1. Certain Campaign Treasurer Appointments Required before Political Activity**  
3   **Begins.**

4   (a) A candidate must file a campaign treasurer appointment with the proper authority upon  
5   becoming a candidate.

6   **§22.7. Contribution from Out-of-State Committee.**

7   (a) A candidate, officeholder, or political committee that:

8           (1) receives contributions covered by §253.032(a) of the Election Code from the same  
9           out-of-state committee in successive reporting periods; and

10          (2) complies with §253.032(a)(2) of the Election Code before accepting the first  
11          contribution triggering §253.032(a), may comply with §253.032(e) in successive  
12          reporting periods by submitting a copy of the certified document obtained before  
13          accepting the first contribution triggering §253.032(a), rather than by obtaining and  
14          submitting an original certified document for each reporting period, provided the  
15          document has not been amended since the last submission.

16   (b) A candidate, officeholder, or political committee that accepts a contribution or contributions  
17   totaling the amount specified in Tex. Elec. Code §253.032(e), as amended by Figure 1 in 1 TAC  
18   §18.31 or less from an out-of-state political committee shall include as part of the report covering  
19   the reporting period in which the contribution or contributions are accepted either:

20          (1) a copy of the out-of-state committee's statement of organization filed as required by  
21          law with the Federal Election Commission and certified by an officer of the out-of-state  
22          committee; or

23          (2) the following information:

24                  (A) the full name of the committee, and, if the name is an acronym, the words the  
25                  acronym represents;

26                  (B) the address of the committee;

27                  (C) the telephone number of the committee;

28                  (D) the name of the person appointing the campaign treasurer; and

29                  (E) the following information for the individual appointed campaign treasurer and  
30                  assistant campaign treasurer:

31                          (i) the individual's full name;

32                          (ii) the individual's residence or business street address; and



(iii) the individual's telephone number.

**§22.13. Contributions in the Capitol Prohibited.**

In section §253.039 of the Election Code, the term "Capitol" includes the Capitol Building and the Capitol Extension, and any office that is being used as the official capitol office for a member of the legislature, the governor, the lieutenant governor, or the secretary of state.

**§22.17. Prohibition on Personal Use of Political Contributions.**

An asset purchased with political contributions is not converted to personal use if the political contributions are fully reimbursed during the reporting period in which the use occurred in an amount that reasonably reflects the value of the use.

**§22.19. General Restrictions on Reimbursement of Personal Funds.**

(a) If a candidate makes political expenditures from the candidate's personal funds, he or she may reimburse those personal funds from political contributions only if the expenditure is reported and the candidate states his or her intent to reimburse personal funds consistent with title 15 and this title.

(b) If an officeholder who does not have a campaign treasurer appointment on file makes political expenditures from the officeholder's personal funds, he or she may reimburse those personal funds from political contributions only if the expenditure is reported and the officeholder states his or her intent to reimburse personal funds consistent with title 15 and this title.

(c) A candidate or officeholder may reimburse personal funds from political contributions for the use of personal assets for political purposes provided that the reimbursement is reported as a political expenditure.

(d) A candidate or officeholder who makes political expenditures from his or her personal funds may reimburse those personal funds from political contributions only if:

(1) the expenditures were fully reported as political expenditures on the report covering the period during which the expenditures were made; and

(2) the report disclosing the expenditures indicates that the expenditures were made from the candidate's or officeholder's personal funds and are subject to reimbursement.

(e) A candidate's or officeholder's failure to comply with subsection (d) of this section may not be cured by filing a corrected report after the report deadline has passed.

(f) A candidate or officeholder who has complied with subsection (d) of this section and whose personal funds have been reimbursed from political contributions must report the amount of the reimbursement as a political expenditure in the report covering the period during which the reimbursement was made.

1    **§22.23. Restrictions on Certain Payments.**

2    (a) A payment made from a political contribution to a business described by §253.038 of the  
3    Election Code that is not prohibited by that subsection may not exceed the amount necessary to  
4    reimburse the business for actual expenditures made by the business.

5    (b) A discount given by a corporation to conform with subsection (a) of this section does not  
6    constitute a political contribution from the corporation.

7    **§22.29. Activity after Death or Incapacity of Candidate or Officeholder.**

8    The legal representative of a candidate or officeholder who has died or become incapacitated  
9    may accept political contributions and make or authorize expenditures only for the following  
10   purposes:

11           (1) payment of debts or expenses in connection with a campaign or in connection with  
12           officeholder duties and activities;

13           (2) payments to the political party with which the person was affiliated when the person's  
14           name last appeared on a ballot;

15           (3) political contributions to a candidate or political committee;

16           (4) donations to the Comptroller of Public Accounts for deposit in the state treasury;

17           (5) refunds of contributions to one or more persons from whom political contributions  
18           were received, not to exceed the total amount contributed by each person within the last  
19           two years;

20           (6) donations to a charity recognized by the Internal Revenue Service as tax-exempt;

21           (7) donations to a public or private post-secondary educational institution or an institution  
22           of higher education as defined by the Education Code, §61.003(8) (concerning  
23           Definitions), solely for the purpose of assisting or creating a scholarship program; or

24           (8) payment of federal income taxes due on interest and other income earned on political  
25           contributions.

26   **§22.31. Restrictions on Foreign Nationals.**

27   Federal law prohibits contributions from foreign nationals who have not been granted permanent  
28   residence in the United States. See United States Code, Title 2, §441(e).

29   **§22.35. Corporate Contributions to Certain Political Committees.**

30   (a) A political committee that accepts a monetary political contribution from a corporation or labor  
31   organization shall maintain the contribution in a separate account for political contributions from  
32   corporations and labor organizations.

1 (b) A political committee that accepts a political contribution from a corporation or labor  
2 organization shall not use the contribution to make a political contribution to:

3 (1) a candidate for elective office;

4 (2) an officeholder; or

5 (3) a political committee other than a hybrid committee, a direct campaign expenditure-  
6 only committee, or a political committee that supports or opposes measures exclusively.  
7

8 **§22.37. Virtual Currency Contributions.**

9 (a) Virtual currency contributions are considered “in-kind” contributions.

10 (b) A candidate, officeholder, or political committee must report a gain from the sale of virtual  
11 currency contributions on the appropriate schedule if the gain exceeds the reporting threshold set  
12 by §254.031(9) of the Election Code and amended by §18.31 of this title (relating to  
13 Adjustments to Reporting Thresholds).

14 (c) The value of a virtual currency contribution shall be reported as the fair market value of the  
15 virtual currency upon receipt.

16

1       **CHAPTER 24. RESTRICTIONS ON CONTRIBUTIONS AND EXPENDITURES**  
2       **APPLICABLE TO CORPORATIONS AND LABOR ORGANIZATIONS**

3       **§24.1. Corporations and Certain Associations Covered.**

4       (a) For purposes of this chapter, members of a corporation that does not have stockholders are  
5       considered to be stockholders.

6       (b) A political committee may incorporate to limit its liability by providing in its official  
7       incorporation documents that it is a political committee that is incorporating for liability  
8       purposes only, and that its only principal purpose is to accept political contributions and make  
9       political expenditures.

10      **§24.15. Payments to a Corporation of the Candidate or Officeholder.**

11      (a) If a corporation charges a candidate, officeholder, or specific-purpose committee for  
12      supporting or assisting a candidate or officeholder less than fair market value for goods or  
13      services in order to comply with §253.041(b) of the Election Code, the discount is not a  
14      prohibited corporate contribution.

15      (b) If the discount is greater than is necessary to comply with §253.041(b) of the Election Code,  
16      the discount is a prohibited corporate contribution if the discount is not otherwise authorized by  
17      this chapter.

18      **§24.17. Corporate Expenditures for Get-Out-the-Vote Campaigns Permitted.**

19      (a) An expenditure to finance a voter registration or get-out-the-vote drive is not a political  
20      expenditure if the drive encourages voting in general but does not encourage voting for or  
21      against a measure, candidate, officeholder, or political party.

22      (b) A corporate or labor organization expenditure described by subsection (a) of this section is  
23      not reportable.

24      **§24.18. Designation of Contribution for Administrative Purposes.**

25      (a) Any of the following will serve to designate a political expenditure in the form of a political  
26      contribution made by a corporation or labor organization as restricted to the establishment,  
27      administration, maintenance, or operation of a general-purpose committee:

28              (1) A contemporaneous written instruction that the contribution is restricted to the  
29              administration, maintenance, or operation of the committee accepting the contribution;

30              (2) The negotiable instrument conveying the contribution contains language indicating  
31              that the entity is a corporation, including but not limited to "Inc.," "Incorporated,"  
32              "Corp.," or "Corporation;"

1 (3) The general-purpose committee accepting the contribution reports the contribution as  
2 monetary contribution or monetary support from a corporation or labor organization on  
3 the committee's campaign finance report; or

4 (4) The general-purpose committee accepting the contribution deposits the contribution  
5 into a separate segregated account for political contributions from corporations and labor  
6 organizations.

7 (b) Subsection (a) of this section shall not be read to restrict a hybrid committee, a direct  
8 campaign expenditure-only committee, or a political committee that supports or opposes  
9 measures exclusively from using a contribution from a corporation or labor organization to make  
10 a direct campaign expenditure.

11 **§24.19. Affidavit Required by a Political Committee Making a Direct Campaign**  
12 **Expenditure from a Political Contribution Accepted from a Corporation or Labor**  
13 **Organization.**

14 A political committee, including a direct campaign expenditure-only committee, must include in  
15 its campaign treasurer appointment the affidavit described by §252.003(a)(4) (relating to  
16 contents of a general-purpose committee's campaign treasurer appointment) or 252.0031(a)(2)  
17 (relating to contents of a specific-purpose committee's campaign treasurer appointment) of the  
18 Election Code, as applicable, before using a political contribution from a corporation or labor  
19 organization to make a direct campaign expenditure in connection with a campaign for an  
20 elective office.

1

2

## Text of Proposed Rules

3 The deleted language is indicated by [strikethrough] text.

4

### CHAPTER 34. REGULATION OF LOBBYISTS

5

#### Subchapter A. GENERAL PROVISIONS

6

##### **§34.1. Definitions.**

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

9 ~~[(1) Communicates directly with, or any variation of that phrase--In Government Code,~~  
10 ~~Chapter 305, and in this chapter includes communication by facsimile transmission.]~~

11 (2) Expenditure--In Government Code, Chapter 305, and in this chapter does not include  
12 a payment of less than \$200 that is fully reimbursed by the member of the legislative or  
13 executive branch who benefits from the expenditure if the member of the legislative or  
14 executive branch fully reimburses the person making the payment before the date the  
15 person would otherwise be required to report the payment.

16 (3) Lobby activity--Direct communication with and preparation for direct communication  
17 with a member of the legislative or executive branch to influence legislation or  
18 administrative action.

19 (4) Registrant--In Government Code, Chapter 305, and in this chapter means a person  
20 who is required to register as well as a person who has registered regardless of whether  
21 that person's registration was required.

22

##### **§34.3. Compensation for Preparation Time.**

23 Compensation a person receives for preparing to communicate directly with a member of the  
24 legislative or executive branch to influence legislation or administrative action is included in  
25 calculating compensation for purposes of the registration and reporting requirements in  
26 Government Code, Chapter 305, and this chapter. Examples of preparation for lobby  
27 communications include participation in strategy sessions, review and analysis of legislation or  
28 administrative matters, research and communication with the employer/client. A person who  
29 does not directly communicate with a member of the legislative or executive branch to influence  
30 legislation or administrative action is not required to register because of compensation received  
31 for preparing to do so.

32

##### **§34.5. Certain Compensation Excluded.**

33 (a) Compensation received for the following activities is not included for purposes of calculating  
34 the registration threshold under Government Code §305.003(a)(2) and this chapter:

1 (1) requesting a written opinion that interprets a law, regulation, rule, policy, practice, or  
2 procedure administered by a state office or agency;

3 (2) preparation or submission of an application or other written document that merely  
4 provides information required by law, statute, rule, regulation, order, or subpoena, or that  
5 responds to a document prepared by a state agency;

6 (3) communicating merely for the purpose of demonstrating compliance with an audit,  
7 inspection, examination of a financial institution, or government investigation to interpret  
8 and determine compliance with existing laws, rules, policies, and procedures;

9 (4) communicating for the purpose of achieving compliance with existing laws, rules,  
10 policies, and procedures, including communications to show qualification for an  
11 exception of general applicability that is available under existing laws, rules, policies, and  
12 procedures;

13 (5) providing to a member of the legislative or executive branch information consisting of  
14 facts or data that the member requested in writing regarding legislation or administrative  
15 action, when the request was not solicited by or on behalf of the person providing the  
16 information;

17 (6) communicating to an agency's legal counsel, an administrative law judge, or a  
18 hearings examiner concerning litigation or adjudicative proceedings to which the agency  
19 is a party, or concerning adjudicative proceedings of that agency;

20 (7) providing testimony, making an appearance, or any other type of communication  
21 documented as part of a public record in a proceeding of an adjudicative nature of the  
22 type authorized by or subject to the Administrative Procedure Act, Government Code,  
23 Chapter 2001, whether or not that proceeding is subject to the Open Meetings Law;

24 (8) providing oral or written comments, making an appearance, or any other type of  
25 communication, if documented as part of a public record in an agency's rule-making  
26 proceeding under the Administrative Procedure Act, Government Code, Chapter 2001, or  
27 in public records kept in connection with a legislative hearing; or

28 (9) providing only clerical assistance to another in connection with the other person's  
29 lobbying (for example, a person who merely types or delivers another person's letter to a  
30 member).

31 (b) Subsection (a) of this section does not apply to a registrant. A registrant's activity described  
32 by subsection (a) is subject to disclosure under Chapter 305 of the Government Code and this  
33 title.

#### 34 **§34.7. Reimbursement for Office Expenses.**

35 Reimbursement received for the following office expenses is not included in calculating  
36 reimbursement for purposes of the registration and reporting requirements in Government Code,  
37 Chapter 305, and this chapter.

1 (1) long distance telephone charges;

2 (2) delivery charges;

3 (3) photocopy expenses;

4 (4) facsimile expenses;

5 (5) office supplies;

6 (6) postage; and

7 (7) dues and subscriptions.

8 **§34.9. Taxes and Tips.**

9 Taxes and tips are not included in determining the amount of an expenditure for purposes of  
10 Government Code, Chapter 305, and this chapter.

11 **§34.11. Attribution of Expenditure to More Than One Person; Reimbursement of Lobby**  
12 **Expenditure.**

13 (a) Except as provided by Government Code, §305.0021, a lobby expenditure made on a  
14 person's behalf and with the person's consent or ratification is an expenditure by that person for  
15 purposes of registration and reporting under Government Code, Chapter 305, and this chapter.

16 (b) Payment of reimbursement to a registrant is not included for purposes of calculation of the  
17 registration threshold under Government Code, §305.003(a)(1), and is not required to be reported  
18 if the registrant receiving the reimbursement reports the expenditure on a lobby activity report.

19 (c) A registrant is not required to report a lobby expenditure attributable to more than one person  
20 if another registrant has reported the expenditure.

21 **§34.13. Incidental Expenditures for Transportation.**

22 Government Code, §305.024(a)(3), does not prohibit an expenditure for transportation of  
23 incidental value such as transportation in the form of a ride of short duration in a personal car or  
24 taxi.

25 **§34.14. Expenditures for Fact-Finding Trips.**

26 (a) For purposes of §305.025(3), Government Code, an expenditure for transportation or lodging  
27 provided to a member of the legislative or executive branch is for a fact-finding trip only if:

28 (1) the expenditure is necessary for the member to obtain information that directly relates  
29 to the member's official duties;

30 (2) the member cannot reasonably obtain the information without the expenditure; and



1 (3) the expenditure is not for the member's attendance at a merely ceremonial event or  
2 pleasure trip.

3 (b) If an expenditure made for transportation or lodging for a fact-finding trip is required to be  
4 disclosed on a lobby activities report by §305.0061(a), Government Code, the purpose of the  
5 transportation or lodging must include a description of the information that the expenditure was  
6 necessary to obtain under subsection (a) of this section.

7 **§34.15. Reporting Subject Matter.**

8 (a) A registrant reporting subject matter under Government Code, §305.005(f)(4), (f)(5)(B), or  
9 §305.006(d), of this chapter, shall report subject matter by marking the appropriate subject  
10 matter categories.

11 (b) A registrant reporting the subject matter of communications to influence administrative  
12 action shall also report, if known or reasonably available to the registrant, the docket number or  
13 other administrative designation of any administrative action that is the subject of the registrant's  
14 direct communication with a member of the executive branch, and the name of the agency or  
15 department at which the administrative action is pending.

16 **§34.17. Satisfaction of Presence Requirement by Entity.**

17 An entity may satisfy the presence requirement in Government Code §305.006(f), and  
18 §305.024(a)(7), by the presence of:

19 (1) an individual registrant who represents the entity; or

20 (2) a person whose position, authority, or conduct on behalf of the entity could support an  
21 award of exemplary damages against the entity.

22 **§34.19. Courtesy Notices by Electronic Mail.**

23 (a) A person required to register as a lobbyist may provide to the commission an electronic mail  
24 address to which courtesy notices regarding filing requirements under Chapter 305 of the  
25 Government Code may be sent.

26 (b) The commission is not obligated to send notices regarding filing requirements to a person  
27 required to register as a lobbyist who does not provide to the commission an electronic mail  
28 address.

29 (c) Failure to receive a notice regarding filing requirements does not constitute an excuse for  
30 failing to comply with any filing deadline.

## Subchapter B. REGISTRATION REQUIRED

### **§34.41. Expenditure Threshold.**

(a) A person must register as a lobbyist under chapter 305 of the Texas Government Code, if the person makes total expenditures of more than the amount specified in Tex. Gov't Code §305.003(a)(1), as amended by Figure 2 in 1 TAC §18.31 in a calendar quarter, not including expenditures for the person's own travel, food, lodging, or membership dues, on activities described in Government Code §305.006(b) to communicate directly with one or more members of the legislative or executive branch to influence legislation or administrative action.

(b) An expenditure made by a member of the judicial, legislative, or executive branch of state government or an officer or employee of a political subdivision of the state acting in his or her official capacity is not included for purposes of determining whether a person is required to register under Government Code, §305.003(a)(1).

(c) An expenditure made in connection with an event to promote the interests of a designated geographic area or political subdivision is not included for purposes of determining whether a person has crossed the registration threshold in Government Code, §305.003(a)(1), if the expenditure is made by a group that exists for the limited purpose of sponsoring the event or by a person acting on behalf of such a group.

**§34.43. Compensation and Reimbursement Threshold.**

(a) A person must register as a lobbyist under chapter 305 of the Texas Government Code if the person receives, or is entitled to receive under an agreement under which the person is retained or employed, more than the amount specified in Tex. Gov't Code §305.003(a)(2), as amended by Figure 2 in 1 TAC §18.31 in a calendar quarter in compensation and reimbursement, not including reimbursement for the person's own travel, food, lodging, or membership dues, from one or more other persons to communicate directly with a member of the legislative or executive branch to influence legislation or administrative action.

(b) For purposes of Government Code, §305.003(a)(2), and this chapter, a person is not required to register if the person spends not more than 40 hours for which the person is compensated or reimbursed during a calendar quarter engaging in lobby activity, including preparatory activity as described by §34.3 of this title.

(c) For purposes of Government Code, §305.003(a)(2), and this chapter, a person shall make a reasonable allocation of compensation between compensation for lobby activity and compensation for other activities.

### **§34.45. Entity Registration.**

(a) An entity that is required to register under Government Code, §305.003, and this chapter may nonetheless avoid registration if all activity otherwise reportable by the entity is reported by one or more individual registrants in accordance with §34.65 and §34.85 of this title (relating to Compensation Reported by Lobby Firm Employee and Individual Reporting Expenditure by Entity).

(b) An entity that avoids registration under subsection (a) of this section becomes subject to Government Code, §305.024 on the earlier of the date the entity makes the expenditure that would have required the entity to register as a lobbyist or the date the entity receives, or is entitled to receive compensation or reimbursement that would have required the entity to register as a lobbyist.

(c) Registration by an entity does not relieve any individual of the requirement to register if that individual meets one of the registration thresholds in Government Code, §305.003.

## **Subchapter C. COMPLETING THE REGISTRATION FORM**

### **§34.63. Assistants.**

(a) For purposes of Government Code, §305.005(f)(5), a person “employed or retained by the registrant for the purpose of assisting in direct communication” includes any person who provides administrative or research assistance to the registrant but does not include a person who provides only clerical or secretarial help.

(b) An individual employed by the same employer as the registrant and who assists the registrant at the direction of the registrant is “employed or retained” by the registrant for purposes of Government Code, §305.005(f)(5).

(c) A person listed by a registrant as an assistant under Government Code, §305.005(f)(5), is required to register if the assistant meets one of the registration thresholds under Government Code, §305.003, and this chapter.

### **§34.65. Compensation Reported by Lobby Firm Employee.**

(a) An individual registrant employed, reimbursed, or retained by a business entity that receives compensation and/or reimbursement for lobby activity is required to report all compensation and/or reimbursement paid to the entity for lobby activity by that individual.

(b) An individual registrant employed, reimbursed, or retained by a business entity that receives compensation and/or reimbursement for lobby activity may also report compensation and/or reimbursement paid to the entity for lobby activity by one or more other persons if the entity requests that the individual do so in order for the entity to avoid registration.

(c) The individual registrant shall report the compensation by the date on which the entity, if registered, would have been required to report it. The individual registrant shall indicate on a registration or amended registration, as applicable, that he has reported compensation and/or reimbursement paid to an entity for lobby activity by one or more persons other than the registrant.

### **§34.67. Paid, Earned, and Prospective Compensation.**

(a) For purposes of Government Code, §305.005, and this chapter, compensation may be reported in any one of the following three ways:

(1) compensation actually paid for lobby activity during the year of registration as of the date the registration form or amended registration form is filed;

(2) compensation earned for lobby activity during the year of registration as of the date the registration form or amended registration form is filed, regardless of whether paid; or

(3) promised compensation for lobby activity during the year of registration, regardless of whether earned or paid on the date the registration form or amended registration form is filed.

(b) A registrant shall indicate on a registration form or amended registration form whether compensation is reported under subsection (a)(1), (2), or (3) of this section.

#### **§34.69. Subject Matter.**

A registrant shall report the subject matter of lobby activity, in accordance with Government Code, §305.005(f)(4), with respect to each person who reimburses, retains, or employs the registrant to engage in lobby activity.

#### **§34.71. Amending a Registration Form.**

(a) A change with respect to a docket number or other administrative designation is not required to be reported on an amended registration unless the docket number or other administrative designation is related to a subject matter category not previously reported by the registrant.

(b) Except as necessary to report changed information, a registrant shall not report information about subject matter on an amended registration form that the registrant reported on the registration form or on a previous amended registration form.

(c) A registrant is not required to report on an amended registration form reimbursement received for a lobby expenditure that the registrant will report on a lobby activity report.

#### **§34.75. Reporting of Commission or Fee Paid by State Agency.**

(a) In addition to the contents required by §305.005 of the Government Code and this chapter, a registration filed by a person who is paid a sales commission or such fee by a state agency must;

(1) disclose the state agency as a client;

(2) indicate that the client is a state agency;

(3) provide a description of the subject matter for which the person is paid a sales commission or such fee; and

(4) disclose the amount of the sales commission or such fee.

(b) If the amount of the sales commission or such fee is not known at the time of the reporting, the registration must disclose a reasonable estimate of the maximum amount of the sales commission or such fee and the method under which that amount will be computed.

1    **§34.77. Disclosure of Registration under Foreign Agents Registration Act.**

2    The registration of any person who has also filed an active registration statement under the  
3    Foreign Agents Registration Act of 1938, as amended (22 U.S.C. §611 et seq.), must include the  
4    registration number assigned to the registration statement by the United States Attorney General  
5    until the registration statement is terminated.

6                                   **Subchapter D. LOBBY ACTIVITY REPORTS**

7    **§34.81. Election to File Annually.**

8    A registrant who is eligible to file an annual lobby activity report under Government Code,  
9    §305.0063, may elect to do so at any time during the registration year.

10   **§34.82. Modified Reporting Threshold.**

11   For purposes of section 305.0063(d) of the Texas Government Code, expenditures shall include  
12   all expenditures reportable under section 305.006, including all expenditures that are required to  
13   be reported under subsections 305.006(b) and 305.006(c).

14   **§34.83. Time of Expenditure.**

15   For reporting purposes, an expenditure is not made until the amount of the expenditure is readily  
16   determinable by the person making the expenditure. If the normal business practice of a vendor  
17   or service provider is to make the amount charged known by sending a bill after expenses are  
18   incurred, the date of the expenditure, for reporting purposes, is the date the person billed receives  
19   the bill.

20   **§34.85. Individual Reporting Expenditure by Entity.**

21   (a) An individual registrant may report an expenditure made by a lobby entity if the entity  
22   requests that the individual do so in order for the entity to avoid registration; and

23           (1) the entity makes the expenditure in order for the individual to act on the entity's  
24           behalf to communicate directly with a member of the legislative or executive branch to  
25           influence legislation or administrative action; or

26           (2) the entity compensates or reimburses the individual to act on behalf of the entity or on  
27           behalf of the entity's clients to communicate directly with a member of the legislative or  
28           executive branch to influence legislation or administrative action.

29   (b) The individual registrant shall report the expenditure by the date on which the entity, if  
30   registered, would have been required to report it. The individual registrant shall indicate on a  
31   lobby activity report that he or she has reported expenditures made by an entity and indicate the  
32   specific amount reported on behalf of the entity.

1 (c) For purposes of Government Code, §305.0021(b), an expenditure made by an entity under  
2 subsection (a) of this section, is not a joint expenditure for purposes of Government Code,  
3 §305.0021(b) if the entity makes the entirety of the expenditure at issue.

4 (d) In this provision “lobby entity” means a corporation, association, firm, partnership,  
5 committee, club, organization, or other group of persons voluntarily acting in concert that meets  
6 one of the registration thresholds in Government Code, §305.003.

## 7 **Subchapter E. ELECTRONIC FILING**

### 8 **§34.91. Exemptions from Electronic Filing.**

9 (a) A registrant is required to file each report electronically by using the Internet to transmit the  
10 report, by using the web-based filing application provided by the commission, unless the  
11 registrant files with the commission an affidavit stating that:

12 (1) the registrant does not use a computer or mobile device, including a tablet or  
13 smartphone with access to the Internet;

14 (2) no person acting as an agent or consultant of the registrant and no person with whom  
15 the registrant contracts uses a computer or mobile device, including a tablet or  
16 smartphone with access to the Internet;

17 (3) the registrant does not intend to be compensated or reimbursed for lobby activity in  
18 the calendar year covered by the registration;

19 (4) the registrant was not compensated for lobby activity in either of the previous two  
20 calendar years;

21 (5) the registrant does not intend to make lobby expenditures during the calendar year  
22 covered by the registration; and

23 (6) the registrant did not make lobby expenditures in either of the previous two calendar  
24 years.

25 (b) The commission has the discretion to exempt from the electronic filing requirement a  
26 registrant who is not eligible to file under subsection (a) of this section if a registrant submits an  
27 affidavit to the commission stating the basis for the inability to filing electronically.

28 (c) A registrant who is eligible to file under subsection (a) of this section must file an affidavit  
29 under subsection (a) of this section with each report filed under Chapter 305 of the Government  
30 Code and this chapter.

31 (d) A registrant who during a calendar year becomes ineligible to file on paper based on the  
32 criteria listed in subsection (a) of this section must file electronically beginning on the date on  
33 which the next report is due under §305.007 of the Government Code.

1 (e) For purposes of this section, “lobby expenditure” means expenditures required to be reported  
2 under Chapter 305 of the Government Code and this chapter.

3 (f) For purposes of this section, a “report” includes any document required to be filed by a  
4 registrant under Chapter 305 of the Government Code and this chapter except that it does not  
5 include notices and statements required to be filed under §305.028 of the Government Code.

6 (g) For purposes of this section, a “report” includes the confidential social security information  
7 required to be filed by a lobbyist in compliance with §231.302(c)(1) of the Family Code.

**EXHIBIT 9-B**

**Text of Proposed Rules**

The proposed new language is indicated by underlined text.

**CHAPTER 20. REPORTING POLITICAL CONTRIBUTIONS AND EXPENDITURES**

**Subchapter A. GENERAL RULES**

**§20.1. Definitions.**

The following words and terms, when used in Title 15 of the Election Code, in this chapter, Chapter 22 of this title (relating to Restrictions on Contributions and Expenditures), and Chapter 24 of this title (relating to Restrictions on Contributions and Expenditures Applicable to Corporations and Labor Organizations), shall have the following meanings, unless the context clearly indicates otherwise.

(1) Campaign communication--The term does not include a communication made by e-mail.

(2) Campaign treasurer--Either the individual appointed by a candidate to be the campaign treasurer, or the individual responsible for filing campaign finance reports of a political committee under Texas law or the law of any other state.

(3) Contribution--The term does not include a transfer for consideration of anything of value pursuant to a contract that reflects the usual and normal business practice of the vendor.

(4) Corporation--The term does not include professional corporations or professional associations.

(5) Election cycle--A single election and any related primary or runoff election.

(6) Identified measure--A question or proposal submitted in an election for an expression of the voters' will and includes the circulation and submission of a petition to determine whether a question or proposal is required to be submitted in an election for an expression of the voters' will.

(7) Non-political expenditure--An expenditure from political contributions that is not an officeholder expenditure or a campaign expenditure.

(8) Opposed candidate--A candidate who has an opponent whose name is to appear on the ballot. The name of a write-in candidate does not appear on the ballot.

(9) Pledge--A contribution in the form of an unfulfilled promise or unfulfilled agreement, whether enforceable or not, to provide a specified amount of money or specific goods or services. The term does not include a contribution made in the form of a check.

(10) Political advertising:



1           (A) A communication that supports or opposes a political party, a public officer, a  
2           measure, or a candidate for nomination or election to a public office or office of a  
3           political party, and:

4                     (i) is published in a newspaper, magazine, or other periodical in return for  
5                     consideration;

6                     (ii) is broadcast by radio or television in return for consideration;

7                     (iii) appears in a pamphlet, circular, flyer, billboard, or other sign, bumper  
8                     sticker, or similar form of written communication; or

9                     (iv) appears on an Internet website.

10           (B) The term does not include an individual communication made by e-mail but  
11           does include mass e-mails involving an expenditure of funds beyond the basic cost  
12           of hardware messaging software and bandwidth.

13           (11) Political subdivision--A county, city, or school district or any other governmental  
14           entity that:

15                     (A) embraces a geographic area with a defined boundary;

16                     (B) exists for the purpose of discharging functions of government; and

17                     (C) possesses authority for subordinate self-government through officers selected  
18                     by it.

19           (12) Report--Any document required to be filed by this title, including an appointment of  
20           campaign treasurer, any type of report of contributions and expenditures, and any notice.

21           (13) Special pre-election report--A shorthand term for a report filed in accordance with  
22           the requirements of §§20.221 and 20.333 of this chapter (relating to Special Pre-Election  
23           Report by Certain Candidates; and Special Pre-Election Report by Certain Specific-  
24           Purpose Committees) and §254.038 and §254.039 of the Election Code.

25           (14) Unidentified measure--A question or proposal that is intended to be submitted in an  
26           election for an expression of the voters' will and that is not yet legally required to be  
27           submitted in an election, except that the term does not include the circulation or  
28           submission of a petition to determine whether a question or proposal is required to be  
29           submitted in an election for an expression of the voters' will. The circulation or  
30           submission of a petition to determine whether a question or proposal is required to be  
31           submitted in an election for an expression of the voters' will is considered to be an  
32           identified measure.

33           (15) Principal purpose--A group has as a principal purpose of accepting political  
34           contributions or making political expenditures, including direct campaign expenditures,  
35           when that activity is an important or a main function of the group.

36                     (A) A group may have more than one principal purpose. When determining  
37                     whether a group has a principal purpose of accepting political contributions or  
38                     making political expenditures, the Commission may consider any available

1 evidence regarding the activities by the group and its members, including, but not  
2 limited to:

3 (i) public statements,

4 (ii) fundraising appeals,

5 (iii) government filings,

6 (iv) organizational documents; and

7 (v) the amount of political expenditures made and political contributions  
8 accepted by the group and its members.

9 (B) A group does not have a principal purpose of making political expenditures if  
10 it can demonstrate that not more than 49% of its overall expenditures are political  
11 expenditures.

12 (C) The following shall be included for purposes of calculating the proportion of  
13 the group's political expenditures to all other spending:

14 (i) the amount of money paid in compensation and benefits to the group's  
15 employees for work related to making political expenditures;

16 (ii) the amount of money spent on political expenditures; and

17 (iii) the amount of money attributable to the proportional share of  
18 administrative expenses related to political expenditures. The proportional  
19 share of administrative expenses is calculated by comparing the political  
20 expenditures in clause (ii) of this subparagraph with non-political  
21 expenditures. (For example, if the group sends three mailings a year and  
22 each costs \$10,000, if the first two are issue-based newsletters and the third  
23 is a direct advocacy sample ballot, and there were no other expenditures,  
24 then the proportion of the administrative expenses attributable to political  
25 expenditures would be 33%.) Administrative expenses include:

26 (I) fees for services to non-employees;

27 (II) advertising and promotion;

28 (III) office expenses;

29 (IV) information technology;

30 (V) occupancy;

31 (VI) travel expenses;

32 (VII) interest; and

33 (VIII) insurance.

1           (D) The group may maintain specific evidence of administrative expenses related  
2           only to political expenditures or only to non-political expenditures. Specifically  
3           identified administrative expenses shall not be included in the proportion  
4           established by subparagraph (D)(iii) but allocated by the actual amount of the  
5           expense.

6           (E) In this section, the term "political expenditures" includes direct campaign  
7           expenditures

8           (16) In connection with a campaign:

9           (A) An expenditure is made in connection with a campaign for an elective office if  
10           it is:

11                   (i) made for a communication that expressly advocates the election or  
12                   defeat of a clearly identified candidate by:

13                               (I) using such words as "vote for," "elect," "support," "vote  
14                               against," "defeat," "reject," "cast your ballot for," or "Smith for  
15                               city council;" or

16                               (II) using such phrases as "elect the incumbent" or "reject the  
17                               challenger," or such phrases as "vote pro-life" or "vote pro-choice"  
18                               accompanied by a listing of candidates described as "pro-life" or  
19                               "pro-choice;"

20                   (ii) made for a communication broadcast by radio, television, cable, or  
21                   satellite or distributed by print or electronic media, including any print  
22                   publication, mailing, Internet website, electronic mail, or automated phone  
23                   bank, that:

24                               (I) refers to a clearly identified candidate;

25                               (II) is distributed within 30 days before a contested election for the  
26                               office sought by the candidate;

27                               (III) targets a mass audience or group in the geographical area the  
28                               candidate seeks to represent; and

29                               (IV) includes words, whether displayed, written, or spoken; images  
30                               of the candidate or candidate's opponent; or sounds of the voice of  
31                               the candidate or candidate's opponent that, without consideration  
32                               of the intent of the person making the communication, are  
33                               susceptible of no other reasonable interpretation than to urge the  
34                               election or defeat of the candidate;

35                   (iii) made by a candidate or political committee to support or oppose a  
36                   candidate; or

37                   (iv) a campaign contribution to:

38                               (I) a candidate; or

1                   (II) a group that, at the time of the contribution, already qualifies as  
2                   a political committee.

3           (B) An expenditure is made in connection with a campaign on a measure if it is:

4                   (i) made for a communication that expressly advocates the passage or  
5                   defeat of a clearly identified measure by using such words as “vote for,”  
6                   “support,” “vote against,” “defeat,” “reject,” or “cast your ballot for;”

7                   (ii) made for a communication broadcast by radio, television, cable, or  
8                   satellite or distributed by print or electronic media, including any print  
9                   publication, mailing, Internet website, electronic mail, or automated phone  
10                  bank, that:

11                   (I) refers to a clearly identified measure;

12                   (II) is distributed within 30 days before the election in which the  
13                   measure is to appear on the ballot;

14                   (III) targets a mass audience or group in the geographical area in  
15                   which the measure is to appear on the ballot; and

16                   (IV) includes words, whether displayed, written, or spoken, that,  
17                   without consideration of the intent of the person making the  
18                   communication, are susceptible of no other reasonable  
19                   interpretation than to urge the passage or defeat of the measure;

20                   (iii) made by a political committee to support or oppose a measure; or

21                   (iv) a campaign contribution to a group that, at the time of the contribution,  
22                   already qualifies as a political committee.

23           (C) Any cost incurred for covering or carrying a news story, commentary, or  
24           editorial by a broadcasting station or cable television operator, Internet website, or  
25           newspaper, magazine, or other periodical publication, including an Internet or  
26           other electronic publication, is not a campaign expenditure if the cost for the news  
27           story, commentary, or editorial is not paid for by, and the medium is not owned or  
28           controlled by, a candidate or political committee.

29           (D) For purposes of this section:

30                   (i) a candidate is clearly identified by a communication that includes the  
31                   candidate’s name, office sought, office held, likeness, photograph, or other  
32                   apparent and unambiguous reference; and

33                   (ii) a measure is clearly identified by a communication that includes the  
34                   measure’s name or ballot designation (such as “Proposition 1”), purposes,  
35                   election date, or other apparent and unambiguous reference.

36           (17) Discount--The provision of any goods or services without charge or at a charge  
37           which is less than fair market value. A discount is an in-kind political contribution unless  
38           the terms of the transaction reflect the usual and normal practice of the industry and are

1 typical of the terms that are offered to political and non-political persons alike, or unless  
2 the discount is given solely to comply with §253.041 of the Election Code. The value of  
3 an in-kind contribution in the form of a discount is the difference between the fair market  
4 value of the goods or services at the time of the contribution and the amount charged.

5 (18) School district--For purposes of §254.130 of the Election Code and §20.7 of this  
6 chapter (relating to Reports Filed with Other Local Filing Authority), the term includes a  
7 junior college district or community college district.

8 (19) Vendor--Any person providing goods or services to a candidate, officeholder,  
9 political committee, or other filer under this chapter. The term does not include an  
10 employee of the candidate, officeholder, political committee, or other filer.

11 (20) Hybrid committee--A political committee that, as provided by §252.003(a)(4) or  
12 §252.0031(a)(2) of the Election Code, as applicable, has filed a campaign treasurer  
13 appointment that includes an affidavit stating that:

14 (A) the committee is not established or controlled by a candidate or an  
15 officeholder; and

16 (B) the committee will not use any political contribution from a corporation or a  
17 labor organization to make a political contribution to:

18 (i) a candidate for elective office;

19 (ii) an officeholder; or

20 (iii) a political committee that has not filed an affidavit in accordance with  
21 this section.

22 (21) Direct campaign expenditure-only committee--A political committee, as authorized  
23 by §253.105 of the Election Code to accept political contributions from corporations  
24 and/or labor organizations, that:

25 (A) is not established or controlled by a candidate or an officeholder;

26 (B) makes or intends to make direct campaign expenditures;

27 (C) does not make or intend to make political contributions to:

28 (i) a candidate;

29 (ii) an officeholder;

30 (iii) a specific-purpose committee established or controlled by a candidate  
31 or an officeholder; or

32 (iv) a political committee that makes or intends to make political  
33 contributions to a candidate, an officeholder, or a specific-purpose  
34 committee established or controlled by a candidate or an officeholder; and

(D) has filed an affidavit with the Commission stating the committee's intention to operate as described by subparagraphs (B) and (C).

(22) Reportable Activity--For the purposes of filing a final report, this term includes an expenditure to pay a campaign debt.

(23) Statewide Measure--A measure to be voted on by all eligible voters in the state.

(24) District Measure--A measure to be voted on by the voters of a district.

#### **§20.7. Reports Filed with Other Local Filing Authority.**

(a) Except as provided by Chapter 252 of the Election Code, the secretary of a political subdivision (or the presiding officer if the political subdivision has no secretary) is the appropriate filing authority for reports filed by:

(1) a candidate for an office of a political subdivision other than a county;

(2) a person holding an office of a political subdivision other than a county.

#### **§20.13. Out-of-State Committees.**

(a) An out-of-state political committee is required to file reports for each reporting period under Subchapter F, Chapter 254, Election Code, in which the out-of-state political committee accepts political contributions or makes political expenditures in connection with a state or local election in Texas. Section 254.1581 of the Election Code applies to a report required to be filed under this section. An out-of-state political committee that files reports electronically in another jurisdiction may comply with §254.1581 of the Election Code by sending a letter to the Commission within the time prescribed by that section specifying in detail where the electronic report may be found on the website of the agency with which the out-of-state political committee is required to file its reports. An out-of-state political committee that does not file reports electronically in another jurisdiction may comply with §254.1581 of the Election Code by sending to the Commission a copy of the cover sheets of the report and a copy of each page on which the committee reports a contribution or expenditure accepted or made in connection with a state or local election in Texas.

(b) A political committee must determine if it is an "out-of-state political committee" each time the political committee makes a political expenditure in Texas (other than an expenditure in connection with a campaign for a federal office or an expenditure for a federal officeholder). The determination is made as follows.

(1) When making the expenditure (other than an expenditure in connection with a campaign for a federal office or an expenditure for a federal officeholder), the committee must calculate its total political expenditures made during the 12 months immediately preceding the date of the expenditure. This total does not include the political expenditure triggering the calculation requirement.

(2) If 80% or more of the total political expenditures are in connection with elections not voted on in Texas, the committee is an out-of-state committee.

(3) If less than 80% of the total political expenditures are in connection with elections not voted on in Texas, the committee is no longer an out-of-state committee.

1 (c) An out-of-state political committee planning an expenditure in connection with a campaign  
2 for federal office voted on in Texas is not required to make the determination required by §20.14  
3 of this chapter (relating to Information About Out-of-State Committees). However, an  
4 expenditure in connection with a campaign for federal office voted on in Texas must be included  
5 in the calculation for an out-of-state committee making an expenditure in connection with a non-  
6 federal campaign voted on in Texas.

7 **§20.14. Information About Out-of-State Committees.**

8 (a) A person who files a report with the Commission by electronic transfer and who accepts  
9 political contributions from an out-of-state political committee required to file its statement of  
10 organization with the Federal Election Commission shall either:

11 (1) enter the out-of-state committee's federal PAC identification number in the  
12 appropriate place on the report; or

13 (2) timely file a certified copy of the out-of-state committee's statement of organization  
14 that is filed with the Federal Election Commission.

15 (b) A person who files a report with the Commission by electronic transfer and who accepts  
16 political contributions from an out-of-state political committee that is not required to file its  
17 statement of organization with the Federal Elections Commission shall either:

18 (1) enter the information required by §253.032(a)(1) or (e)(1), Election Code, as  
19 applicable, on the report filed by electronic transfer; or

20 (2) timely file a paper copy of the information required by §253.032(a)(1) or (e)(1),  
21 Election Code, as applicable.

22 (c) Except as provided by subsection (d) of this section, §251.007, Election Code, applies to a  
23 document filed under subsection (a)(2) or (b)(2) of this section.

24 (d) A document filed under subsection (a)(2) or (b)(2) of this section for a pre-election report is  
25 timely filed if it is received by the Commission no later than the report due date. A pre-election  
26 report includes reports due 30-days and 8-days before an election, reports due before a runoff  
27 election, and special reports due before an election.

28 **§20.16. Notices by Electronic Mail.**

29 (a) A person required to file reports electronically with the Commission shall provide to the  
30 Commission an electronic mail address to which notices regarding filing requirements under Title  
31 15 of the Election Code may be sent.

32 (b) A person required to file reports with the Commission and who qualifies for an exemption  
33 from electronic filing may provide to the Commission an electronic mail address to which notices  
34 regarding filing requirements under Title 15 of the Election Code may be sent.

35 **§20.21. Due Dates on Holidays and Weekends.**

36 If the deadline for a report falls on a Saturday, Sunday, or a legal state or national holiday, the  
37 report is due on the next regular business day.

**§20.33. Termination of Campaign Treasurer Appointment by Commission.**

(a) The Commission may terminate the campaign treasurer appointment of an inactive candidate or an inactive political committee.

(b) For purposes of subsection (a) of this section and §252.0131, Election Code, a candidate becomes “inactive” if the candidate files a campaign treasurer appointment with the Commission and more than one year has lapsed since the candidate has filed any required campaign finance reports with the Commission.

(c) For purposes of subsection (a) of this section and §252.0131, Election Code, a political committee becomes “inactive” if the political committee files a campaign treasurer appointment with the Commission and more than one year has lapsed since the campaign treasurer of the political committee has filed any required campaign finance reports with the Commission.

(d) This section does not apply to a candidate who holds an office specified by §§252.005(1) or (5), Election Code.

**§20.35. Notice of Proposed Termination of Campaign Treasurer Appointment.**

(a) Before the Commission may consider termination of a campaign treasurer appointment under §20.33 of this chapter (relating to Termination of Campaign Treasurer Appointment by Commission) and §252.0131, Election Code, the Commission shall send written notice to the affected candidate or political committee.

(b) The written notice must be given at least 30 days before the date of the meeting at which the Commission will consider the termination of campaign treasurer appointment and must include:

(1) The date, time, and place of the meeting;

(2) A statement of the Commission’s intention to consider termination of the campaign treasurer;

(3) A reference to the particular sections of the statutes and rules that give the Commission the authority to consider the termination of the campaign treasurer; and

(4) The effect of termination of the campaign treasurer appointment.

**Subchapter B. GENERAL REPORTING RULES**

**§20.50. Total Political Contributions Maintained.**

(a) For purposes of Election Code §254.031(a)(8) and §254.0611(a)(1), the total amount of political contributions maintained in one or more accounts includes the following:

(1) The balance on deposit in banks, savings and loan institutions and other depository institutions;

(2) The present value of any investments that can be readily converted to cash, such as certificates of deposit, money market accounts, stocks, bonds, treasury bills, etc.; and



1       (3) The balance of political contributions accepted and held in any online fundraising  
2       account over which the filer can exercise control by making a withdrawal, expenditure, or  
3       transfer.

4       (b) For purposes of Election Code §254.031(a)(8) and §254.0611(a)(1), the total amount of  
5       political contributions maintained includes personal funds that the filer intends to use for political  
6       expenditures only if the funds have been deposited in an account in which political contributions  
7       are held as permitted by Election Code §253.0351(c).

8       (c) For purposes of Election Code §254.031(a-1), the difference between the total amount of  
9       political contributions maintained that is disclosed in a report and the correct amount is a de  
10       minimis error if the difference does not exceed:

11               (1) \$7,500; or

12               (2) the lesser of 10% of the amount disclosed or \$20,000.

13       **§20.51. Value of In-Kind Contribution.**

14       (a) For reporting purposes, the value of an in-kind contribution is the fair market value.

15       (b) If an in-kind contribution is sold at a political fundraiser, the total amount received for the  
16       item at the fundraiser must be reported. This reporting requirement is in addition to the  
17       requirement that the fair market value of the in-kind contribution be reported.

18       (c) If political advertising supporting or opposing two or more candidates is an in-kind  
19       contribution, each person benefiting from the contribution shall report the amount determined by  
20       dividing the full value of the political advertising by the number of persons benefited by the  
21       political advertising.

22       **§20.52. Description of In-Kind Contribution for Travel.**

23       The description of an in-kind contribution for travel outside of the state of Texas must provide  
24       the following:

25               (1) The name of the person or persons traveling on whose behalf the travel was accepted;

26               (2) The means of transportation;

27               (3) The name of the departure city or the name of each departure location;

28               (4) The name of the destination city or the name of each destination location;

29               (5) The dates on which the travel occurred;

30               (6) The campaign or officeholder purpose of the travel, including the name of a  
31               conference, seminar, or other event.

32       **§20.54. Reporting a Pledge of a Contribution.**

33       (a) The date of a pledge of a contribution is the date the pledge was accepted, regardless of when  
34       the pledge is received.

1 (b) Except as provided by subsection (c) of this section, a pledge of a contribution shall be  
2 reported on the appropriate pledge schedule for the reporting period in which the pledge was  
3 accepted and shall be reported on the appropriate receipts schedule for the reporting period in  
4 which the pledge is received.

5 (c) A pledge of a contribution that is received in the reporting period in which the pledge was  
6 accepted, shall be reported on the contribution schedule or the loan schedule, as applicable, and  
7 in accordance with subsection (a) of this section.

8 **§20.55. Time of Accepting Contribution.**

9 For the purposes of §254.034 of the Election Code, a determination to refuse a political  
10 contribution is a distinct act from returning a political contribution and may occur at a different  
11 time.

12 **§20.56. Expenditures to Vendors.**

13 (a) A political expenditure made by a vendor for a candidate, officeholder, political committee, or  
14 other filer, with the intent to seek reimbursement from the filer, shall be reported by the filer in  
15 accordance with this chapter as though the filer made the expenditure directly.

16 (b) A vendor of a candidate, officeholder, or specific-purpose committee may not, in providing  
17 goods or services for the candidate, officeholder, or committee, make an expenditure that, if  
18 made by the candidate, officeholder, or committee, would be prohibited by §§253.035, 253.038,  
19 or 253.041, Election Code.

20 (c) A candidate, officeholder, or specific-purpose committee may not use political contributions  
21 to pay or reimburse a vendor for an expenditure that, if made by the candidate, officeholder, or  
22 committee, would be prohibited by §§253.035, 253.038, or 253.041, Election Code.

23 **§20.58. Disclosure of Political Expenditure.**

24 (a) An expenditure that is not paid during the reporting period in which the obligation to pay the  
25 expenditure is incurred shall be reported on the Unpaid Incurred Obligations Schedule for the  
26 reporting period in which the obligation to pay is incurred.

27 (b) The use of political contributions to pay an expenditure previously disclosed on an Unpaid  
28 Incurred Obligations Schedule shall be reported on the appropriate disbursements schedule for  
29 the reporting period in which the payment is made.

30 (c) The use of personal funds to pay an expenditure previously disclosed on an Unpaid Incurred  
31 Obligations Schedule shall be reported on the Political Expenditure Made from Personal Funds  
32 Schedule for the reporting period in which the payment is made.

33 **§20.59. Reporting Expenditure by Credit Card.**

34 (a) A report of an expenditure charged to a credit card must be disclosed on the Expenditures  
35 Made to Credit Card Schedule and identify the vendor who receives payment from the credit card  
36 company.

37 (b) A report of a payment to a credit card company must be disclosed on the appropriate  
38 disbursements schedule and identify the credit card company receiving the payment.

1 (c) A political expenditure by credit card made during the period covered by a report required to  
2 be filed under §§254.064(b) or (c), 254.124(b) or (c), or 254.154(b) or (c) of the Election Code,  
3 must be included in the report for the period during which the charge was made, not in the report  
4 for the period during which the statement from the credit card company was received.

5 (d) A political expenditure by credit card made during a period not covered by a report listed  
6 under subsection (c) of this section, must be included in the report for the period during which:

7 (1) the charge was made; or

8 (2) the person receives the credit card statement that includes the expenditure.

9 **§20.60. Reporting Political Expenditures for Processing Fees.**

10 (a) Multiple political expenditures made to a single payee during a reporting period for fees to  
11 process political contributions may be itemized as a single expenditure, in an amount equal to the  
12 combined total amount of the expenditures, if all the expenditures are made to a single payee for  
13 the same purpose.

14 (b) The purpose of an expenditure reported under subsection (a) of this section must include the  
15 dates of the first and last of the multiple expenditures made to a single payee during the reporting  
16 period.

17 (c) For reporting purposes, the date of an expenditure reported under subsection (a) of this section  
18 is the date of the first expenditure made to the payee during the reporting period.

19 **§20.61. Purpose of Expenditure.**

20 (a) For reporting required under §254.031 of the Election Code, the purpose of an expenditure  
21 means:

22 (1) A description of the category of goods, services, or other thing of value for which an  
23 expenditure is made. Examples of acceptable categories include:

24 (A) advertising expense;

25 (B) accounting/banking;

26 (C) consulting expense;

27 (D) contributions/donations made by candidate/officeholder/political committee;

28 (E) event expense;

29 (F) fees;

30 (G) food/beverage expense;

31 (H) gifts/awards/memorials expense;

32 (I) legal services;

1           (J) loan repayment/reimbursement;

2           (K) office overhead/rental expense;

3           (L) polling expense;

4           (M) printing expense;

5           (N) salaries/wages/contract labor;

6           (O) solicitation/fundraising expense;

7           (P) transportation equipment and related expense;

8           (Q) travel in district;

9           (R) travel out of district;

10          (S) other political expenditures; and

11          (2) A brief statement or description of the candidate, officeholder, or political committee  
12          activity that is conducted by making the expenditure and an additional indication if the  
13          expenditure is an officeholder expenditure for living in Austin, Texas. The brief statement  
14          or description must include the item or service purchased and must be sufficiently  
15          specific, when considered within the context of the description of the category, to make  
16          the reason for the expenditure clear. Merely disclosing the category of goods, services, or  
17          other thing of value for which the expenditure is made does not adequately describe the  
18          purpose of an expenditure.

19          (3) For purposes of this section, “consulting” means advice and strategy. “Consulting”  
20          does not include providing other goods or services, including without limitation media  
21          production, voter contact, or political advertising.

22          (b) An expenditure other than a reimbursement to a person, including a vendor, for more than one  
23          type of good or service must be reported by the filer as separate expenditures for each type of  
24          good or service provided by the person in accordance with this rule.

25          (c) The description of a political expenditure for travel outside of the state of Texas must provide  
26          the following:

27               (1) The name of the person or persons traveling on whose behalf the expenditure was  
28               made;

29               (2) The means of transportation;

30               (3) The name of the departure city or the name of each departure location;

31               (4) The name of the destination city or the name of each destination location;

32               (5) The dates on which the travel occurred; and

1       (6) The campaign or officeholder purpose of the travel, including the name of a  
2       conference, seminar, or other event.

3       **§20.62. Reporting Staff Reimbursement.**

4       (a) Political expenditures made out of personal funds by a staff member of an officeholder, a  
5       candidate, or a political committee with the intent to seek reimbursement from the officeholder,  
6       candidate, or political committee that in the aggregate do not exceed the threshold amount as  
7       specified in §18.31 of this title (regarding adjustments to reporting thresholds) during the  
8       reporting period may be reported as follows IF the reimbursement occurs during the same  
9       reporting period that the initial expenditure was made:

10       (1) the amount of political expenditures that in the aggregate exceed the threshold amount  
11       and that are made during the reporting period, the full name and address of the persons to  
12       whom the expenditures are made and the dates and purposes of the expenditures; and

13       (2) included with the total amount or a specific listing of the political expenditures of the  
14       threshold amount or less made during the reporting period.

15       (b) Except as provided by subsection (a) of this section, a political expenditure made from  
16       personal funds by a staff member of an officeholder, a candidate, or a political committee with  
17       the intent to seek reimbursement from the officeholder, candidate, or political committee must be  
18       reported as follows:

19       (1) the aggregate amount of the expenditures made by the staff member as of the last day  
20       of the reporting period is reported as a loan to the officeholder, candidate, or political  
21       committee;

22       (2) the expenditure made by the staff member is reported as a political expenditure by the  
23       officeholder, candidate, or political committee; and

24       (3) the reimbursement to the staff member to repay the loan is reported as a political  
25       expenditure by the officeholder, candidate, or political committee.

26       **§20.63. Reporting the Use and Reimbursement of Personal Funds.**

27       (a) A candidate is required to report a campaign expenditure from his or her personal funds.

28       (b) An officeholder is not required to report an officeholder expenditure from his or her personal  
29       funds unless he or she intends to be reimbursed from political contributions.

30       (c) A candidate or officeholder must report a political expenditure from his or her personal funds  
31       using one of the following methods:

32       (1) As a political expenditure made from personal funds reported on the political  
33       expenditure made from personal funds schedule;

34       (2) As a loan without depositing the personal funds in an account in which political  
35       contributions are held. The amount reported as a loan may not exceed the total amount  
36       spent in the reporting period. A political expenditure made from these funds must also be  
37       reported as a political expenditure made from political funds, not as made from personal  
38       funds; or

1       (3) If the candidate or officeholder deposits personal funds in an account in which  
2       political contributions are held, he or she must report that amount as a loan with an  
3       indication that personal funds were deposited in that account. A political expenditure  
4       made from an account in which political contributions are maintained must be reported as  
5       a political expenditure made from political funds, not as made from personal funds.

6       (d) A candidate or officeholder who makes political expenditures from his or her personal funds  
7       may reimburse those personal funds from political contributions only if:

8               (1) the expenditures were fully reported using one of the methods in subsection (c) of this  
9               section on the report covering the period during which the expenditures were made; and

10              (2) if the method in subsection (c)(1) of this section was used, the report disclosing the  
11              expenditures indicates that the expenditures are subject to reimbursement.

12       (e) A candidate's or officeholder's failure to comply with subsection (d) of this section may not  
13       be cured by filing a corrected report after the report deadline has passed.

14       (f) A candidate or officeholder who has complied with subsection (d) of this section and whose  
15       personal funds have been reimbursed from political contributions must report the amount of the  
16       reimbursement as a political expenditure in the report covering the period during which the  
17       reimbursement was made.

18       (g) Section 253.042 of the Election Code sets limits on the amount of political expenditures from  
19       personal funds that a statewide officeholder may reimburse from political contributions.

20       **§20.64. Reporting the Forgiveness of a Loan or Settlement of a Debt.**

21       (a) The forgiveness of a loan to a candidate, officeholder, or political committee is a reportable  
22       in-kind political contribution unless the loan does not constitute a contribution under §251.001(2)  
23       of the Election Code, and the forgiveness of the loan was made in the due course of business.

24       (b) The settlement of a debt owed by a candidate, officeholder, or political committee is a  
25       reportable in-kind political contribution unless the creditor is a commercial vendor that has  
26       treated the settlement in a commercially reasonable manner that reflects the usual and normal  
27       practice of the industry, and is typical of the terms the commercial vendor offers to political and  
28       non-political persons alike.

29       **§20.65. Reporting No Activity.**

30       (a) As a general rule, a candidate or officeholder must file a report required by Subchapter C of  
31       this chapter (relating to Reporting Requirements) or Subchapter D of this chapter (relating to  
32       Reporting Requirements for an Officeholder Who Does Not Have a Campaign Treasurer  
33       Appointment on File) even if there has been no reportable activity during the period covered by  
34       the report.

35       (b) This general rule does not apply to:

36               (1) special pre-election reports;

37               (2) special session reports; or

1       (3) a local officeholder who does not have a campaign treasurer appointment on file and  
2       who does not accept more than the threshold amount in political contributions or make  
3       more than the threshold amount in political expenditures during the reporting period.

4       (c) If a required report will disclose that there has been no reportable activity during the reporting  
5       period, the filer shall submit only those pages of the report necessary to identify the filer and to  
6       swear to the lack of reportable activity.

7       **§20.66. Discounts.**

8       (a) A discount to a candidate, officeholder, or political committee is an in-kind political  
9       contribution unless the terms of the transaction reflect the usual and normal practice of the  
10       industry and are typical of the terms that are offered to political and non-political persons alike,  
11       or unless the discount is given solely in order to comply with §253.041 of the Election Code.

12       (b) The value of an in-kind contribution in the form of a discount is the difference between the  
13       fair market value of the goods or services at the time of the contribution and the amount charged.

14       **§20.67. Reporting after the Death or Incapacity of a Filer.**

15       (a) The responsibility to file reports required by this title survives the death or incapacity of a  
16       candidate or officeholder.

17       (b) The legal representative or the estate of a candidate or officeholder who has died, or the legal  
18       representative of a candidate who is incapacitated, shall file any reports due under Subchapter C  
19       of this chapter (relating to Reporting Requirements) or Subchapter D of this chapter (relating to  
20       Reporting Requirements for an Officeholder Who Does Not Have a Campaign Treasurer  
21       Appointment on File).

22                       **Subchapter C. REPORTING REQUIREMENTS**

23       **§20.201. Definitions.**

24       In this subchapter “filer” means a candidate, an officeholder with an active campaign treasurer  
25       appointment, a general-purpose committee, or a specific-purpose committee.

26       **§20.203. Required Appointment of Campaign Treasurer.**

27       A candidate must file a campaign treasurer appointment before accepting any campaign  
28       contributions or making or authorizing any campaign expenditures, including campaign  
29       expenditures from personal funds.

30       **§20.205. Modified Reporting.**

31       (a) To file under the modified schedule, a candidate must file the declaration required under  
32       §254.182 of the Election Code no later than the 30th day before the first election to which the  
33       declaration applies. A declaration is valid for one election cycle only.

**§20.207. Reporting Political Contributions to a Business in Which the Candidate or Officeholder Has a Participating Interest.**

Reports must include the following information for each expenditure from political contributions made to a business in which the candidate or officeholder has a participating interest of more than 10%, holds a position on the governing body of the business, or serves as an officer of the business:

(1) the full name of the business to which the expenditure was made;

(2) the address of the person to whom the expenditure was made;

(3) the date of the expenditure;

(4) the purpose of the expenditure; and

(5) the amount of the expenditure.

**§20.209. Reporting Contributions.**

Reports must include for each person from whom the candidate accepted a political contribution (other than a pledge, loan, or a guarantee of a loan) of more than the threshold amount in value or political contributions (other than pledges, loans, or guarantees of loans) that total more than the threshold amount in value during the reporting period:

(1) the full name of the person making the contribution;

(2) the address of the person making the contribution;

(3) the total amount of contributions;

(4) the date each contribution was accepted; and

(5) a description of any in-kind contribution.

**§20.211. Reporting Pledges.**

Each report must include for each person from whom the candidate accepted a pledge or pledges to provide more than the threshold amount in money or goods or services worth more than the threshold amount:

(1) the full name of the person making the pledge;

(2) the address of the person making the pledge;

(3) the amount of each pledge;

(4) the date each pledge was accepted; and

(5) a description of any goods or services pledged; and

(6) the total of all pledges accepted during the period for the threshold amount and less from a person.



**§20.213. Reporting Loans.**

(a) Each report must include for each person making a loan or loans to the candidate for campaign purposes if the total amount loaned by the person during the reporting period is more than the threshold amount:

(1) the full name of the person or financial institution making the loan;

(2) the address of the person or financial institution making the loan;

(3) the amount of the loan;

(4) the date of the loan;

(5) the interest rate;

(6) the maturity date;

(7) the collateral for the loan, if any; and

(8) if the loan has guarantors:

(A) the full name of each guarantor;

(B) the address of each guarantor;

(C) the principal occupation of each guarantor;

(D) the name of the employer of each guarantor; and

(E) the amount guaranteed by each guarantor.

(b) the total amount of loans accepted during the period for the threshold amount and less from persons other than financial institutions engaged in the business of making loans for more than one year, except for a loan reported under paragraph (a) of this section.

**§20.215. Reporting Expenditures of Personal Funds.**

Each report must include for each political expenditure of any amount made out of personal funds for which reimbursement from political contributions is intended:

(1) the full name of the person to whom each expenditure was made;

(2) the address of the person to whom the expenditure was made;

(3) the date of the expenditure;

(4) the purpose of the expenditure;

(5) a declaration that the expenditure was made out of personal funds;

(6) a declaration that reimbursement from political contributions is intended; and

1           (7) the amount of the expenditure.

2    **§20.220. Additional Disclosure for the Texas Comptroller of Public Accounts.**

3    (a) For purposes of this section and §2155.003(e) of the Government Code, the term “vendor”  
4    means:

5           (1) a person who, during the comptroller’s term of office, bids on or receives a contract  
6           under the comptroller’s purchasing authority that was transferred to the comptroller by  
7           §2151.004 of the Government Code; and

8           (2) an employee or agent of a person described by subsection (a)(1) of this section who  
9           communicates directly with the chief clerk, or an employee of the Texas Comptroller of  
10          Public Accounts who exercises discretion in connection with the vendor's bid or contract,  
11          about a bid or contract.

12   (b) Each report filed by the comptroller or a specific-purpose committee created to support the  
13   comptroller, shall include:

14          (1) for each vendor whose aggregate campaign contributions equal or exceed the  
15          threshold amount during the reporting period, a notation that:

16               (A) the contributor was a vendor during the reporting period or during the 12-  
17               month period preceding the last day covered by the report; and

18               (B) if the vendor is an individual, includes the name of the entity that employs or  
19               that is represented by the individual; and

20          (2) for each political committee directly established, administered, or controlled by a  
21          vendor whose aggregate campaign contributions equal or exceed \$610 during the  
22          reporting period, a notation that the contributor was a political committee directly  
23          established, administered, or controlled by a vendor during the reporting period or during  
24          the 12-month period preceding the last day covered by the report.

25   (c) The comptroller, or a specific-purpose committee created to support the comptroller, is in  
26   compliance with this section if:

27          (1) each written solicitation for a campaign contribution includes a request for the  
28          information required by subsection (b) of this section; and

29          (2) for each contribution that is accepted for which the information required by this  
30          section is not provided, at least one oral or written request is made for the missing  
31          information. A request under this subsection:

32               (A) must be made not later than the 30th day after the date the contribution is  
33               received;

34               (B) must include a clear and conspicuous statement requesting the information  
35               required by subsection (b) of this section;

36               (C) if made orally, must be documented in writing; and

(D) may not be made in conjunction with a solicitation for an additional campaign contribution.

(d) The comptroller, or a specific-purpose committee created to support the comptroller, must report the information required by subsection (b) of this section that is not provided by the person making the political contribution and that is in the comptroller's or committee's records of political contributions or previous campaign finance reports required to be filed under Title 15 of the Election Code filed by the comptroller or committee.

(e) If the comptroller, or a specific-purpose committee created to support the comptroller, receives the information required by this section after the filing deadline for the report on which the contribution is reported, the comptroller or committee must include the missing information on the next required campaign finance report.

**§20.221. Special Pre-Election Report by Certain Candidates.**

(a) If, during the reporting period for special pre-election contributions, a candidate receives additional contributions from a person whose previous contribution or contributions have triggered the requirement to file a special pre-election report during that period, the candidate must file an additional special pre-election report for each such contribution. Except as provided in subsection (b) of this section, each such special pre-election report must be filed so that it is received by the Commission no later than the first business day after the candidate accepts the contribution.

(b) A candidate must file a special pre-election report that is exempt from electronic filing under §254.036(c), Election Code, so that the report is received by the Commission no later than 5 p.m. of the first business day after the candidate accepts a contribution from a person that triggers the requirement to file the special pre-election report.

(c) A candidate must file a special pre-election report for each person whose contribution or contributions made during the reporting period for special pre-election reports exceeds the threshold for special pre-election reports.

(d) A candidate must also report contributions reported on a special pre-election report on the next semiannual, pre-election, or runoff report filed, as applicable.

**§20.223. Form and Contents of Special Pre-Election Report.**

(a) A special pre-election report shall be filed electronically as required by §254.036, Election Code, unless the report is exempt from electronic filing. A special pre-election report that is exempt from electronic filing under §254.036(c), Election Code, is not required to be on a form prescribed by the Commission.

(b) In this subsection “filer” means the candidate, general-purpose committee, or specific-purpose committee filing the report.

(b) A special pre-election report shall include the following information:

(1) the name of the filer;

(2) either:

1           (A) the office sought by the filer; or

2           (B) the full name of the campaign treasurer;

3           (3) the name of the person making the contribution or contributions that triggered the  
4           requirement to file a special pre-election report;

5           (4) the address of the person making the contribution or contributions;

6           (5) the amount of each contribution;

7           (6) the date each contribution was accepted; and

8           (7) a description of any in-kind contribution.

9   (c) A general-purpose committee making direct campaign expenditures must also include:

10          (1) the full name and address of the person or persons to whom each direct campaign  
11          expenditure is made;

12          (2) the date of each direct campaign expenditure;

13          (3) a description of the goods or services for which each direct campaign expenditure was  
14          made; and

15          (4) the identification of the candidates or group of candidates benefiting from the direct  
16          campaign expenditure.

17   **§20.225. Special Session Reports for Candidates and Certain Officeholders.**

18   (a) A special session report is a report of contributions only, not expenditures. Expenditures made  
19   during the period covered by a special session report are required to be reported in the next  
20   applicable sworn report of contributions and expenditures.

21   (b) Contributions reported in a special session report are required to be reported in the next  
22   applicable sworn report of contributions and expenditures.

23   (c) A contribution that is refused under §254.0391(b) of the Election Code must be returned no  
24   later than the 30th day after the date of final adjournment. A contribution not returned by that  
25   date will be deemed accepted.

26   **§20.227. Contents of Special Session Report.**

27   A special session report shall include the following information:

28          (1) the filer's name;

29          (2) the filer's address;

30          (3) either:

31               (A) the office sought by the filer; or

1           (B) the full name of the campaign treasurer

2           (4) if the filer is a specific-purpose committee:

3           (A) for each candidate supported or opposed by the specific-purpose committee:

4                   (1) the full name of the candidate;

5                   (2) the office sought by the candidate; and

6                   (3) an indication of whether the committee supports or opposes the  
7                   candidate;

8           (B) for each officeholder supported or opposed by the committee:

9                   (1) the full name of the officeholder;

10                  (2) the office held by the officeholder; and

11                  (3) an indication of whether the committee supports or opposes the  
12                  officeholder;

13           (5) the date each contribution was accepted;

14           (6) the full name of each person making a contribution;

15           (7) the address of each person making a contribution;

16           (8) the amount of each contribution accepted during the reporting period;

17           (9) a description of any in-kind contribution accepted during the reporting period; and

18           (10) an affidavit, executed by the candidate, stating: "I swear, or affirm, that the  
19           accompanying report is true and correct and includes all information required to be  
20           reported by me under Title 15, Election Code."

21    **§20.235. Contents of Annual Report.**

22    In addition to the information required by §254.202 of the Election Code, an annual report of  
23    unexpended contributions shall include the following information:

24           (1) for each payment made by the candidate from unexpended political contributions,  
25           unexpended interest or other income earned from political contributions, or assets  
26           purchased with political contributions or interest or other income earned from political  
27           contributions during the previous year:

28                   (A) the full name of each person to whom a payment was made;

29                   (B) the address of each person to whom a payment was made;

30                   (C) the date of each payment;

31                   (D) the nature of the goods or services for which the payment was made; and

1           (E) the amount of each payment;

2           (2) the full name of each person to whom a payment from unexpended political  
3           contributions, unexpended interest or other income earned from political contributions, or  
4           assets purchased with political contributions or interest or other income earned from  
5           political contributions was made.

6   **§20.243. Contribution of Unexpended Political Contributions to Candidate or Political**  
7   **Committee.**

8   (a) A former candidate who has filed a final report and who contributes unexpended political  
9   contributions, unexpended interest or other income earned from political contributions, or assets  
10   purchased with political contributions or interest or other income earned from political  
11   contributions to a candidate or political committee must report the contribution on an annual  
12   report of unexpended contributions or on a report of final disposition of unexpended  
13   contributions, as applicable. The former candidate must also report the contribution under  
14   subsection (b) of this section.

15   (b) A former candidate who has filed a final report and who contributes unexpended political  
16   contributions, unexpended interest or other income earned from political contributions, or assets  
17   purchased with political contributions or interest or other income earned from political  
18   contributions to a candidate or political committee must report each contribution to the filing  
19   authority with whom the candidate or political committee receiving the contribution files reports.

20           (1) The contribution must be reported on the form used for reports of contributions and  
21           expenditures by a specific-purpose committees.

22           (2) The report should be filed by the due date for the report in which the candidate or  
23           political committee receiving the contribution must report the receipt of the contribution.

24           **Subchapter D. REPORTING REQUIREMENTS FOR AN OFFICEHOLDER WHO**  
25           **DOES NOT HAVE A CAMPAIGN TREASURER APPOINTMENT ON FILE**

26   **§20.271. Officeholders Covered.**

27   An officeholder who has a campaign treasurer appointment on file is a candidate for filing  
28   purposes and shall file under Subchapter C of this chapter (relating to Reporting Requirements)  
29   rather than under this subchapter.

30   **§20.295. Contribution of Unexpended Political Contributions to Candidate or Political**  
31   **Committee.**

32   (a) A former officeholder who contributes unexpended political contributions, unexpended  
33   interest or other income earned from political contributions, or assets purchased with political  
34   contributions or interest or other income earned from political contributions to a candidate or  
35   political committee must report the contribution on an annual report of unexpended contributions  
36   or on a report of final disposition of unexpended contributions, as applicable. The former  
37   officeholder must also report the contribution under subsection (b) of this section.

1 (b) A former officeholder who contributes unexpended political contributions, unexpended  
2 interest or other income earned from political contributions, or assets purchased with political  
3 contributions or interest or other income earned from political contributions to a candidate or  
4 political committee must report each contribution to the filing authority with whom the candidate  
5 or political committee receiving the contribution files reports.

6 (1) The former officeholder must report such contributions on the form used for reports of  
7 contributions and expenditures by a specific-purpose committee.

8 (2) The former officeholder must file the report by the due date for the report in which the  
9 candidate or political committee receiving the contribution must report the receipt of the  
10 contribution.

11 **Subchapter E. REPORTS BY A GENERAL-PURPOSE OR SPECIFIC-PURPOSE**  
12 **COMMITTEE**

13 **§20.303. Appointment of Campaign Treasurer.**

14 (a) A committee may appoint a campaign treasurer at any time before exceeding the thresholds  
15 described in §253.031(b) of the Election Code.

16 (b) After a committee appoints a campaign treasurer, the campaign treasurer must comply with  
17 all the requirements of this subchapter, even if the committee has not yet exceeded the threshold  
18 in political contributions or expenditures.

19 (c) With the exception of the campaign treasurer appointment, the individual named as a  
20 committee's campaign treasurer is legally responsible for filing all reports of the committee,  
21 including a report following the termination of his or her appointment as campaign treasurer.

22 **§20.305. Appointing an Assistant Campaign Treasurer.**

23 (a) The assistant campaign treasurer has the same authority as the campaign treasurer. However,  
24 if the campaign treasurer appointment is terminated the assistant campaign treasurer no longer  
25 has authority to act as the campaign treasurer.

26 (b) The campaign treasurer, not the assistant campaign treasurer, is liable for any penalties  
27 assessed by the Commission for late reports or incomplete reports or for failure to file a report.

28 **§20.307. Name of Specific-Purpose Committee.**

29 The name of a specific-purpose committee that supports a candidate for or an officeholder of an  
30 office specified by §252.005(1), Election Code, must include the full name of that candidate or  
31 officeholder.

32 **§20.308. Name of General-Purpose Committee.**

33 (a) For the purposes of §252.003(d) of the Election Code, a corporation, labor organization, or  
34 other association or legal entity that “directly establishes, administers, or controls” a general-  
35 purpose committee is one that has:

1       (1) the authority to actively participate in determining to whom the general-purpose  
2       committee makes political contributions or for what purposes the general-purpose  
3       committee makes political expenditures; or

4       (2) the authority to designate a person to a position of authority with the general-purpose  
5       committee, including that of an officer or director of the general-purpose committee.

6       **§20.311. Updating Certain Information on the Campaign Treasurer Appointment.**

7       (a) Except as provided by subsection (b) of this section, if any of the information required to be  
8       included in the committee's treasurer appointment changes, excluding changes in the campaign  
9       treasurer's address, the campaign treasurer shall file a corrected appointment with the  
10      Commission no later than the 30th day after the date the change occurs.

11      (b) If a candidate supported or opposed by a specific-purpose committee changes their office  
12      sought, or the committee changes the candidates that they support or oppose, the campaign  
13      treasurer must report that change within 24 hours of the change occurring.

14      **§20.313. Converting to a Different Committee Type.**

15      (a) A specific-purpose committee that changes its operation and becomes a general-purpose  
16      committee is subject to the requirements applicable to a general-purpose committee as of the date  
17      it files its campaign treasurer appointment as a general-purpose committee with the Commission.

18      (b) The notice required under §254.129 of the Election Code is in addition to the requirement that  
19      the new general-purpose committee file a campaign treasurer appointment with the Commission  
20      before it exceeds the threshold for registration as a general-purpose committee.

21      (c) A general-purpose committee that changes its operation and becomes a specific-purpose  
22      committee is subject to the requirements applicable to a specific-purpose committee as of the date  
23      it files its campaign treasurer appointment as a specific-purpose committee.

24      (d) As provided by §253.031(b)-(c) of the Election Code, a new specific-purpose committee  
25      involved in an election supporting or opposing a candidate for a statewide office, the state  
26      legislature, the State Board of Education, or a multi-county district office in a primary or general  
27      election may not accept political contributions exceeding the threshold and may not make or  
28      authorize political expenditures exceeding the threshold unless the committee's campaign  
29      treasurer appointment as a specific-purpose committee has been on file at least 30 days before the  
30      applicable election day.

31      **§20.319. Notice to Candidate or Officeholder.**

32      (a) This section does not apply to a committee that has not appointed a campaign treasurer in  
33      accordance with §20.303(b) of this chapter (relating to Appointment of Campaign Treasurer).

34      (b) The notice required by §254.128 of the Election Code shall be in writing and shall include:

35              (1) the full name of the committee;

36              (2) the address of the committee;

37              (3) the full name of the committee's campaign treasurer;



(4) the address of the committee's campaign treasurer;

(4) a statement that indicates that the committee is a political action committee; and

(6) a statement that the committee has accepted political contributions or has made political expenditures on behalf of the candidate or officeholder.

**§20.333. Special Pre-Election Report by Certain Specific-Purpose Committees.**

(a) If, during the reporting period for special pre-election contributions, a committee receives additional contributions from a person whose previous contribution or contributions have triggered the requirement to file a special pre-election report, the campaign treasurer for the committee must file an additional special pre-election report for each such contribution. Each such special pre-election report must be filed so that it is received by the Commission no later than the first business day after the committee accepts the contribution.

(b) The campaign treasurer of a specific-purpose committee must file a special pre-election report for each person whose contribution or contributions made during the period for special pre-election reports exceeds the threshold for special pre-election reports.

(c) A campaign treasurer of a specific-purpose committee must also report contributions reported on a special pre-election report on the next semiannual, pre-election, or runoff report filed, as applicable.

**§20.343. Contents of Dissolution Report.**

A dissolution report must contain:

(1) the information described in §254.121 of the Election Code; and

(2) the following sworn statement, signed by the specific-purpose committee's campaign treasurer, and properly notarized: "I, the undersigned campaign treasurer, do not expect the occurrence of any further reportable activity by this specific-purpose committee for this or any other campaign or election for which reporting under the Election Code is required. I declare that all of the information required to be reported by me has been reported. I understand that designating a report as a dissolution report terminates the appointment of campaign treasurer. I further understand that a specific-purpose committee may not make or authorize political expenditures or accept political contributions without having an appointment of campaign treasurer on file."

**§20.403. Reporting Requirements for Certain General-Purpose Committees.**

(a) A general-purpose committee that is the principal political committee of a political party is subject to Subchapter F of this chapter (relating to Rules Applicable to a Principal Political Committee of a Political Party). Subchapter F of this chapter prevails over this subchapter in the case of conflict.

(b) A general-purpose committee that is established by a political party's county executive committee is subject to Subchapter H of this chapter (relating to Rules Applicable to a Political Party's County Executive Committee). Subchapter H of this chapter prevails over this subchapter in the case of conflict.

1 (c) A general-purpose committee that supports or opposes a candidate for state chair of a political  
2 party is subject to Subchapter I of this chapter (relating to Reports by a Candidate or a  
3 Committee Supporting or Opposing a Candidate for State or County Party Chair). Subchapter I of  
4 this chapter prevails over this subchapter in the case of conflict.

5 **Subchapter F. RULES APPLICABLE TO A PRINCIPAL POLITICAL COMMITTEE OF**  
6 **A POLITICAL PARTY**

7 **§20.503. Exceptions from Certain Notice Requirements.**

8 (a) The principal political committee for a political party in the state or in a county is exempted  
9 from complying with §20.319 of this chapter (relating to Notice to Candidate or Officeholder).

10 (b) The principal political committee for a political party in the state or in a county is not required  
11 to report a direct campaign expenditure that it makes on behalf of a slate of two or more  
12 nominees of the party.

13 **Subchapter G. RULES APPLICABLE TO A POLITICAL PARTY ACCEPTING**  
14 **CONTRIBUTIONS FROM CORPORATIONS AND/OR LABOR ORGANIZATIONS**

15 **§20.523. Separate Account Required.**

16 (a) Interest and other income earned from contributions authorized by Chapter 253, Subchapter D  
17 of the Election Code must be maintained in an account separate from other contributions  
18 accepted by a political party.

19 (b) Proceeds from the sale or rent of assets purchased either with contributions authorized by  
20 Chapter 253, Subchapter D of the Election Code or with interest or other income earned from  
21 such contributions must be maintained in an account separate from other contributions accepted  
22 by a political party.

23 **§20.527. Form of Report.**

24 (a) The report required by this subchapter is separate from any other report a political party is  
25 required to file under this title.

26 (b) The report is filed by the chair of the state party or county executive committee, as applicable,  
27 and not by the treasurer of a general-purpose committee. Contributions and expenditures required  
28 to be reported under this subchapter should not be included on a report filed in accordance with  
29 Subchapter E of this chapter (relating to Reports by a General-Purpose or Specific-Purpose  
30 Committee).

31 (c) Except as provided by §254.036(c) of the Election Code, each report filed with the  
32 Commission under this subchapter and Chapter 257 of the Election Code must be filed by  
33 electronic transfer, using computer software provided by the Commission or computer software  
34 that meets Commission specifications for a standard file format.

**§20.529. Reporting Schedule for Political Party Accepting Corporate and/or Labor Organization Contributions.**

A political party that has accepted a contribution from a corporation and/or labor organization shall file the following reports until the political party is no longer accepting corporate and/or labor organization contributions and the acceptance and expenditure of all such funds has been reported.

(1) A report shall be filed not earlier than July 1 and not later than July 15, covering the period that begins on either January 1 or the day after the last day included in a primary election report filed under paragraph (3) of this section, as applicable, and ends on June 30.

(2) A report shall be filed not earlier than January 1 and not later than January 15, covering the period that begins on either July 1 or the day after the last day included in a general election report filed under paragraph (4) of this section, as applicable, and ends on December 31.

(3) A report shall be filed for each primary election held by the political party. The report shall be filed not later than the eighth day before the primary election, covering the period that begins on January 1 and ends on the 10th day before the primary election.

(4) A report shall be filed for the general election for state and county officers. The report shall be filed not later than the 50th day before the general election, covering the period that begins on July 1 and ends on the 61st day before the general election for state and county officers.

**Subchapter H. RULES APPLICABLE TO A POLITICAL PARTY'S COUNTY EXECUTIVE COMMITTEE**

**§20.555. County Executive Committee Accepting Contributions or Making Expenditures That Exceed Certain Amount.**

(a) A county executive committee described by subsection (b) of this section is subject to the requirements of Subchapter E of this chapter (relating to Reports by a General-Purpose or Specific-Purpose Committee), except where those rules conflict with this subchapter. In the case of conflict, this subchapter prevails over Subchapter E of this chapter.

(b) A county executive committee that accepts political contributions or that makes political expenditures that, in the aggregate, exceeds the threshold in a calendar year shall file:

(1) a campaign treasurer appointment with the Commission no later than the 15th day after the date that amount is exceeded; and

(2) the reports required by Subchapter E of this chapter. The first report filed must include all political contributions accepted and all political expenditures made before the county executive committee filed its campaign treasurer appointment.

(c) Contributions accepted from corporations and/or labor organizations under §253.104 of the Election Code and reported under Subchapter G of this chapter (relating to Rules Applicable to a

1 Political Party Accepting Contributions From Corporations and/or Labor Organizations) do not  
2 count against the thresholds described in subsection (b) of this section.

3 (d) A county executive committee that filed a campaign treasurer appointment may file a final  
4 report, which will notify the Commission that the county executive committee does not intend to  
5 file future reports unless it exceeds one of the thresholds. The final report may be filed:

6 (1) beginning on January 1 and by the January 15 filing deadline if the committee has  
7 exceeded one of the thresholds in the previous calendar year; or

8 (2) at any time if the committee has not exceeded one of the thresholds in the calendar  
9 year.

10 **§20.557. Exceptions from Certain Restrictions.**

11 A county executive committee is excepted from complying with §253.031(b)-(c) of the Election  
12 Code).

13 **§20.559. Exception from Notice Requirement.**

14 A county executive committee that accepts political contributions for or makes political  
15 expenditures on behalf of a candidate or officeholder is exempted from complying with §20.319  
16 of this chapter (relating to Notice to Candidate or Officeholder).

17 **§20.561. County Executive Committee Accepting Contributions from Corporations and/or**  
18 **Labor Organizations.**

19 (a) A county executive committee that accepts contributions from corporations and/or labor  
20 organizations authorized by §253.104 of the Election Code is subject to the provisions set out in  
21 Subchapter G of this chapter (relating to Rules Applicable to a Political Party Accepting  
22 Contributions from Corporations and/or Labor Organizations).

23 (b) The chair of a county executive committee that accepts contributions from a corporation  
24 and/or labor organization must file the report required by §257.003 of the Election Code  
25 (regarding a county executive committee reporting contributions from corporations and/or labor  
26 organizations).

27 **Subchapter I. REPORTS BY A CANDIDATE OR A COMMITTEE SUPPORTING OR**  
28 **OPPOSING A CANDIDATE FOR STATE OR COUNTY PARTY CHAIR**

29 **§20.571. Definitions.**

30 The following terms, when used in this subchapter, shall have the following meaning, unless the  
31 context clearly indicates otherwise:

32 (1) Candidate for state chair of a political party--A person who seeks election to serve as the chair  
33 of the state executive committee of a political party with a nominee on the ballot in the most  
34 recent gubernatorial general election. Candidacy may be evidenced by any one or more of the  
35 following actions:

36 (A) declaring candidacy;

1       (B) soliciting or accepting a campaign contribution or making or authorizing a campaign  
2       expenditure; or

3       (C) appointing a campaign treasurer as a candidate for state chair.

4       (2) Filer--Candidate for state or county chair, or a committee supporting or opposing a candidate  
5       for state or county chair.

6       **§20.577. Reporting Schedule for a Candidate for State Chair.**

7       (a) A filer is required to file only the reports listed in this section and is not required to file any  
8       other reports required by candidates for public office under Subchapter C of this chapter (relating  
9       to Reporting Requirements).

10      (b) A filer is required to file semiannual reports as provided by this subsection.

11           (1) One semiannual report is due no earlier than July 1 and no later than July 15.

12                   (A) The period covered by a report under this paragraph begins on the later of the  
13                   following dates, as applicable:

14                           (i) January 1;

15                           (ii) the first day after the period covered by the last report required by this  
16                           subchapter; or

17                           (iii) the day the state chair's campaign treasurer appointment was filed, if  
18                           this is the first report filed under this subchapter.

19                   (B) The period covered by the report under this paragraph ends on June 30.

20      (2) One semiannual report is due no earlier than January 1 and no later than January 15.

21                   (A) The period covered by a report under this paragraph begins on the later of the  
22                   following dates, as applicable:

23                           (i) July 1;

24                           (ii) the first day after the period covered by the last report required by this  
25                           subchapter; or

26                           (iii) the day the state chair's campaign treasurer appointment was filed, if  
27                           this is the first report filed under this subchapter.

28                   (B) The period covered by the report under this paragraph ends on December 31.

29      (3) One pre-election report not earlier than the 39th day before the convening of the state  
30      convention and not later than the 30th day before the convening of the state convention.  
31      The report shall cover the period that begins on either the day the filer filed a campaign  
32      treasurer appointment with the Commission or the first day after the period covered by the  
33      last report required to be filed, as applicable, and ends on the 40th day before the  
34      convening.

1       (4) One pre-election report not earlier than the ninth day before the convening of the state  
2       convention and not later than the eighth day before the convening of the state convention.  
3       The report must cover the period that begins on either the day after the filer filed a  
4       campaign treasurer appointment with the Commission or the first day after the period  
5       covered by the last report required to be filed, as applicable, and ends on the 10th day  
6       before the convening.

7       (d) A candidate for state chair of a political party who expects no further reportable activity in  
8       connection with his or her candidacy may file a final report at any time in accordance with  
9       §254.125 of the Election Code.

10      (e) A former candidate for state chair of a political party who retains unexpended political  
11      contributions, unexpended interest or other income from political contributions, or assets  
12      purchased with political contributions at the time of filing a final report is subject to the  
13      requirements of §254.065 of the Election Code.

14      (f) Except as provided by §254.036(c), Election Code, each report filed with the Commission  
15      under this section must be filed by electronic transfer, using computer software provided by the  
16      Commission or computer software that meets Commission specifications for a standard file  
17      format.

18      **§20.579. Candidates and Committees Supporting or Opposing Candidates for County**  
19      **Chair in Certain Counties.**

20      (a) In addition to the semiannual reports due to be filed with the Commission by January 15 and  
21      July 15 under §20.577(b) of this chapter (relating to Reporting Schedule for a Candidate for State  
22      Chair), a candidate for county chair covered by this section who has an opponent on the ballot in  
23      an election, or a committee supporting or opposing a candidate for county chair, shall file the  
24      following two reports with the Commission for each primary election except as provided by  
25      subsection (d).

26              (1) The first report shall be filed not later than the 30th day before primary election day.  
27              The report covers the period beginning the day the candidate's campaign treasurer  
28              appointment is filed or the first day after the period covered by the last report required to  
29              be filed under this subchapter, as applicable, and continuing through the 40th day before  
30              primary election day.

31              (2) The second report shall be filed not later than the eighth day before election day. The  
32              report covers the period beginning the 39th day before primary election day and  
33              continuing through the 10th day before primary election day.

34      (b) A candidate who has declared the intention to file reports in accordance with §20.205 of this  
35      chapter (relating to Modified Reporting) and who remains eligible to file under the modified  
36      schedule is not required to file special pre-election reports.

37      (c) In addition to other required reports, a filer covered by this section who is in a runoff election  
38      shall file one report with the Commission for the runoff election. The runoff election report shall  
39      be filed not later than the eighth day before runoff election day. The report covers the period  
40      beginning the ninth day before primary election day and continuing through the tenth day before  
41      runoff election day.

(d) Except as provided by §254.036(c) of the Election Code, each report filed with the Commission under this section must be filed by electronic transfer, using computer software provided by the Commission or computer software that meets Commission specifications for a standard file format.

## **Subchapter J. REPORTS BY A LEGISLATIVE CAUCUS**

### **§20.601. Reporting Obligations Imposed on Caucus Chair.**

(a) The caucus chair may designate a party responsible for filing reports required under §254.0311 of the Election Code.

### **§20.602. Reporting Schedule for a Legislative Caucus.**

(a) A legislative caucus is required to file only the reports listed in this section.

(b) A caucus is required to file semiannual reports as provided by this subsection.

(1) One semiannual report is due no earlier than July 1 and no later than July 15.

(A) The period covered by a report under this paragraph begins on the later of the following dates, as applicable:

(i) January 1;

(ii) the first day after the period covered by the last report required by this subchapter; or

(iii) the day the state chair's campaign treasurer appointment was filed, if this is the first report filed under this subchapter.

(B) The period covered by the report under this paragraph ends on June 30.

(2) One semiannual report is due no earlier than January 1 and no later than January 15.

(A) The period covered by a report under this paragraph begins on the later of the following dates, as applicable:

(i) July 1;

(ii) the first day after the period covered by the last report required by this subchapter; or

(iii) the day the state chair's campaign treasurer appointment was filed, if this is the first report filed under this subchapter.

(B) The period covered by the report under this paragraph ends on December 31.

(c) A caucus chair for a legislative caucus who expects no further reportable activity, may terminate the caucus at any time by:

1           (1) sending written notice to the Commission that the caucus is terminating; and

2           (2) filing a final report in accordance with §254.125 of the Election Code.

3   (d) Except as provided by §254.036(c), Election Code, each report filed with the Commission  
4   under this section must be filed by electronic transfer, using computer software provided by the  
5   Commission or computer software that meets Commission specifications for a standard file  
6   format.



1                   **Chapter 18. GENERAL RULES CONCERNING REPORTS.**

2   **§18.10. Guidelines for Substantial Compliance for a Corrected/Amended 8-day Pre-election**  
3   **Report.**

4   (a) A corrected/amended 8-day pre-election report substantially complies with the applicable law  
5   and will not be assessed a late fine under §18.9 of this title (relating to Corrected/Amended  
6   Reports) if:

7           (1) The original report was filed in good faith and the corrected/amended report was  
8           filed not later than the 14th business day after the date the filer learned of the errors or  
9           omissions; and

10          (2) The only corrections/amendments needed were to correct the following types of  
11          errors or omissions:

12               (A) a technical, clerical, or de minimis error, including a typographical error,  
13               that is not misleading and does not substantially affect disclosure;

14               (B) an error in or omission of information that is solely required for the  
15               commission's administrative purposes, including a report type or filer  
16               identification number;

17               (C) an error that is minor in context and that, upon correction/amendment,  
18               does not result in changed monetary amounts or activity disclosed, including a  
19               descriptive change or a change to the period covered by the report;

20               (D) one or more errors in disclosing contributions that, in total:

21                       (i) do not exceed \$7,500; or

22                       (ii) do not exceed the lesser of 10% of the total contributions on the  
23                       corrected/amended report or \$20,000;

24               (E) one or more errors in disclosing expenditures that, in total:

25                       (i) do not exceed \$7,500; or

26                       (ii) do not exceed the lesser of 10% of the total expenditures on the  
27                       corrected/amended report or \$20,000;

28               (F) one or more errors in disclosing loans that, in total:

29                       (i) do not exceed \$7,500; or

30                       (ii) do not exceed the lesser of 10% of the amount originally disclosed  
31                       or \$20,000; or

32               (G) an error in the amount of total contributions maintained that:

1 (i) does not exceed \$7,500; or

2 (ii) does not exceed the lesser of 10% of the amount originally  
3 disclosed or \$20,000.

4 (H) The only correction/amendment by a candidate or officeholder was to add  
5 to or delete from the outstanding loans total an amount of loans made from  
6 personal funds;

7 (I) The only correction/amendment by a political committee was to add the  
8 name of each candidate supported or opposed by the committee, when each  
9 name was originally disclosed on the appropriate schedule for disclosing  
10 political expenditures;

11 (J) The only correction/amendment was to disclose the actual amount of a  
12 contribution or expenditure, when:

13 (i) the amount originally disclosed was an overestimation;

14 (ii) the difference between the originally disclosed amount and the  
15 actual amount did not vary by more than *the greater of \$7,500 or 10%*;  
16 and

17 (iii) the original report clearly included an explanation of the estimated  
18 amount disclosed and the filer's intention to file a  
19 correction/amendment as soon as the actual amount was known; or

20 (K) The only correction/amendment was to delete a duplicate entry.

21 (b) If a corrected/amended 8-day pre-election report does not meet the substantial complies criteria  
22 under subsection (a) the executive director shall determine whether there is reason to believe the  
23 report was originally filed in bad-faith, with the purpose of evading disclosure, or otherwise  
24 substantially defeated the purpose of disclosure and therefore was filed as of the date of correction.

25 (c) A filer may seek a waiver or reduction of a civil penalty assessed under this subsection as  
26 provided for by this chapter.

27 (d) In this section, "8-day pre-election report" means a report due eight days before an election  
28 filed in accordance with the requirements of [~~§20.213(d), 20.325(e), or 20.425(d) of this title~~  
29 ~~(relating to a candidate, a specific-purpose committee, or a general-purpose committee,~~  
30 ~~respectively) and~~ §254.064(c), 254.124(c), or 254.154(c) of the Election Code (relating to a  
31 candidate, a specific-purpose committee, or a general-purpose committee, respectively).

1

2

## Text of Proposed New Rule

3 The proposed new language is indicated by underlined text.

4 The deleted language is indicated by [~~striketrough~~] text.

5

### **CHAPTER 50. Legislative Salaries, ~~and ]Per Diem,~~ and Equitable Pension Adjustments.**

6

#### **§ 50.3 Equitable Adjustments to Pensions.**

8 (a)

This section applies to equitable adjustments to the dollar amount on which  
standard service annuity is based under Subsection (a) of Section 814.103 of the  
Government Code.

10

11 (b)

The commission shall consider an equitable increase in the dollar amount on  
which the standard annuity is based beginning August 31, 2030, and every fifth  
anniversary of that date and increase the dollar amount as the commission  
considers appropriate.

14

15 (c)

When making an equitable adjustment, the commission shall consider any increase  
in compensation for elected officials and officers for salaries included in the  
General Appropriations Act.

16

18 (d)

The adjustment shall not exceed the greater of the cumulative inflation rate from  
the last adjustment as measured by the Consumer Price Index for Urban Wage  
Earners and Clerical Workers or another similar index, or the average percent  
increase in compensation for elected officials and officers for salaries included in  
the General Appropriations Act.

22

**ETHICS ADVISORY OPINION NO. xxx**

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*[Date]*

**ISSUE**

*Whether members of the State Employee Charitable Campaign Policy Committee are appointed officers required to file a Personal Financial Statement? (AOR-731)*

**SUMMARY**

The State Employee Charitable Campaign Policy Committee is a voluntary committee comprised of state employees who do not exercise authority and do not have discretion to exercise government functions and are not required to file a Personal Financial Statement.

**FACTS**

The requestor is a former member of the State Policy Committee for the State Employee Charitable Campaign (SECC).

The SECC, created by statute, is the state’s voluntary workplace giving campaign that provides state employees the option to donate to eligible charities through the convenience of payroll deductions. *See generally*, Subchapter I, Chapter 659, Tex. Gov’t Code; Bill Analysis, SB 214 83<sup>rd</sup> R.S. (2013) (describing the organization and functions of the SECC).

The SECC has disbursed \$214 million to various charities since its inception in 1993, including over \$2 million in the first campaign. *About SECC*, SECCTEXAS.ORG, <https://www.secctexas.org/about-secc> (last visited November 3, 2025).

2025). The State Employee Campaign Policy Committee is a nine-member committee appointed by the Governor, Lt. Governor, and the Comptroller, that, among other things:

- Oversees the state employee charitable campaign to ensure that all campaign activities are conducted fairly and that donations are appropriately distributed by a charitable organization that receives money from the campaign;
- Selects and enters into a contract with a “campaign manager” for the administration of the campaign;
- Develops with the campaign manager an annual campaign plan and budget; and
- Establishes the organization and structure of the charitable campaign.

## **STAFF DRAFT. NOT FINAL UNLESS ADOPTED BY THE COMMISSION.**

Tex. Gov't Code § 659.140. The nine members must be current or retired state employees. *Id.*

The Sunset Advisory Commission described the SECC as “an oddity in state government” that “looks somewhat like a state agency in that it has a policy board and performs administrative functions; however, most administrative activity is performed by a private vendor, which must be a charitable organization. And while SECC receives no appropriations, it could not function without a wide array of state employee volunteers, most of whom provide their services while on state-paid time.” Sunset Advisory Commission, *Final Report with Legislative Action, State Employee Charitable Campaign*, July 2013 at 1.

In a previous survey of state agencies, the TEC concluded that officers of the SECC were not required to file a Personal Financial Statement (PFS).

After the issuance of Texas Attorney General Opinion KP-0466 and Ethics Advisory Opinion 615, the TEC reevaluated many of the state agencies whose members had not previously been required to file a PFS. During the review of SECC, the TEC determined that its prior finding that SECC directors were not “appointed officers” was incorrect and notified the SECC that its officers would be required to file a PFS on a go-forward basis.

At the September 17, 2025, Texas Ethics Commission meeting, members of the Texas Comptroller’s executive staff urged TEC to reconsider this new determination, as the SECC State Policy Committee members do not exercise authority.

### **ANALYSIS**

An “appointed officer” of a “state agency” in the executive branch of government must file a PFS with the TEC. Tex. Gov’t Code § 572.021, .002(1) (defining “appointed officer”); .002(10) (defining “state agency”); .002(12) (defining “state officer”). Whether the requestor is required to file a PFS will therefore turn on whether the SECC is a state agency and whether the requestor is an appointed officer of that agency.

The SECC is not an executive branch state agency.

During its last review of the SECC, the Sunset Advisory Committee noted the SECC’s odd structure defied easy categorization because it contains some—but not all—of the hallmarks of a state agency. Ultimately, Sunset stated the SECC “is not a state agency, receives no state appropriation, and has no dedicated staff.” Sunset Advisory Commission, *Final Report with Legislative Action, State Employee Charitable Campaign*, July 2013 at 1, p. 4a. We concur.

For purposes of Chapter 572, a state agency is:

- a “department, commission, board, office, or other agency that:
  - (i) is in the executive branch of state government;
  - (ii) has authority that is not limited to a geographical portion of the state;
  - and
  - (iii) was created by the Texas Constitution or a statute of this state;

**STAFF DRAFT. NOT FINAL UNLESS ADOPTED BY THE COMMISSION.**

Tex. Gov't Code § 572.002(10)(A).

The SECC easily ticks two of the three boxes because it was created by statute and is administratively attached to the Comptroller's Office in the executive branch. Tex. Gov't Code §§ 659.140(e)(9), (e-1), .263.

However, even though the SECC's jurisdiction is not limited to a geographical portion of the state, the SECC does not exercise governmental authority.

To be a state agency the SECC must wield actual state authority. *See* Tex. Ethics Op. No. 26 (1992) (citing Atty' Gen. Op. No. H-409 (1974)). Examples of state authority include providing services, distributing state funds, implementing policy, and engaging in adjudication or rulemaking. *Id.*

Crucially, the SECC provides the structure for the distribution of state employees' *voluntary contributions* to charities—not the distribution of state funds. The SECC collects personal funds provided by state employees and provides the money to the charity that was chosen by the employee. The SECC has no discretion to distribute funds anywhere other than where the employee selected. Moreover, the list of eligible charities is selected based on the charity applying and meeting objective qualification criteria. The SECC committee has no discretion outside the objective criteria to determine a charity's eligibility to participate in the program. Nor does the SECC exercise rulemaking or adjudicative authority.

Without authority and discretion to distribute the donations earmarked by state employees, the SECC is not a state agency and its State Policy Committee members are not officers. *See* Tex. Att'y Gen. Op. No. O-0384 ("only those are officers who are authorized by statute to perform government functions in their own right involving the exercise of discretion"). Because the SECC State Policy Committee members do not exercise government functions, they are not considered state officers and are not required to file a PFS.

**ETHICS ADVISORY OPINION NO. xxx**

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*[Date]*

**ISSUE**

*Whether a current State Board of Education (SBOE) member can provide continuing professional development to educators in return for compensation during their SBOE service. (AOR-734)*

**SUMMARY**

Public servants may accept an honorarium for performing services if the public servant's official status was not a deciding factor in the decision to request the public servant to perform those services.

**FACTS**

Requestors are two members of the SBOE who wish to receive compensation for providing Continuing Professional Development to educators while serving on the SBOE.

**ANALYSIS**

The requestor asks if the standards of conduct laid out in Section 572.051(a)(2)-(3) of the Texas Government Code would apply in this situation.

A state officer or employee should not:

(2) accept other employment or engage in a business or professional activity that the officer or employee might reasonably expect would require or induce the officer or employee to disclose confidential information acquired by reason of the official position;  
[or]

(3) accept other employment or compensation that could reasonably be expected to impair the officer's or employee's independence of judgement in the performance of the officer's or employee's official duties.

Texas Gov't Code § 572.051(a)(2)-(3).

The requestor states that the SBOE infrequently enters executive session or handles confidential information that could apply to subsection (a)(2) but requested clarification regarding the application of subsection (a)(3) to SBOE members.

We have previously found potential for impairment of independence or judgement of a state officer for: 1) accepting subscription fees for a website which compiles information about trainings regulated by the agency at issue; 2) a member of a licensing board offering courses in a private

**STAFF DRAFT. NOT FINAL UNLESS ADOPTED BY THE COMMISSION.**

capacity for board licensees; and 3) testifying as an expert witness on whether a person had committed a violation of laws, rules, or standards within the jurisdiction of the state agency the officer worked for. Tex. Ethics Comm'n Op. Nos. 534 (2016), 318 (1996), 492 (2010). The listed activities were found to "intertwine the private interest of the board member in promoting his professional expertise with the [regulatory] interests" of the agency they worked for. Tex. Ethics Comm'n Op. No. 318 (1996).

The SBOE adopts rules, curriculum, and guidelines for public education. *See* Tex. Educ. Code § 7.102. The State Board for Educator Certification handles educator licensing. *See id.* § 21.041. There are no facts in the request to suggest the people offering compensation to the requestors have any interests before the SBOE. Therefore, Texas Government Code Section 572.051(a)(3) would not prohibit members of the SBOE from performing continuing education services.

However, in addition to the provisions of chapter 572 of the Government Code, certain Penal Code provisions are relevant to this opinion request.

A public servant commits an offense if the public servant solicits, accepts, or agrees to accept an honorarium in consideration for services that the public servant would not have been requested to provide but for the public servant's official position or duties.

Penal Code § 36.07(a).<sup>1</sup> "Thus, an honorarium is permissible as long as the public servant's official status was not a deciding factor in the decision to request the public servant to perform the services at issue." Tex. Ethics Comm'n Op. No. 305 (1996).

The Texas Ethics Commission cannot adjudicate disputed facts in an Advisory Opinion. 1. Tex. Admin. Code § 8.3(d). Therefore, the requestors will have to ask themselves: Am I being asked to provide Continuing Professional Development because of my knowledge or skills or because of my position?

We acknowledge that it is difficult to untangle those two things, especially as they hinge on the motivation of a third party. In a previous Advisory Opinion, it was suggested that a way to analyze whether the acceptance of an honorarium was acceptable was to ask: "Would my services be useful or desirable if I did not hold a position with the government?" "What do they want from me?" "What do they want from my board or agency?" *See* Tex. Ethics Comm'n Op. No. 305 (1996). It is also important to be cognizant of whether someone is seeking or is likely to seek some official action from the public servant or the public servant's governmental entity in order to guard against the appearance of quid-pro-quo corruption.

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<sup>1</sup> Previous opinions have determined that payments for speaking and teaching are included in the term "honorarium." Tex. Ethics Comm'n Op. Nos. 173, 148, 125 (1993), 17 (1992).



ETHICS ADVISORY OPINION NO. xxx

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[Date]

ISSUE

*Whether the TEC has authority to assess a civil penalty for a late personal financial statement (“PFS”) filed by a director of the Harris County-Houston Sports Authority (“HCHSA” or “the board”). (AOR-735)*

SUMMARY

An HCHSA director must file a PFS with the Texas Ethics Commission and is subject to a civil penalty imposed by the TEC for an untimely filed PFS as if the director were a state officer.

FACTS

The requestor was appointed to the board of directors of HCHSA in 2024.

Under the Local Government Code, a director of HCHSA is required to file a PFS with the TEC and HCHSA. Tex. Local Gov’t Code § 335.1085(a).

The requestor was notified by HCHSA staff of the filing requirement on April 30, 2025, and did not file a PFS with the TEC.

The TEC sent the requestor notice of a late report, informing the requestor of the \$500 penalty for failure to file. The requestor contested the civil penalty and submitted this advisory opinion request to resolve the question of whether an HCHSA director, although required to file a PFS with the TEC, is nevertheless not subject to a civil penalty for failing to file it.

ANALYSIS

The TEC is required to determine if an individual required to file a PFS “under” Subchapter B of Chapter 572 of the Texas Government Code failed to file the PFS on time, and if so, assess a \$500 civil penalty. Tex. Gov’t Code § 572.033 (“The commission shall determine from any available evidence whether a statement *required to be filed under this subchapter* is late.”) (emphasis added).

Directors of HCHSA are required to file a PFS with *both* the board and the TEC. Tex. Local Gov’t Code § 335.1085(a). The director’s requirement to file a PFS comes from the Local Government Code, rather than Subchapter B of Chapter 572. *Id.* The TEC’s sanctioning authority is limited to a PFS filed under Subchapter B. Tex. Gov’t Code § 572.033. However, the Local Government Code

## STAFF DRAFT. NOT FINAL UNLESS ADOPTED BY THE COMMISSION.

applies the whole of Subchapter B—which includes a TEC-imposed sanction—to an HCHSA director “as if the director were a state officer.” *Id.*<sup>1</sup>

The text of the Local Government Code plainly states that the whole of Subchapter B applies to an HCHSA director. Since all of Subchapter B applies to a HCHSA director, and Subchapter B requires the TEC to assess a civil penalty if a PFS is filed late, it follows that an HCHSA director is assessed a civil penalty if the director files a PFS with the TEC late.

The HCHSA is not the only political subdivision to which the Legislature imposed PFS duties outside of Subchapter B. *See, e.g.*, Tex. Transportation Code § 370.2521 (directors of regional mobility authorities); Tex. Spec. Dist. Local Laws Code § 7201.056 (Agua Special Utility District); Tex. Ins. Code § 463.057 (Texas Life and Health Insurance Guaranty Association). In some, but not all occasions, the Legislature applies all of Subchapter B to the filer as if the filer were a state officer.

For instance, commissioners of the Port of Corpus Christi Authority of Nueces Country are required to file a PFS with the TEC but are not subject to late filing civil penalties assessed by the TEC. Rather than applying all of Subchapter B to the port commissioners, the Legislature imposed the following obligation: “. . . a port commissioner shall file with the Texas Ethics Commission a financial statement that complies with Sections 572.022-572.024, Government Code.” Tex. Spec. Dist. Local Laws Code § 5016.0053.

The port commissioners are not subject to the late filing civil penalty found in Section 572.033 because the Legislature chose not to apply that section to them by specific reference or by applying all of Subchapter B. Consequently, the port commissions are not issued a civil penalty for late reports by the TEC. But the commissioners also miss out on some of the benefits afforded to reports filed under Subchapter B, such as having certain personal information redacted before public inspection and the ability to receive an extension to file. 2021 Tex. Ag. Ltr. Rul. LEXIS 19520.

The same is true of Texas Life and Health Insurance Guaranty Association board members who must “file with the Texas Ethics Commission a financial statement as provided by Subchapter B, Chapter 572, Government Code.” Tex. Ins. Code § 463.057. The Insurance Code does not apply all Subchapter B to the board members as if they were a state officer. Instead, the law simply requires

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<sup>1</sup> The statute reads in whole:

Sec. 335.1085. FILING OF FINANCIAL STATEMENT BY DIRECTOR.

(a) A director shall file the financial statement required of state officers under Subchapter B, Chapter 572, Government Code, with:

(1) the board; and  
(2) the Texas Ethics Commission.

(b) Subchapter B, Chapter 572, Government Code:

(1) applies to a director as if the director were a state officer; and  
(2) governs the contents, timeliness of filing, and public inspection of a statement filed under this section.

(c) A director commits an offense if the director fails to file the statement required by this section. An offense under this section is a Class B misdemeanor.

**STAFF DRAFT. NOT FINAL UNLESS ADOPTED BY THE COMMISSION.**

that they *file* as provided by Subchapter B. Such a statute does not import the sanctioning authority of Section 572.033.

Unlike the port commissioners or Life Insurance Guaranty Association members, the Legislature applied all of Subchapter B to HCHSA members as if they were state officers. State officers are subject to a late filing penalty under Subchapter B. As such, a HCHSA member is required to file a PFS with the TEC and is subject a civil penalty to late filing “as if the director were a state officer.”<sup>2</sup>

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<sup>2</sup> Regardless of the TEC’s ability to assess a fine for failure to file, the requestor is still required to file a PFS with the TEC by April 30 of each year. Tex. Local Gov’t Code § 335.1085(a)(2). As the requestor was appointed in 2024, he was required to file a PFS with the TEC on April 30, 2025. In addition, as the requestor did not resign until after January 1, 2025, he is also required to file a PFS with the TEC on April 30, 2026. *See* 1 Tex. Admin. Code § 40.3. The civil penalty “is cumulative of any other available sanction for a late filing of a sworn statement.” Tex. Gov’t Code § 572.033(c). Failure to file these PFSs is a Class B misdemeanor. Local Gov’t Code § 335.1085(c).

**ETHICS ADVISORY OPINION NO. xxx**

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*[Date]*

**ISSUE**

*Whether an officeholder may use political contributions to pay for the purchase or rental of business or formal attire typically associated with official duties. (AOR-736)*

**SUMMARY**

An officeholder may not use political contributions to buy or rent clothing that is adaptable to ordinary use, including business attire. However, an officeholder may purchase or rent clothing for officeholder activities if: 1) the clothing is of a type appropriate for the performance of duties or activities of the office held, 2) the clothing is not adaptable to general usage as ordinary clothing, and 3) the clothing is not so worn.

**FACTS**

The requestor is a city council member. The requestor asks whether an officeholder may purchase or rent clothing that is acquired solely for official use by an officeholder who lacks such attire due to financial hardship, prior life circumstances, or having left the professional workforce. The clothing would be worn in official meetings, functions, and events.

The requestor asserts that in each case, the attire is not purchased for personal fashion or everyday use, but specifically to meet expectations of decorum, professionalism, and credibility required in their official role. The proposed uses would be “formalwear for ceremonies, business suits for council meetings, or culturally appropriate clothing for representing the office at diverse community events.”

**ANALYSIS**

“Personal use” means “a use that primarily furthers individual or family purposes not connected with the performance of duties or activities as a candidate for or holder of a public officer. This term does not include payments made to defray *ordinary and necessary* expenses incurred in connection with activities as a candidate or in connection with the performance of duties or activities as a public officeholder.” Tex. Elec. Code § 253.035(d)(1) (emphasis added).

The “ordinary and necessary” language mirrors the federal tax code, which generally permits deductions for “ordinary and necessary” business expenses. 26 U.S.C. § 162.

In Ethics Advisory Opinion 104 (1992), the TEC drew on federal tax law to establish a three-part test to determine if an officeholder may use political contributions to pay for clothing expenses:

**STAFF DRAFT. NOT FINAL UNLESS ADOPTED BY THE COMMISSION.**

- 1) the clothing is of a type specifically required as a condition of employment,
- 2) the clothing is not adaptable to general usage as ordinary clothing, and
- 3) the clothing is not so worn.

Tex. Ethics Comm’n Op. No. 104 (1992). The TEC determined that “even if there are rules of the House or Senate establishing a dress code for legislators, the clothes worn by members of the legislature are ordinary clothing that can be worn in places other than the Capitol.” *Id.*

Following EAO 104 and similar rulings interpreting federal tax law, business wear appropriate for a city council meeting is adaptable to ordinary use and therefore cannot be purchased with political funds. *Id.* (citing *Hynes v. Commissioner of Internal Revenue*, 74 TC 1266, 1289-92 (1980) (television newsman not entitled to deductions for his wardrobe); *Kosmal v. Commissioner*, 39 TCM 651, 653 (1979) (district attorney who planned to enter more lucrative private practice and believed future employers would expect him to upgrade his dress could not deduct expensive business suits purchased in anticipation of the career change since the suits were suitable for general wear)).

The TEC later applied the test established in EAO 104 to hold that a legislator may use political contributions to rent a tuxedo for attendance at a charity event if the legislator is attending the event as an activity of a public officeholder. Tex. Ethics Comm’n Op. No. 407 (1998). The TEC reasoned, a tuxedo is unlike a business suit in that is for most people not adaptable to general usage as ordinary clothing. *Id.* That the tuxedo was rented further indicated that the tuxedo would not be worn outside of an officeholder function. *Id.*

The specific question in EAO 407 involved the rental of a tuxedo. However, the same principal would apply to the rental of a formal gown for a legislative gala or other officeholder event. Like a tuxedo, a formal gown is not typically adaptable to ordinary wear. Renting a clothing item for a specific event rather than buying it provides clear indication that it will not be worn as normal clothing.

The answer as to whether “culturally appropriate clothing for representing the office at diverse community events,” depends on whether the clothing is adaptable to general usage. Federal tax law draws a distinction between uniforms which are required for employment and clothes that can be repurposed for personal wear. See [Kosmal v. Commissioner, Docket No. 5637-78, 1979 Tax Ct. Memo LEXIS 34, at \\*9 \(T.C. 1979\)](#) (Business suits were suitable for general or personal wear and therefore not deductible as a business expense); [O. G. Russell v. Commissioner, Docket No. 26963., 1952 Tax Ct. Memo LEXIS 263, at \\*3 \(T.C. 1952\)](#) (Clothes selected by petitioner with his own judgement for his convenience in performing his job not deductible as a business expense).

The requestor also asks what type of documentation or recordkeeping—such as event invitations, calendars of official functions, or statements of intended use—may be sufficient to demonstrate that such clothing is not being converted to personal use.

First, regardless of the documentation indicating the clothing was rented or purchased for an officeholder event, it must not actually be used in a personal capacity. Although written records substantiating that clothing was purchased or rented for an official event is not strictly required,

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contemporaneous records of the nature of the event and that clearly show the nexus to officeholder activity will likely be given more weight than self-serving testimony should an expenditure be questioned. Contemporaneous records could include invitations or flyers, receipts or tickets for the event, and even photographs showing the clothing being worn at the event.

**ETHICS ADVISORY OPINION NO. xxx**

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*[Date]*

**ISSUE**

*Whether a former state employee may accept a job with a company when he participated in a procurement involving that same company during his state service without violating Section 572.069 of the Government Code if he recuses himself from state projects. (AOR-737)*

**SUMMARY**

The requestor may not accept employment from the company at issue before the second anniversary of the date the contract was signed or the procurement is terminated or withdrawn.

**FACTS**

The requestor previously worked for a regulatory agency. While a state employee, the requestor participated in the solicitation process for a vendor. The requestor is now seeking employment with that vendor. The requestor asks if he could immediately begin work with the vendor if he does not participate in any work for the vendor involving his former state agency.

A former state officer or employee of a state agency who during the period of state service or employment participated on behalf of a state agency in a procurement or contract negotiation involving a person may not accept employment from that person before the second anniversary of the date the contract is signed or the procurement is terminated or withdrawn. Tex. Gov't Code § 572.069.

**ANALYSIS**

As the requestor participated in the solicitation process for the vendor, he is barred from accepting employment with that vendor before the second anniversary of the date the contract was signed. Tex. Gov't Code § 572.069.

The requestor asked if his participation with the vendor bars his employment for two years even if he does not work on a matter involving his former state agency or any state agency if employed by the vendor. Section 572.069 is a prophylactic measure that prevents a person from accepting employment for a two-year period after participating in procurement with the potential employer. It applies without exception and regardless of whether the former state employee's proposed work would involve the state agency.

**ETHICS ADVISORY OPINION NO. xxx**

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*[Date]*

**ISSUE**

*Whether a public servant may accept admission to the Microsoft Most Valuable Professionals Program. (AOR-738)*

**SUMMARY**

Public servants may accept an honorarium for performing services if the public servant's official status was not a deciding factor in the decision to request the public servant to perform those services.

**FACTS**

A University of Texas at Arlington (UTA) employee was selected to participate in the Microsoft MVP Program (the Program). According to the letter the employee received, the goal of the Program is to "connect technical community leaders with Microsoft to promote engagement, advocacy, and knowledge sharing on Microsoft Products & Services." The program includes over 60 product licenses and subscriptions intended for testing and learning only, physical goods such as Microsoft branded merchandise, access to events such as the Microsoft MVP Summit, and early access to private preview and product groups. The fair market value of the Program is estimated to be between \$25,000 and \$35,000.

**ANALYSIS**

As an employee of UTA the requestor is a "public servant" as defined in the Penal Code. Tex. Penal Code §1.07(41)(A).

A public servant is generally prohibited from accepting a gift from a person subject to the public servant's jurisdiction. Tex. Penal Code § 36.08. However, the requestor does not exercise discretion in connection with pecuniary transactions or otherwise have power by virtue of her job that makes Microsoft subject to her jurisdiction under § 36.08.

However, there is another Penal Code provision relevant to this request.

A public servant commits an offense if the public servant solicits, accepts, or agrees to accept an honorarium in consideration for services that the public servant would not have been requested to provide but for the public servant's official position or duties.



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Penal Code § 36.07(a). “Thus, an honorarium is permissible as long as the public servant’s official status was not a deciding factor in the decision to request the public servant to perform the services at issue.” Tex. Ethics Comm’n Op. No. 305 (1996).

Microsoft’s website states that the program is an award for “people who have made contributions to their community, ranging from speaking engagements, to social media posts, to writing books, and to helping others in online communities.”

The requestor did not provide specific facts to explain why she was selected for the award by Microsoft. The Texas Ethics Commission cannot adjudicate disputed facts in an Advisory Opinion. 1. Tex. Admin. Code § 8.3(d). Therefore, the requestor will have to determine whether the program is offered because of her knowledge or skills or because of her position.

The requestor should also ensure that acceptance would be permissible under her agency’s policies and other applicable state contracting laws that are outside of TEC’s interpretive jurisdiction.

**ETHICS ADVISORY OPINION NO. xxx**

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*[Date]*

**ISSUE**

*Whether representing a party before the State Office of Administrative Hearings (SOAH) in a contested matter against a state agency of previous employment constitutes an appearance before that state agency for the purposes of Texas Government Code § 572.054(a). (AOR-739)*

**SUMMARY**

A former commissioner may not argue a contested matter referred by the TCEQ to SOAH because the final decision maker in the matter is the TCEQ.

**FACTS**

The requestor is a former commissioner of the Texas Commission on Environmental Quality (TCEQ), who wishes to represent a party before the SOAH on a contested matter referred to SOAH by TCEQ.

TCEQ routinely refers contested matters to SOAH for adjudicative hearings, where employees of the TCEQ typically represent the agency. A SOAH administrative law judge returns a proposal for decision (PFD) to the TCEQ and the TCEQ's commissioners consider the proposal before taking final action. The TCEQ is the ultimate decider in the case and may depart from SOAH's proposal. Additionally, a party may file exceptions to the PFD that it wishes the TCEQ to consider and may file a motion for rehearing asking for the TCEQ to reconsider its ultimate decision.

The requestor stated that any negotiation that would take place prior to the appearance before SOAH would take place between a permit applicant and protestant, they would not involve the TCEQ.

**ANALYSIS**

A former member of the governing body of a regulatory agency may not make any communication to or appearance before an officer or employee of the agency in which the member served before the second anniversary of the date the member ceased to be a member of the governing body if the communication or appearance is made with the intent to influence and on behalf of any person in connection with any matter on which the person seeks official action. Tex. Gov't Code § 572.054(a).

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The requestor contends that by representing a party before SOAH on a matter referred by TCEQ, the attorney is not seeking official action from the TCEQ or attempting to influence the TCEQ with respect to an official action.

TEC has previously found that the revolving door restrictions do not extend to communications or services directed to any agency other than the one with which the former commissioner, executive director, or employee was connected. *See* Tex. Ethics Comm'n Op. Nos. 232 (1994), 246 (1995), and 292 (1995).

However, Section 572.054(a) prohibits communications with intent to influence and on behalf of any person in connection with any matter on which the person seeks official action. Therefore, the requestor would be barred from any communication with an employee of the TCEQ as opposing counsel in a contested matter for two years after the date they ceased to be a commission member.

Given that the TCEQ is the final decider in the contested matter, any argument made at SOAH is fundamentally an attempt to influence the decisions of the TCEQ. In effect, SOAH develops a factual record and makes recommendations for TCEQ regarding findings of facts and conclusions of law. It is up to TCEQ to accept or reject SOAH's conclusions. Parties typically also have an opportunity to influence the referring agency, in this case TCEQ, on what findings of facts and conclusions of law to accept. Therefore, the requestor would be unable to represent a party before SOAH on a matter referred by TCEQ.

Appearing before SOAH on a matter referred by another agency would not violate the revolving door provision, as SOAH is not the agency at issue.