



TXCPA
Texas Society of Certified Public Accountants

CAMPAIGN TREASURER'S HANDBOOK



Provided by the
Texas Society of Certified Public Accountants
14651 Dallas Parkway, Suite 700
Dallas, TX 75254

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INTRODUCTION

The 2022 Campaign Treasurer's Handbook has been prepared by the Texas Society of Certified Public Accountants (TXCPA) as a special service to citizens of Texas who have assumed a special responsibility. Those individuals who seek a public office, serve as a campaign treasurer for a person seeking a public office or serve as campaign treasurer of a specific-purpose committee will find this handbook helpful in executing daily responsibilities.

PREFACE

Candidates for elective public office – through the efforts of their campaign treasurers – must comply with Texas' statutory and regulatory requirements pertaining to campaign financing. The 2022 Campaign Treasurer's Handbook is designed to assist these persons in executing their responsibilities.

Regulations pertaining to terms and responsibilities of various public offices, requirements for running for office, as well as guidelines for conducting all elections are embodied in the Texas Election Code. The financing of campaigns for elective public office is regulated specifically by Title 15 (Sections 251.001 through 259.003) of the Texas Election Code. Throughout the handbook, reference is made to the pertinent sections of Title 15. For your convenience, this is a link to Title 15, beginning on p.182: <https://www.ethics.state.tx.us/data/statutes/title15.pdf>. You may wish to refer to these sections as they are cited.

If you still have unresolved questions, do not hesitate to call the Texas Ethics Commission at 512-463-5800. Address filings and requests for information, blank forms, etc. to: Texas Ethics Commission, P.O. Box 12070, Austin, TX, 78711-2070, 512-463-5800

The electronic filing system and various forms are available from the Commission. Commission information, forms and the electronic filing system can be accessed at: www.ethics.state.tx.us.

The electronic filing system must be used when filing reports with the Commission. The system also allows local candidates and officeholders to use the system to fill out reports and print them for local filing. Some municipalities have developed their own Commission-approved electronic filing systems for candidates and specific-purpose committees filing at the municipal level.

This handbook has incorporated changes made to Title 15 through the 87th Texas Legislature, 3rd Special Session. Therefore, it reflects state campaign finance law as it exists on January 1, 2022. Note that some municipalities, such as the City of Austin, have passed campaign finance ordinances that require certain reporting in addition to what is required by Title 15. Therefore, for municipal elections, you may wish to contact the municipality to determine if it has requirements beyond what is required by Title 15.

The Ethics Commission is required to notify (in a very broad manner) candidates and officeholders who file with the Commission of the deadline for filing certain reports.

This handbook serves as a workable guide. The editorial comments are intended for ease of use. The determinative source of guidance is Title 15 itself. The Texas Society of CPAs (TXCPA) does not assume responsibility for non-adherence thereto. This handbook has been updated and revised by Andrew Cates, author of [Texas Ethics Laws Annotated](#) and owner of Cates Legal Group, PLLC.



Jodi Ann Ray, CAE
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GENERAL COMMENTS

Congratulations! You, as a candidate, incumbent or campaign treasurer, have chosen to serve your fellow citizens in the quest for good government in our state. The importance of your position can be magnified many times by your efforts to make the office a viable servant and tool of the citizens.

The Texas Legislature has shown great wisdom in the passage and subsequent amendment of the *Political Funds Reporting and Disclosure Act of 1975* (now Title 15 of the Texas Election Code - Regulating Political Funds and Campaigns). The purpose of this law is to provide a greater degree of accountability in political campaign financing and reporting. Title 15 establishes a uniform procedure with which all candidates, officeholders and political committees must comply. Responsibility for the operation and interpretation of this law rests with the Texas Ethics Commission (Commission). Responsibility for enforcing its requirements lies with the Commission, local prosecutors and the attorney general.

In 1995, the legislature passed the *Judicial Campaign Fairness Act*, significantly altering campaign finance rules for judicial candidates. We will discuss this act at length later in the handbook.

The reporting authority with which you will file required reports depends on the elective jurisdiction of the office you are seeking. A few examples include the following.

Candidate for:

1. City Office
2. Mayor of City
3. School District Board
4. State Representative
5. State Senator
6. Statewide Office
7. State or Certain County Chairmen of Political Party
8. State Board of Education
9. County Commissioner
10. Sheriff, Constable
11. District Judge
12. Statutory County Judge
13. Statutory County Probate Judge
14. District Attorney

Reporting Authority:

- | | |
|---|---|
| City Secretary | City Secretary |
| City Secretary | School District Board Secretary |
| Texas Ethics Commission | Texas Ethics Commission |
| Texas Ethics Commission | Texas Ethics Commission |
| Texas Ethics Commission | Texas Ethics Commission |
| Texas Ethics Commission | Texas Ethics Commission |
| County Clerk or Elections Administrator | County Clerk or Elections Administrator |
| County Clerk or Elections Administrator | Texas Ethics Commission |
| County Clerk or Elections Administrator | County Clerk or Elections Administrator |
| County Clerk or Elections Administrator (single county) or Texas Ethics Commission (two or more counties) | County Clerk or Elections Administrator |
| County Clerk or Elections Administrator | County Clerk or Elections Administrator |
| County Clerk or Elections Administrator | County Clerk or Elections Administrator |
| County Clerk or Elections Administrator (single county) or Texas Ethics Commission (two or more counties) | County Clerk or Elections Administrator |

If you have any questions regarding the appropriate reporting authority, call the Texas Ethics Commission or refer to Section 252.005 of the Texas Election Code.

ELECTRONIC FILING

State law requires most state candidates, officeholders and specific-purpose committees that support or oppose them to file their reports of contributions and expenditures electronically. The Ethics Commission has developed

an electronic filing system for filing the reports online. The Commission can send notices regarding upcoming filing deadlines by email.

The electronic filing requirement applies to candidates for, and holders of, the following offices:

Governor	Railroad Commissioner
Lieutenant Governor	Legislature
Attorney General	Supreme Court
Comptroller	Court of Criminal Appeals
Commissioner of Agriculture	Court of Appeals
Commissioner of the General Land Office	State Board of Education
District Judges	Multi-county District Attorneys
State and Certain County Party Chairs	

All general-purpose committees and the specific-purpose committees connected to the above offices are also required to file electronically. Entities and individuals making "direct campaign expenditures" (discussed later) must also file electronically with the Commission. All such electronic reports filed by candidates, officeholders and committees must be filed with the Commission by midnight on the last day for filing the report.

Texas Ethics Commission Rules Nos. 18.7(b) and 20.20 specify that the Central Time Zone is the controlling time zone for filing purposes. Specific-purpose committees that support or oppose school district bond measures must file their reports with the Commission (although they will still file the campaign treasurer appointment with the local filing authority). Texas Ethics Commission Rule 20.7(b) (effective May 2016) states that the campaign treasurer of such a committee should also file a copy of the campaign treasurer appointment with the Commission.

Candidates and committees may also have to file reports during the period beginning the ninth day before election day and ending at noon on the day before election day (Special Report Near Election). The report is required to be filed electronically unless the filer can claim an exemption to electronic filing. The deadline for filing the report electronically is midnight of the first business day after a reporting threshold is reached. If an exemption to electronic filing is claimed, the report must be received by the Commission no later than 5 p.m. of the due date. A filer may claim an exemption from electronic filing only if the filer swears in an affidavit (that must accompany each paper report filed) that neither the filer, nor an agent for the filer, nor a person with whom the filer contracts, uses computer equipment to keep current records of political contributions, expenditures or donors; AND the filer does not exceed \$28,800 in political contributions or expenditures in a calendar year.

Access to the Commission's electronic filing system is initiated by filing the "Security" form. The Commission will then send a temporary link to set up your account.

The system may be accessed by local filers and Commission filers, although at this time, local filers cannot use the system to file electronically and will typically need to print a copy for local filing.

The system includes a question-and-answer format that should automatically fill out the proper filing schedules based on your responses and includes "Help" links for each page. Certain information on the "Cover Sheet," such as "Total Political Contributions Maintained" and "Total Principal Amount of Outstanding Loans," must be entered manually by the user. The Commission offers support for those persons who are filing with the Commission.

The electronic filing system may be accessed at the Commission's website, www.ethics.state.tx.us. Related forms and affidavits may also be downloaded from that site. Affidavits for the electronic filing exemption and other forms related to electronic filing are attached.

Also note that the Commission has promulgated new reporting requirements, guidelines and forms since the last update of this manual, which are reflected in both the electronic filing system and the paper forms. These will be discussed in more detail.

TEXAS ETHICS COMMISSION

The Texas Ethics Commission, created by the 72nd Legislature and ratified by a constitutional amendment, came into existence on January 1, 1992. It is an independently funded constitutional body with broad advisory, investigatory and enforcement power over various public ethics laws. The Commission serves several functions, including:

- 1) Resolving complaints alleging violations of the ethics laws and, when appropriate, imposing penalties;
- 2) Serving as a resource for answering questions about the meaning and applicability of the ethics laws; and
- 3) Serving as the official repository for the most significant filers.

The Commission is composed of eight members selected evenly from the two political parties. The Commission has jurisdiction to administer and enforce:

- Chapter 305, Government Code (governing the conduct of lobbyists);
- Chapter 302, Government Code (governing the speaker's race);
- Chapter 303, Government Code (governor for a day and speaker's reunion day);
- Chapter 572, Government Code (regarding personal financial disclosure and standards of conduct for state officers and employees, including the legislature);
- Chapter 2004, Government Code (reporting of representation before state agencies by state officers and employees);
- Section 2152.064 Government Code (Conflicts of Interest in Certain Transactions);
- Section 2155.003 (Conflict of Interest);
- Subchapter C, Chapter 159 Local Government Code (as it pertains to certain statutory county judges who elect to file a personal financial statement with the Commission); and
- Title 15 of the Election Code.

Persons who fail to comply with the provisions of Title 15 are subject to criminal and civil penalties and liabilities. Criminal sanctions range from a Class C misdemeanor to a third-degree felony. Civil penalties and liabilities range upward from a minimum \$500 late-filing penalty and include double and triple damages for unreported or unlawful contribution or expenditure activity. If the offense is filing a frivolous or bad-faith complaint, the fine can reach \$10,000.

Complaints alleging violations of Title 15 may be filed with the Texas Ethics Commission for possible civil sanctions ranging from \$0 to \$5,000 or three times the amount at issue, whichever is greater, per offense. However, the Commission has no authority to prosecute criminal violations of the Election Code.

HB 1690, which was passed by the 84th Legislature and signed into law by the governor, created a public integrity unit within the Texas Rangers and establishes a process for that office to review criminal complaints under a number of statutes, including Title 15. The statutory changes made by that bill provide that the venue for the criminal prosecution of certain persons for alleged violations of "offenses against public administration," such as an allegation that a candidate for state office violated Title 15 of the Election Code, will be the person's county of residence, regardless of where the violation occurred. Complaints alleging criminal violations may be filed with the public integrity unit or with a local prosecutor. The Commission will retain the authority to investigate civil complaints filed with the Commission.

In the following handbook, all statutory references to "Chapter," "Section" or "Title" are to the Texas Election Code, unless otherwise noted.

QUESTIONS AND ANSWERS

Q. I intend to run for office. Am I required to have a campaign treasurer?

A. Yes. All candidates must file a campaign treasurer appointment. Chapter 251 of the Election Code defines "candidate" very broadly. If you take any "affirmative action" toward gaining nomination or election to public office, you are a candidate, even if you have not filed to be on the ballot. For example, a public statement of definite intent to run for office makes you a candidate for purposes of the campaign finance law, as will a private statement of intent to run and the soliciting of support.

Chapter 252 states that as a candidate, you must formally appoint a campaign treasurer. You may designate yourself or someone else as a campaign treasurer. Further, Section 253.031 requires you to file a written appointment of campaign treasurer with the proper reporting authority before you accept any contribution or make any expenditure, even an expenditure from your own funds. There are both civil and criminal penalties for failing to do so.

NOTE: You remain responsible for the proper filing of the reports. The candidate, not the treasurer, must sign the candidate reports of contributions and expenditures.

Q. May I designate an assistant campaign treasurer in addition to my campaign treasurer?

A. No. Title 15 of the Texas Election Code does not provide for the appointment of an assistant campaign treasurer by a candidate. However, Section 252.015 authorizes general-purpose committees and specific-purpose committees that file with the Commission to appoint assistant campaign treasurers.

Q. May I use personal funds to start up my campaign and if so, may I reimburse myself with political funds later?

A. Yes. There are several methods by which a candidate may use personal funds for the campaign and be reimbursed for the use of those funds. A candidate does not have to deposit personal funds in a campaign account. The candidate may simply make an expenditure using personal funds, disclose the expenditure on the report covering the period in which the expenditure is made using the schedule for political expenditures made from personal funds and indicate on that schedule that reimbursement is intended. There is no need to further report the expenditure as a loan. Once properly reported, an expenditure from personal funds may be reimbursed. This method requires the fewest reporting steps.

A candidate may also total the amount of political expenditures made from personal funds during a reporting period, disclose that total on the loan schedule and disclose the actual expenditures as otherwise required by statute.

A candidate or officeholder may also deposit personal funds into an account in which political contributions are held provided that the deposited amount is disclosed as a loan and included in the total amount of political contributions maintained as of the last day of the reporting period. The deposited amount may be reimbursed in

an amount not to exceed the amount reported as a loan and personal funds deposited in an account in which political contributions are held are subject to the personal use restrictions in Section 253.035 of the Election Code.

For any of the above methods, when a reimbursement of personal funds using political contributions is made, that reimbursement must also be disclosed as a political expenditure. A filed report may not be corrected later to indicate an intention to reimburse personal funds from political contributions. Candidates for statewide office and candidates for judicial office are limited as to the amount of political funds they may obtain in reimbursement. (See Sections 253.042, 253.162 and 253.1621.)

Q. Am I required to report loans of money as receipts in my campaign?

A. Yes. Loans and guarantees of loans from individuals and loans from financial institutions are both reported on Schedule E. A loan made in the due course of business by a corporation that is legally engaged in the business of lending money and that has conducted the business continuously for more than one year before the loan is made is not considered to be a contribution for the purpose of certain restrictions but must still be reported.

A loan that does not come from an entity that is engaged in the business of lending money (as stated above), such as a loan from an individual or political committee, is considered to be a political contribution. Refer to Section 253.103 with respect to the legality of loans from incorporated financial institutions. A loan repayment made from political contributions is reported on Schedule F1. Section 254.031(a)(2) details these requirements. A loan that constitutes a political contribution and that is forgiven is reported as an in-kind contribution.

Q. How can I be certain that I am not accepting a check from a business corporation?

A. If a check appears to be drawn on a corporate account, do not hesitate to contact the contributor to inquire about the source of the funds. If the check has been drawn from a corporation's funds, it may not be accepted and must be returned. According to Sections 253.003 and 253.094, it is a violation both for the corporation to knowingly make an unlawful contribution – and for you to knowingly accept it.

NOTE: You also may not accept contributions from nonprofit corporations or labor organizations and certain entities that are deemed incorporated for purposes of the restrictions, such as banks, savings and loans, and title and abstract companies, among others listed in Section 253.093. However, professional corporations (PCs) and professional associations (PAs) are not considered "corporations" for purposes of the corporate restriction, so they may make contributions. Partnerships and other types of business organizations (e.g., LLCs) may make political contributions as long as none of the partners are corporations. However, the tax status of any of the above entities is irrelevant for consideration of corporate status - i.e., an LLC that is taxed as an S corporation is still not considered a corporate entity for the purposes of the Texas Ethics Commission as long as none of the partners/owners are corporations. Any entity that is deemed incorporated as discussed above falls within the restriction. Contact the Corporations Division of the Texas Secretary of State at 512-463-5555 to determine the corporate status of a business entity. Contact the Ethics Commission if you receive a contribution from an unusual business entity.

Q. May I accept contributions from individuals or political committees from outside Texas?

A. Yes. However, federal law does prohibit you from accepting contributions from foreign nationals. You may accept contributions from foreign nationals with "permanent resident" status in the U.S. (Title 2, Section 441e of the U.S. Code). Note: The Federal Election Commission has opined that foreign nationals may contribute to ballot initiatives, but the prohibition on financing of candidate elections remains in place.

Contributions you receive from out-of-state individuals are reported in the same manner as those received from Texas contributors. However, a Texas candidate who accepts a contribution from a non-Texas political committee incurs additional restrictions and reporting requirements regarding the contributing committee. Section 253.032 (and Commission Rules 20.29 and 22.7) contains the specific reporting requirements for contributions from out-of-state committees.

Candidates are prohibited from accepting more than \$940 from an out-of-state committee until the out-of-state committee provides either a copy of its statement of organization (for federal PACs) or a listing of all contributors to the PAC who gave more than \$190 during the preceding 12 months. The candidate must include the documentation with the relevant report in which the contribution is reported.

For contributions that are received from a committee that files with the Federal Election Commission (FEC), the Texas Ethics Commission's electronic filing system will allow you to simply enter the filer's FEC number. If the contributor is one who is required to provide a list of contributors as described above, that information may be uploaded in PDF format using the Commission's electronic filing system or a copy of the information may be mailed or hand delivered to the Commission, as long as that information is filed by the applicable filing deadline. Please refer to the detailed procedures for electronic filers to communicate this information that is included in the Commission's electronic filing system.

Q. What is the appropriate name to report for a contributor?

A. The law requires that the full name of a contributor be disclosed. However, due to a change in the law, it is no longer a valid basis of a complaint to allege that a campaign finance report contains the improper name or address of a contributor if the name or address in the report is the same as the name or address that appears on a check for a contribution. The Commission must dismiss a complaint to the extent that the complaint makes such an allegation. It is advisable to make a copy of all contribution checks. Additionally, Section 254.031(1-a) was added in 2019 to require the full name, address and date of every contribution accepted electronically, no matter how small the amount.

Q. How can I be certain that all contributions and expenditures are reported?

A. A formal accounting procedure should be established that facilitates the capture of all information required to be reported concerning each contribution and expenditure. Sections 254.001 and 254.031 call for procedures that provide an accurate accounting of all financial actions. Adopting and implementing good accounting practices is important, since incorrect reports filed with the Ethics Commission are considered late and substantial late-filing penalties are possible (up to \$500/day, not to exceed \$10,000). The law provides that a report is not considered late for purposes of a civil penalty if the filer submits a good faith affidavit and a corrected report within 14 days of discovering the error or omission. (Also see "Correcting Semi-annual Reports" below.)

Corrected reports that cover time periods very near an election are subject to additional scrutiny and, in addition to filing a correction and an affidavit, must be found by the Commission to have been substantially correct in the first place to avoid a filing penalty. (See Government Code, Section 571.0771). It goes without saying that the best course is diligence with recordkeeping and accounting practices to make filing compliance error free and routine.

It is also important to note Commission Rule 20.18 (Recordkeeping Required). The rule reiterates the need to keep proper records and details certain recordkeeping "safe harbors."

Q. How do I report staff reimbursements?

A. If a staff member uses personal funds to make expenditures for a candidate or committee with the intent to seek reimbursement and those expenditures do not exceed \$6,450 during a reporting period and are reimbursed during the same period, the candidate or committee will report the expenditure as if the expenditure was made directly by the candidate or committee. If the staff expenditures exceed \$6,450 during a reporting period or the expenditures in any amount are not reimbursed during the period in which they are made, the expenditures must be reported as a loan to the candidate or committee. (See Texas Ethics Commission Rule 20.62.)

Q. What if a contributor to my campaign wants to remain anonymous?

A. Anonymous contributions are not permitted. Title 15 requires a candidate to maintain records of each political contribution and its source. Contributions from any one source that exceed \$90 during a reporting period must be reported by date, name and address of contributor. (More information is required for judicial races.) Contributions from any one source during a reporting period that total \$90 or less can be aggregated with similar contributions and reported on the Totals page. Statewide officeholders and legislators, candidates for those offices and their political committees must report the principal occupation or job title and the full name of the employer of each contributor who contributes \$940 or more to the filer in the reporting period.

According to Section 254.041, it is unlawful to fail to report all contributions properly or to report a fictitious name or address. TXCPA advises you to return the contribution with an explanation if a donor truly wants to remain anonymous. If a contribution is anonymous and you do not know the source and, therefore, are unable to accept it or return it, the Commission has stated in an advisory opinion (No. 207) that the proper method of disposing of such a contribution is to donate it to a recognized tax-exempt charitable organization. No reporting is required in such a case, because the contribution was never accepted.

Also note that a person may not make or authorize a contribution in the name of, or on behalf of, another unless the person discloses in writing to the recipient the name and address of the person actually making the contribution in order for the recipient to make the proper disclosure. (Section 253.001)

Q. I plan to purchase radio and television broadcast time for campaign advertisements, as well as political advertising signs. What disclosure must be made to comply with the law?

A. The advertisement must state that it is political advertising and include the full name of one of the following:

- The person who paid for the political advertising;
- The political committee authorizing the political advertising; or
- The candidate or specific-purpose committee supporting the candidate, if the political advertising is authorized by the candidate.

For political advertising that does not include written text, the required disclosure statement must be clearly spoken in the advertising. (Texas Ethics Commission Rule 26.1)

In addition to the disclaimer required by Section 255.001, political advertising signs designed to be seen from a road (but not bumper stickers) must contain the following written notice: **"NOTICE: IT IS A VIOLATION OF STATE LAW (CHAPTERS 392 AND 393, TRANSPORTATION CODE) TO PLACE THIS SIGN IN THE RIGHT-OF-WAY OF A HIGHWAY."**

For your convenience, this is a link to the Commission's "Political Advertising: What You Need to Know" pamphlet: https://www.ethics.state.tx.us/data/resources/advertising/Gpol_adv.pdf. Also notable is that

Commission Rule 26.1 was updated late in 2018 to state that disclosure statements are not required on political advertising posted or re-posted on an internet webpage for a candidate or officeholder as long as the webpage clearly and conspicuously displays the full name of the candidate or officeholder. A disclosure is also not required on political advertising posted or re-posted online as long as the advertising is posted with a link to a public webpage that contains the disclosure statement or redirects to a candidate's/officeholder's webpage that displays the full name of the candidate or officeholder.

A recent update to the political advertising rules states that individual communications by email or text message do not require a political advertising disclaimer, but mass communications by email and text message do require it.

Q. What do I do if I receive a refund, credit or other return based on an expenditure?

A. You must disclose any credit, interest, rebate, refund, reimbursement or return of a deposit fee resulting from the use of a political contribution or asset purchased with a political contribution, if the amount exceeds \$120. You must also disclose the sale of an asset and the disclosure of an investment purchased with a political contribution if the amount received exceeds \$120, as well as any other gains received from a political contribution, if the amount received exceeds \$120. Any such disclosures must be reported on Schedule K of the campaign finance report form.

Q. How do I report fees for processing political contributions, such as credit card fees?

A. Texas Ethics Commission Rule 20.60 allows you to aggregate those fees paid to the same payee during the reporting period as one entry. You must disclose the first and last date of such expenditures.

Q. How do I report expenditures made to a vendor, such as a consultant?

A. The Texas Ethics Commission passed a new rule to define vendors (Commission Rule 20.1(21)) as any person providing goods or services to a Commission filer but does not include an employee of the filer. If the vendor makes an expenditure for a candidate or committee for which the vendor intends to seek reimbursement, the candidate or committee must disclose the expenditure by the vendor as if it was made directly by the candidate or committee. (See Texas Ethics Commission Rule 20.56.)

Expenditures to a vendor where no reimbursement is intended must be reported in the proper category; i.e., campaign advice and strategy would be disclosed as "consulting." A payment to a vendor that, for example, includes "media production" in addition to consulting would report the amount attributed to media production and consulting separately. See Texas Ethics Commission Rule 20.61.

Q. How do I treat a "discount?"

A. A discount that is given to a candidate or committee and that is not the usual and normal practice of an industry or is not offered to non-political persons on the same terms as a candidate or committee is an in-kind contribution and must be reported as such. Restrictions, such as prohibition on the acceptance of corporate contributions, apply to "discounts" that are deemed in-kind contributions. (See Texas Ethics Commission Rule Nos. 20.1(19) and 20.66.)

Q. Are there any restrictions placed on the use of contributions I receive?

A. Under Section 253.035 of the Election Code, candidates and officeholders are prohibited from converting contributions to personal use. Such a use is described as one that primarily furthers individual or family purposes not connected with the performance of duties or activities as a candidate or officeholder.

NOTE: A candidate, officeholder or specific-purpose political committee that supports, opposes or assists a candidate or officeholder may not use political contributions to purchase real property or to pay the interest on, or principal of, a note for the purchase of real property, if purchased on or after Jan. 1, 1992. A candidate, officeholder or specific-purpose political committee that supports, opposes or assists a candidate or officeholder may not use political contributions to rent or purchase real property from a person related to the candidate or officeholder within the second degree by blood or marriage. The same prohibition applies to rental or purchase payments made to a business in which the candidate, officeholder or relative described above owns in excess of 10 percent, sits on the governing body or serves as an officer. (See Section 253.038.)

A candidate, officeholder or specific-purpose committee assisting a candidate or officeholder may not use political contributions to pay for personal services provided by the candidate or officeholder or the candidate's or officeholder's spouse or dependent child. A recent exception to this prohibition was discussed in Ethics Advisory Opinion 547 (2018) to allow candidates to use campaign contributions to pay for childcare expenses if the expenses were not incurred prior to becoming a candidate and only necessary to allow the candidate to participate in campaign-related activities.

Another recent opinion allows judicial candidates and officeholders to use political contributions to purchase security equipment for their home that would not be necessary but for their official position as a judge. The general prohibition on payment for personal services extends to payments to a business in which the candidate or officeholder has a participating interest of more than 10 percent, holds a position on the governing body of the business or serves as an officer of the business (Section 253.041).

Q. Is it necessary to file a final report if I lose the race?

A. Yes, you must file a final report if you wish to terminate your filing requirements as a candidate. Loss of the race does not exempt you from filing additional reports. You must continue to file reports as a candidate until you terminate your candidate reporting status by filing a designated final report (Section 254.065). If you retain unexpended contributions upon filing a "final report," you must continue to file an annual report for as long as you retain those unexpended contributions (Section 254.201).

Please refer to Sections 254.203, 254.204 and 254.205 for restrictions and requirements associated with the retention and disposition of unexpended contributions.

Q. Is it customary for newspapers to publish the names and addresses of my contributors?

A. Yes, it is customary, especially in a very closely contested local race. All reports of contributions and expenditures are public information and publicly accessible on the Texas Ethics Commission website.

Q. Will the reporting authority with whom I file reports keep the information confidential?

A. No. All Title 15 filings are open for public inspection.

Q. What are the penalties for violating the campaign finance reporting requirements?

A. Title 15 describes numerous civil and criminal penalties for offenses such as accepting an unlawful contribution, making an unlawful expenditure, failure to file a report containing all the information required, failure to file a report on time and a number of other offenses. Almost every provision in Title 15 has a civil and criminal penalty attached to it, other than Chapter 258 (Code of Fair Campaign Practices Act). The Judicial Campaign Fairness Act, Sections 253.151-253.176, contains civil penalties for violations of most of its provisions, but no criminal sanctions.

Q. Is there a moratorium or "black out" period for making and accepting contributions and, if so, what are the dates and to whom does it apply?

A. Yes. The following offices are subject to the moratorium, which prohibits contributions to be offered or accepted during a regular legislative session:

- Statewide officeholders, including officeholders-elect;
- Members of the legislature, including members-elect;
- Specific-purpose committees that support, oppose or assist statewide officeholders or members of the legislature; and
- Legislative caucuses.

The following dates are applicable to the 2023 regular legislative session:

- **December 10, 2022** – Last day to accept contributions before the 2023 regular legislative session.
- **June 19, 2023** – First day to accept contributions after the 2023 regular legislative session.

NOTE: This moratorium on contributions does not apply during special sessions. Judicial offices are also not covered by this moratorium. Judicial offices are subject to other laws that provide specific judicial fundraising periods. Those will be discussed in the section on the Judicial Campaign Fairness Act.

Q. May I change my campaign treasurer after I make the original appointment?

A. Yes. You may make the change by filing an Amended Appointment of Campaign Treasurer form with the appropriate reporting authority. The departing treasurer of a political committee is required to file a termination report, as discussed below (Report Required When New Treasurer is Designated). Sections 254.127 and 254.160 state the necessary actions to be taken under those circumstances.

Q. May an officeholder terminate his/her treasurer appointment while still in office?

A. Yes. However, doing so limits the type of contribution that the officeholder may accept. An officeholder who terminates his/her campaign treasurer appointment may not accept campaign contributions until he/she appoints a new campaign treasurer. He/she may still accept officeholder contributions, a narrower class of contributions and must still file campaign finance reports, unless the total aggregate officeholder contributions do not exceed \$940 during any reporting period. (Remember, judicial candidates and officeholders may generally only accept contributions during a specified period.)

Whenever an officeholder appoints a new campaign treasurer, the officeholder must file a report no later than 15 days after the appointment that covers the period since his/her last report (Section 254.094).

Q. Is there any charge for filing an appointment of campaign treasurer form or filing the various reports?

A. No. Section 251.003 of the Election Code provides that no charge can be levied by any reporting authority for filing any of these required documents.

Q. Does a report have to be physically in the hands of the filing authority on the deadline date?

A. Section 254.037 of the Election Code specifies that all electronic reports that are filed with the Commission must be successfully submitted by midnight on the last day for filing the report. Commission Rule 18.7(d) states that a report filed electronically is not late if the reporting deadline falls on a date in which the Commission is closed or if the online reporting system malfunctions on the deadline date and the report is filed by midnight on the next regular business day on which the Commission is open and able to accept reports. In special situations where a candidate or the candidate's SPAC accepts a campaign contribution or contributions from a person who in the aggregate exceeds \$1890 within nine days of an election, a similar electronic report must be filed by midnight of the first business day after the contribution is accepted. (See Section 254.038.)

In the remaining cases where a report is still permitted to be made by hand, facsimile or mail, the general rule is that filing by hand or facsimile must be completed by 5 p.m. on the filing day. For some reports, filing by mail is controlled by the postmark. As discussed in the next paragraph below, other reports must be received by the deadline. Section 251.007 explains the timeliness of filing by mail. A report is deemed to be filed timely if it is placed with the U.S. Post Office or with a common or contract carrier within the applicable time limits and it is properly addressed, with postage or handling charges prepaid. The postmark or receipt mark is presumed to be the date of filing. This presumption is rebuttable by affidavit or other good evidence.

Texas Ethics Commission Rules Nos. 18.7(b) and 20.20 specify that the Central Time Zone is the controlling time zone for filing purposes.

Candidates and political committees filing pre-election reports that are due 30 days before an election and eight days before an election must ensure that the report is received by the appropriate election authority by the applicable due date. Thus, mailing a report on the due date will not meet the deadline and will result in a late pre-election report. (See Sections 254.064, 254.124, 254.154.) *This also applies to a "Special Report Near Election" (Section 254.038;254.039).*

NOTE: For reports filed with the Ethics Commission, substantial late-filing penalties are possible (up to \$500/day, not to exceed \$10,000).

WORKING EXAMPLES

Now that we have established that everyone who runs for Texas elective office is covered by Title 15 of the Texas Election Code, let's examine some practical applications of financial reporting. Although our illustrations may seem rather lengthy, the reporting procedures are quite simple. Section 251.001 of the Election Code defines various terms that will be used.

CASE ILLUSTRATION

FACTS OF CASE: John Doe has decided to run for the office of state representative. It is permissible for John Doe to appoint himself as campaign treasurer. However, his friend Ruth Jackson is going to serve in that capacity. The primary election will be held on March 1, 2022. The candidate filing deadline (for a place on the ballot) is 6 p.m. on

December 13, 2021. The candidate and his campaign treasurer must follow certain procedures to properly report the campaign's financial operations.

NOTE: The electronic filing system has a question and answer "walk through" feature that should fill in the appropriate schedules based on your answers. There are several fields that must be completed by the user, and these are described in the system.

If the Commission changes or adds to the schedules described below, the electronic filing system will be updated to include those changes.

STEP 1: An "Appointment of a Campaign Treasurer by a Candidate" must be filed if the candidate takes any affirmative action to gain nomination or election to office and before the campaign accepts any contributions or makes any expenditures, including paying of any candidate filing fees. Since John Doe is seeking a legislative office, his campaign treasurer appointment and all future campaign filings are made with the Texas Ethics Commission. Unless the exemption applies, the finance reports must be filed electronically. Also, file form "Security" at this time to set up electronic filing. The form is available at:

<https://www.ethics.state.tx.us/data/forms/coh/cta.pdf>.

STEP 2: On July 17, 2021, Ruth Jackson is properly appointed as treasurer. The campaign may now accept contributions and make expenditures on behalf of John Doe's election effort. An IRS Employer Identification Number (EIN) should be obtained by filing the appropriate Form SS-4, Application for Employer Identification Number, with the IRS. You may also file for an EIN online, currently at: www.irs.gov/charities-non-profits/political-organizations/employer-identification-number-political-organizations.

In addition, a campaign bank account and a procedure for accurate financial recordkeeping should be established.

STEP 3: Make sure John Doe formally files as a candidate with the appropriate political party before the filing deadline, which is 6 p.m. on December 13, 2021. To file for a place on the ballot, he must either pay the filing fee of \$750 or file a petition containing either 500 signatures of constituents in the district or 2% of the total vote received in the district by all gubernatorial candidates in the 2018 general election, whichever is less. See Sections 162.015 and 172.025 of the Texas Election Code.

STEP 4: Ruth Jackson must keep an accurate record of contributions received and expenditures made. Contributions from business corporations, nonprofit corporations and labor organizations are prohibited, as set forth in Section 253.094.

Contributions from professional corporations (PCs) and professional associations (PAs) are generally permitted. (Please refer to the Q and A section of this handbook for a detailed discussion regarding corporate/labor organization contributions.) If the personnel, facilities or services of a corporation are used for campaign purposes, the services must be of a kind that the corporation typically provides to non-candidates. The campaign must pay the corporation at the same rate that the corporation would charge a non-candidate and payment must be made within a commercially reasonable time. Otherwise, the transaction may be considered unlawful.

If the candidate has an interest in a corporation that wishes to provide goods or services, please see Section 253.041 regarding transactions with businesses in which the candidate has an interest or is an officer or director. Also see Ethics Advisory Opinion No. 35 (1992).

Cash (currency) contributions are limited to \$100 per person, per reporting period. There is no limit on the amount that may be given by check or in-kind to a non-judicial candidate. (Judicial candidates have many

different limits and some municipalities have contribution limits for municipal office.) You must "itemize" (name, date, address and amount) contributions from an individual who, in the aggregate, exceeds \$90 during the reporting period. (Judicial candidates must also report the contributor's principal occupation, job title, employer/law firm, law firm of contributor's spouse, if applicable, and if the contributor is a child, law firm of parents, if applicable.)

Contributions of \$90 or less may be aggregated with other \$90 and less contributions on one line on the "totals" page, except for contributions collected electronically, which must be itemized no matter the amount. Statewide officeholders and legislators, candidates for those offices and their political committees must report the principal occupation or job title and the full name of the employer of each contributor who contributes \$940 or more to the filer in the reporting period.

According to Section 254.031, each required report (entitled a "Candidate/Officeholder Campaign Finance Report" Form C/OH) must include the following information.

1. The full name and address is required of each person who contributed an aggregate amount of more than \$90 and the date and amount accepted, including pledges. Note again that all contributions received electronically must now include the full name, address and date of the contribution, no matter the amount.

NOTE: There are now two different Schedules A. Schedule A1 is used to report monetary political contributions. Schedule A2 is used to report non-monetary (in-kind) political contributions. All pledges, both monetary and non-monetary, are disclosed on Schedule B. (See Rule 20.54 for reporting pledges.)

2. The full name and address of each person to whom an expenditure aggregating more than \$190 was made, along with the date, amount and purpose of the expenditure.

NOTE: There are now four different Schedules F. Schedule F1 is used to report political expenditures made from political contributions. Schedule F2 is used to report unpaid incurred obligations. Schedule F3 is used to report the purchase of investments from political contributions. Schedule F4 is used to report expenditures made by credit card.

As noted above, the electronic filing system has a question and answer "walk through" feature that should fill in the appropriate schedules based on your answers.

3. Some expenditures may not fall squarely within the definition of "political expenditure." A contribution to a charity is one such example. Nevertheless, all expenditures made from political contributions must be reported. (An expenditure to a charity may be reported on Schedule I, Non-Political Expenditures Made from Political Contributions, if it is truly a non-political expenditure. When in doubt, report expenditures on the appropriate Schedule F.) Record the full name and complete address of each person to whom an expenditure is made. Include the date, amount and purpose of the payment and ensure that all information requested by the electronic filing system is completed.

4. It is necessary to also report the amount of loans obtained; the dates the loans are made; the interest rate; maturity date and type of collateral for the loans, if any; the full name and address of the person or financial institution; and if applicable, the full name, address, principal occupation and name of the employer of each person who guaranteed the loan for John Doe and the amount of the loan guaranteed by that person. Loans are disclosed on Schedule E. The total principal amount of all outstanding loans as of the last day of the reporting period must also be reported. (See Cover Sheet, page 2.)

5. You must either report the total aggregate amount of all contributions of \$90 or less accepted during the reporting period or itemize each such contribution. Likewise, either report the total aggregate amount of all expenditures of \$190 or less made during the period or itemize each such expenditure.
6. Report the total amount of all contributions accepted and the total amount of all expenditures made during that reporting period.
7. Report the total amount of political contributions maintained (commonly called "cash on hand") on the last day of each reporting period. The amount should reflect the total balance on deposit in banks, savings and loans, and other depository institutions as shown on the statement or statements of the depositories as of the last day of the reporting period. The amount must also include the present value of any investments that can be readily converted to cash, such as certificates of deposit, stocks, bonds, money market accounts, etc. and the balance on hand in any online fundraising account over which the filer exercises control. (See Texas Ethics Commission Rule No. 20.50.) It is not necessary to account for outstanding checks or unpaid incurred obligations. Simply enter the total amount as described above. Unpaid incurred obligations are reported on Schedule F2, as mentioned above.
8. Report any credit, interest, rebate, refund, reimbursement or return of a deposit fee resulting from the use of a political contribution or an asset purchased with a political contribution that is received during the reporting period and the amount of which exceeds \$120. This will be shown on Schedule K.
9. Report any proceeds of the sale of an asset purchased with a political contribution that is received during the reporting period and the amount of which exceeds \$120. This will be shown on Schedule K.
10. Report any other gain from a political contribution that is received during the reporting period and the amount of which exceeds \$120.
11. Report the full name and address of each person from whom an amount described by the three preceding sections is received, the date the amount is received and the purpose for which the amount is received. Again, this will be shown on Schedule K.

ADDITIONAL FACTS IN CASE

John Doe needs campaign headquarters. He has a friend, William Cox, who offers him the use of an office for four months at the rate of \$200 a month. The office normally rents for \$500 per month. John Doe accepts the offer and pays the rent in advance. This use of an office is an expenditure for \$200/month as well as an in-kind contribution for the amount discounted to John Doe during the time of his use of the office (\$300/month). This type of contribution must be itemized on the report. John Doe also receives a pledge during the reporting period but does not receive the pledged funds during the period.

John Doe retained EFG Consulting at a flat rate of \$10,000 to provide campaign advice and strategy, and some media services. EFG will not seek reimbursement for any expenditure from the campaign. The following is the summary of activity related to John Doe's campaign from the date Ruth Jackson was designated as campaign treasurer through December 31, 2019.

Note that when filing reports, full name and address information is required. For the sake of brevity, the full addresses are omitted from the following examples.

CONTRIBUTIONS

The following contributions will be reported on Schedule A1

10/24	ABCfedPAC, Washington, DC (FEC#123456)	\$10,000
08/10	Mrs. Betty Allen, Tyler, TX	\$250
08/11	Mr. Tom Boston, Austin, TX	\$150
09/12	Ms. Cathy Carlos, Austin, TX	\$5,000
11/21	Ms. Mary England, Houston, TX	\$30
12/10	Mr. Frank Malone, Austin, TX	\$40
	Less than \$90 contributions (not detailed)	\$210

The following in-kind contribution will be reported on Schedule A2

09/01 Mr. William Cox, Austin, TX \$1,200
(in-kind office space discount)

Total political contributions for first report \$16,880

PLEDGES

The following pledge will be reported on Schedule B.

8/6 John Adams, Washington, DC \$600

(If the pledged funds are received in a later reporting period, disclose as contribution on A1; if never received, no further reporting is necessary.)

Total pledges for first report \$600

LOANS

The following loan will be reported on Schedule E.

8/12 1st Commercial Bank, Austin, TX \$10,000

Total loans for the first report \$10,000

POLITICAL EXPENDITURES

The following vendors have provided goods or services for the campaign through December 31. When reporting expenditures, remember to show not only the category of expenditure, but also a description of the expenditure (Texas Ethics Commission Rule 20.61, revised effective January 1, 2018). The following expenditures have been paid (none of these payments were made by credit card.) For the example below, the category and purpose are separated by /. These expenditures will be reported on Schedule F1.

08/21 – EFG Consulting, Manor, TX – consulting expense/campaign advice and strategy	\$5,000
08/21 – EFG Consulting, Manor, TX – advertising expense/media production – campaign TV ads	\$5,000
09/01 – William Cox, Austin, TX – office overhead rental expense/rent for campaign office	\$800
09/12 – Arthur's Advertising Co., Austin, TX – advertising expense/campaign lapel pins	\$150
09/10 – KTVL Broadcasting, Austin, TX – advertising expense/campaign radio ads	\$2,000
08/21 – Mack's Café, Austin, TX – food and beverage expense/supporter lunch	\$50

The following expenditure was incurred, but not paid during the reporting period. This expenditure will be reported on Schedule F2.

12/21 – AT&T, San Antonio, TX – office overhead/campaign office phone (unpaid as of 12/31/2019)	\$300
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The following expenditure was for the purchase of an investment. This expenditure will be reported on Schedule F3.

08/20 – Big Bank, Norman, OK – purchase high interest CD (This amount will not be included in total expenditures for the period.)	\$2,000
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The following expenditure was made by credit card.

NOTE: There is a separate reporting schedule for credit card expenditures. Also, as for the date of the expenditure, different reporting requirements apply to credit card charges depending on the type of report that is being filed. The best practice is to report the expenditure and the date the charge is made (on the receipt) rather than relying on the date that a credit card bill is received. This expenditure will be reported on Schedule F4.

11/11 – Bill's Quick Copy-printing, Austin, TX – advertising/print campaign buttons	\$200
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The following expenditure was made from personal funds. This expenditure will be reported on Schedule G.

10/11 – Mack's Office Supply, Austin, TX – Office overhead/rent furniture for campaign office	\$150
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The following expenditure was made to a business of the candidate. This expenditure will be disclosed on Schedule H.

12/15 – RTS Corp. Austin, TX – event expense/paper goods for campaign event	\$200
Misc. less than \$130 expenditures (not detailed)	\$110
Total political expenditures for first report (Schedules F1, F2, F4, G and H, plus un-itemized)	\$13,960

NON-POLITICAL EXPENDITURES

Although expenditures are rarely non-political expenditures (i.e., rent, bank charges, etc. are political, NOT non-political expenditures), occasionally an expenditure may fit into this category. *When in doubt, report expenditures as political expenditures.* The following non-political expenditure will be reported on Schedule I.

12/24 – Charity, Inc. – Houston, TX – Donation/anonymous contribution to 501c3 charity.	\$200
Total non-political expenditures for first report	\$200

INTEREST, CREDITS, GAINS, REFUNDS AND CONTRIBUTIONS RETURNED TO FILER

The candidate received the following refund during the reporting period. This refund will be disclosed on Schedule K.

12/12 – KTVL Broadcasting, Austin, TX – refund of overpayment for radio ads	\$105
Total refunds for first report	\$105

OUTSTANDING LOAN

No payments were made on the above-referenced loan during this reporting period. The outstanding loan amount will be reported on the Cover Sheet, page 2, in the "Totals" section.

Total for first report	\$10,000
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NOTICE FROM POLITICAL COMMITTEE

TYPAC (a general-purpose committee) provided notice that it made expenditures on behalf of John Doe. This notice will be reported on the Cover Sheet, page 2, "Notice From Political Committees."

Using the data supplied in the preceding "Additional Facts," we have provided examples for filling out the "Candidate/Officeholder Campaign Finance Report" (which follows this section). When the report forms are completed, they should be electronically filed (unless the exemption is available). Do not submit the report before the completion of the reporting period. **If a filing deadline falls on a weekend or holiday, the deadline is extended to the next working day.**

Substantial late filing penalties are possible (up to \$500 for the first day and \$100 for each additional day, not to exceed \$10,000).

For useful guidance and reporting tips, such as requirements for out-of-state travel, refer to the Reporting Tips from the Legal Division.

NOTE: Steps five, six and seven below illustrate the reporting schedule for 2022 with which an opposed candidate must comply. Recall that reports illustrated in steps six and seven must be received by (and not merely mailed to) the appropriate election authority before the deadline. Section 254.063 states that *unopposed* (on their ballot) candidates file only twice during an election year:

January 18, 2022, for the period from the date the treasurer is appointed or July 1, 2021, as applicable, through December 31, 2021; and

July 15, 2022, for the period from the date the treasurer is appointed or January 1, 2022, as applicable, through June 30, 2022.

STEP 5: According to Section 254.064, opposed candidates must, in addition to the semi-annual reports mentioned above, file two pre-election reports for each election in which they are opposed (30 days and eight days before the election). The first report for the March 1, 2022, primary is due on January 31, 2022. For virtually all candidates, the report covers the period from January 1, 2022, through January 20, 2022, which is the 30th day before the March 1 primary election.

STEP 6: In accordance with Section 254.064, the next required pre-election report covers the period from the **39th** day through the **10th** day before the election. This report is due on the **eighth** day before election day. Therefore, for purposes of our example, this report is due on February 22, 2022, and covers the period from January 21, 2022, through February 19, 2022.

Repeat Steps 4, 5 and 6, where applicable, for the general election. (Please refer to the links to the Filing Schedule included with this handbook.)

STEP 7: If John Doe is involved in a *run-off* election, he will have an additional reporting deadline. In addition to the other required reports, Section 254.064(e) requires an opposed candidate to file a report on the **eighth** day before the run-off. This report covers the period from the **ninth** day before the primary election through the **10th** day before the run-off election day. For the May 24, 2022, primary run-off, this report is due on May 16, 2022, and covers the period from February 20, 2022, through May 14, 2022.

As previously discussed in the General Comments section, a Special Report Near Election may be required.

Opposed candidates (and their committees) for legislative and statewide offices, district judge, State Board of Education and multi-county district offices who accept contributions from a person who in the aggregate exceeds \$1,790 during the period beginning on the ninth day and ending at noon on the day before election day must report those contributions to the Ethics Commission electronically (unless otherwise exempt from electronic filing) no later than midnight of the first business day after acceptance of the contribution (Section 254.038). These contributions must be fully reported again on the next regular report.

NOTE: Candidates for legislative or statewide office and their committees may also have a special session contribution report due 30 days after a special legislative session. This report is required if the candidate or committee accepts a contribution during the period beginning the day the governor signed the proclamation calling the special session through the day of final adjournment. However, a candidate or committee that has another report due no later than 10 days after this special session report is due need not file the special session report (Section 254.0391).

STEP 8: A final report terminates a candidate's requirement to file reports as a candidate. A candidate who is not successful and who wishes to terminate the filing requirements as a candidate should file a final report after the election and when there is no longer any reportable campaign activity. Any of the required reports may be designated as the final report, if its filing results in the completion of the reporting of all contributions and expenditures involved in John Doe's campaign for office. As long as there is any reportable campaign activity, semi-annual reports must continue to be filed. A final report also terminates Ruth Jackson's appointment as campaign treasurer.

STEP 9: If John Doe is elected and assumes office, he must also comply with the provisions of Title 15 pertinent to officeholders. He may accept contributions to assist him in defraying his non-reimbursable officeholder expenses. He may also pay expenditures that assist him in the performance of the duties of his office as long as the expenditures are not reimbursed by the state.

Additionally, any unexpended campaign contributions may be expended for officeholder-related purposes. He should refer to Chapter 253, Subchapter B and Chapter 254, Subchapter D, of the Election Code.

If John Doe is not elected but has unexpended contributions remaining after the filing of his designated final report, he must continue to file a report each year between January 1 and 15th, for as long as he retains such unexpended contributions. If he does not become a candidate again within the next six years, he must dispose of the unexpended contributions in accordance with Section 254.204 and report the disposition by the 30th day after the end of the six-year period. Section 254.205 delineates this procedure.

Click on the following links for sample forms:

IRS Form for Employer Identification Number

<https://www.irs.gov/pub/irs-pdf/fss4.pdf>

Candidate Reporting Forms

<https://www.ethics.state.tx.us/data/forms/coh/cta.pdf> (Campaign Treasurer Appointment)

<https://www.ethics.state.tx.us/data/forms/coh/coh.pdf> (Candidate/Officeholder Campaign Finance Report)

https://www.ethics.state.tx.us/data/forms/coh/daily-c_coh.pdf (Candidate/Officeholder Daily Pre-Election Report)

https://www.ethics.state.tx.us/data/forms/coh/coh_ss.pdf (Candidate/Officeholder Special Session Report)

https://www.ethics.state.tx.us/data/resources/guides/coh_state_guide.pdf (Candidate/Officeholder TEC Guide)

Special-Purpose Committee Reporting Forms

<https://www.ethics.state.tx.us/data/forms/pacs/sta.pdf> (SPAC Treasurer Appointment)

<https://www.ethics.state.tx.us/data/forms/pacs/spac.pdf> (SPAC Campaign Finance Report)

https://www.ethics.state.tx.us/data/forms/pacs/daily-c_pac.pdf (SPAC Daily Pre-Election Report)

https://www.ethics.state.tx.us/data/forms/pacs/spac_ss.pdf (SPAC Special Session Report)

POLITICAL COMMITTEES

Political committees are defined under Title 15 of the Texas Election Code as either "specific-purpose committees" or "general-purpose committees." All references to "Section," unless otherwise stated, refer to the Texas Election Code.

A specific-purpose committee is usually organized to support or oppose a **specific, identifiable** candidate, officeholder or measure. The name of a specific-purpose committee supporting a candidate who files with the Commission must include the name of the candidate.

In contrast, a general-purpose committee supports or opposes "unidentified" candidates, officeholders or measures. What is meant by an "unidentified" candidate or measure? For example, unlike a specific-purpose committee that may be formed to support a specific candidate (i.e., Committee to Elect John Doe), when a general-purpose committee is formed, it may not know which candidate or candidates it will support or oppose, but the committee knows it will be involved in elections. If an entity controls the general-purpose committee, the name of the general-purpose committee must include the name of its controlling entity or entities.

Both types of committees are required to appoint a campaign treasurer, keep records and file reports of contributions and expenditures. If either type of committee accepts contributions or makes expenditures for a candidate or officeholder, the committee must notify that person and provide him/her with the name and address of the committee and its campaign treasurer and indicate whether the committee is specific-purpose or general-purpose (Sections 254.128 and 254.161). In turn, the candidate or officeholder must identify the committee on the candidate's or officeholder's reports (Section 254.061 and 254.091). The reporting requirements for specific-purpose committees are primarily the same as those for candidates.

Hybrid PACs - After the Texas Legislature allowed corporate contributions from any corporate entity to PACs in Texas, the Texas Ethics Commission promulgated rules setting up the existence of "hybrid PACs" (see Texas Ethics Commission rules 20.1(22) and 22.35). Hybrid PACs operate as a combination of a normal GPAC that may collect non-corporate contributions and use them for allowable purposes and a direct campaign expenditure-only committee that can collect corporate contributions and use them for direct campaign expenditures.

Hybrid PACs require that the PAC file an affidavit along with the PAC's treasurer appointment form (or amend an existing treasurer appointment to add the affidavit) which states that the PAC intends to operate as a hybrid PAC, that the PAC will not commingle corporate/non-corporate funds and that the PAC will not use any corporate funds it receives to make contributions to candidates, officeholders or other PACs that have not filed the same affidavit.

These new PACs offer new and existing committees the flexibility to not only collect contributions from individuals, but also to collect from corporations as long as the funds are spent in the correct manner and the funds are separated into two separate bank accounts.

Although the reporting requirements for general-purpose committees are similar, there are the following major exceptions.

1. The reporting authority for every general-purpose committee is the Texas Ethics Commission. Some municipalities also require certain general-purpose committees to file with them. If involved in municipal elections, check with the local filing authority for additional filing requirements.
2. *** Note:** Previously, a general-purpose committee could not knowingly make political expenditures that exceed \$500 unless it had its campaign treasurer appointment on file with the Ethics Commission for at least 60 days and had accepted contributions from at least 10 persons (Section 253.037). However, the 60 day/10 contributor requirement was found to be unconstitutional and was invalidated by the United States Fifth Circuit Court of Appeals and subsequently repealed in the 2019 legislative session. Now, a general-purpose committee must simply file the campaign treasurer appointment before exceeding \$920 in political expenditures.

According to Section 252.003, this appointment of campaign treasurer must disclose either the full name and any acronym of each legal entity (corporations, labor organizations or associations) that establishes, administers or controls the committee, the name of each individual who determines the committee's political expenditure policy or the name of each individual who determines the committee's political contributions policy, as well as the full name and address of any other general-purpose committee to which the committee intends to make contributions.

3. Certain specific-purpose committees must have appointed a campaign treasurer at least 30 days before a primary or general election. Refer to Section 253.031(c).
4. Section 254.151(6) states that general-purpose committee reports must include the principal occupation of persons who contribute an aggregate amount of more than \$90 during the reporting period.
5. Section 254.155 permits general-purpose committees to elect to file reports on a monthly basis in lieu of the regular reporting schedule. If the general-purpose committee properly and timely chooses to follow the monthly schedule, it must itemize on its monthly reports contributions and expenditures that exceed \$20, rather than \$90.
6. Alternate Reporting Requirement for Certain Committees. A general-purpose committee with less than \$27,380 in total political contributions maintained as of the last day of the preceding reporting period may choose to itemize political contributions from one person that exceed \$190 (instead of \$90) during a reporting period. A general-purpose committee filing monthly with less than \$27,380 in total political contributions maintained as of the last day of the preceding reporting period may choose to itemize political contributions from one person that exceed \$40 (instead of \$20) during a reporting period.
7. Section 254.039 requires certain general-purpose committees to file a "Special Report Near Election" (as described earlier) with the Texas Ethics Commission as a result of the acceptance of large contributions or significant direct expenditure activity occurring during the period beginning nine days before an election and ending at noon on the day before the election. Such activity must be reported electronically to the Commission no later than midnight on the first business day after the contribution is accepted or the expenditure is made. If the committee is able to claim an exemption to electronic filing, as previously described, the report is due by 5 p.m. of the deadline.
8. General-purpose committees must report corporate or labor organization expenditures to establish or administer the committee or to finance the solicitation of permissible political contributions to the committee.
9. Civil Penalty Exemption for Certain Committees. HB 89 of the 80th Legislature created an exemption from civil penalties imposed by the Commission for reporting violations by certain small general-purpose committees. Under Section 254.164, if a report discloses that the committee did not accept contributions totaling \$3000 or more, accept contributions from a single person totaling \$1000 or more, or make expenditures totaling \$3000 or more during the period covered by the report that includes the violation or either of the two preceding reporting periods, the Commission may not impose a penalty for the reporting error.

https://www.ethics.state.tx.us/resources/FAQs/FAQ_PAC_Legal.php (FAQ for Political Committees)
https://www.ethics.state.tx.us/data/resources/guides/pac_guide.pdf (Guide for Political Committees)
<https://www.ethics.state.tx.us/data/forms/pacs/agta.pdf> (GPAC Treasurer Appointment)
<https://www.ethics.state.tx.us/filinginfo/pacs> (GPAC Campaign Finance Report)

DIRECT CAMPAIGN EXPENDITURES

A person, not acting in concert with another person, who makes a direct campaign expenditure must file a campaign finance report to disclose the expenditure as if the person was the campaign treasurer of a general-purpose political committee if the total amount of the direct campaign expenditure exceeds \$130. A candidate is not required to disclose a notice from such persons who make direct campaign expenditures on behalf of the candidate. A candidate, however, is still required to disclose a notice from political committees that make direct campaign expenditures on behalf of the candidate. Direct campaign expenditure reports must be filed electronically with the Texas Ethics Commission unless the filer qualifies for the exemption from the electronic filing requirement. (See §§ 254.261 and 254.262, Texas Election Code.)

In 2019, the Texas Legislature updated the law to allow political committees to receive contributions from a corporation other than the corporation that controls it for the purposes of making a direct campaign expenditure. (See new Section 253.097, Texas Election Code, and updated Sections 252.003 and 252.0031.)

For a committee to accept corporate money for the purpose of making a direct campaign expenditure, the committee must file an affidavit with the Texas Ethics Commission stating that the committee is not established or controlled by a candidate/officeholder and that the committee will not use the money for political contributions. (See Section 252.0031, Texas Election Code.)

<https://www.ethics.state.tx.us/filinginfo/dce/DCEindex.php> (Individuals Making Direct Campaign Expenditures Guide)

<https://www.ethics.state.tx.us/data/forms/dce/dce.pdf> (Direct Campaign Expenditure Campaign Finance Report)

CORRECTING SEMIANNUAL REPORTS

A semi-annual report that is amended before the eighth day after the date the original report was filed is considered to be filed on the date the original report was filed. Further, a semi-annual report that is amended on or after the eighth day of the original filing date is considered to be filed on the date the original report was filed if the amendment is filed before any complaint is filed with regard to the subject of the amendment and the original report was made in good faith and without an intent to mislead or misrepresent the information. (§§ 254.0405; 254.041(d))

REPORT REQUIRED WHEN NEW TREASURER IS DESIGNATED

To implement a change of campaign treasurer, the candidate or political committee must file written notification of the new treasurer's name and address with the appropriate filing authority (an Amended Appointment of Campaign Treasurer). The departing treasurer of a specific-purpose committee or a general-purpose committee is required to file a termination report within 10 days following the date of his/her termination.

The report should cover the period since the end of the period covered by the previous report through the date of his/her termination. The new treasurer takes over reporting responsibilities effective the day the amended appointment of campaign treasurer is filed (Section 254.127; 254.160).

<https://www.ethics.state.tx.us/data/forms/coh/acta.pdf> (Amended Appt of Campaign Treasurer by Candidate)

[\(Amended Appt of Campaign Treasurer by SPAC\)](https://www.ethics.state.tx.us/data/forms/pacs/asta.pdf)
[\(Amended Appt of Campaign Treasurer by GPAC\)](https://www.ethics.state.tx.us/data/forms/pacs/agta.pdf)
[\(Amended Appt of Campaign Treasurer by Judicial Candidate\)](https://www.ethics.state.tx.us/data/forms/coh/ajcta.pdf)

MODIFIED REPORTING PROCEDURE

A modified reporting procedure may be followed by an opposed candidate or a specific-purpose committee. To qualify for this procedure, the opposed candidate or specific-purpose committee should intend to accept less than \$940 in total contributions. The total amount of expenditures, excluding any filing fee, should not exceed \$940 during the period covered by a semi-annual report.

A declaration of intent not to exceed \$940 in contributions or expenditures must be filed at the time the appointment of campaign treasurer is filed and must be filed no later than the 30th day before the first election to which the declaration applies. The Appointment of Campaign Treasurer form contains the declaration of intent that must be executed to qualify for this procedure.

If the \$940 maximum is not exceeded for either contributions or expenditures, the opposed candidate or committee simply files the semi-annual reports due July 15 and January 15. If the \$940 maximum is exceeded, the opposed candidate or committee must **revert** to the regular reporting schedule for the remainder of the campaign. If the maximum (\$940) is exceeded after the 30th day before the election, a report must be filed within 48 hours. In accordance with Section 254.183, the report should include all required information since the date of appointment of campaign treasurer or since the end of the period covered by the previous report through the day the maximum amount (\$940) is exceeded.

SPECIAL REQUIREMENTS FOR CERTAIN CANDIDATES, OFFICEHOLDERS AND SPECIFIC-PURPOSE COMMITTEES

Opposed candidates (and their committees) for legislative and statewide offices, district judge, State Board of Education and multi-county district offices who accept contributions from a person who in the aggregate exceeds \$1,890 during the period beginning on the ninth day and ending at noon on the day before election day must report those contributions to the Ethics Commission electronically (unless otherwise exempt from electronic filing) in a "Special Report Near Election" no later than midnight of the first business day after acceptance of the contribution (Section 254.038). These contributions must be fully reported again on the next regular report.

As previously noted, Section 253.034 discusses persons who, under certain circumstances, may not accept contributions. During the period beginning on the 30th day before the day a regular session of the legislature convenes and continuing through the 20th day after the date of final adjournment, the following persons are generally prohibited from accepting any contributions:

- A member of the legislature;
- A member-elect of the legislature;
- A statewide officeholder (excluding judicial statewide officeholders);
- A statewide officeholder-elect; and
- A specific-purpose committee that supports, opposes or assists any of the above.

There is no such prohibition on the acceptance of contributions during a special legislative session (unless the special legislative session falls within the 20th day after adjournment of the regular session). However, the above-referenced persons and candidates for statewide office or the legislature who accept a political contribution during the period beginning on the date the governor signs the proclamation calling the special legislative session, and continuing through the date of final adjournment, must report the contribution to the Texas Ethics Commission no later than the 30th day after the date of final adjournment, unless that person is required to file another report no later than 10 days after the date this special session report would be due.

NOTE: A determination to accept or refuse the political contribution during special sessions must be made no later than the third day after the date the contribution is received (Section 254.0391).

Political contributions **may not** be made or accepted in the State Capitol Building, which 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 (unless through the U.S. Postal Service or through common or contract carrier), or in a courthouse that includes any building owned by the state, a county or a municipality, or an office or part of a building leased to the state, a county or a municipality in which a justice or judge sits to conduct court proceedings (Section 253.039; Rule 22.13).

<https://www.ethics.state.tx.us/filinginfo/moratorium2019.php> (TEC Guidance on Moratorium)

ACCEPTANCE OF BENEFITS

Transportation, lodging and meals described by Section 36.07(b) of the Penal Code are not political contributions as defined by Title 15 of the Election Code and are not prohibited honorariums as long as that section is complied with. Section 36.08 of the Penal Code (Gift to Public Subject Servant Subject to His Jurisdiction) and 36.09 (Offering Gift to Public Servant) of the Penal Code set forth certain prohibitions that apply to candidates, as well as other public servants. Section 36.10 of the Penal Code sets forth certain exceptions to the prohibitions, such as transportation, lodging and meals accepted as a guest of a person who is present when the benefit is provided.

Although political contributions and certain gifts may fall within one of the "exempt" categories listed under Section 36.10 of the Penal Code, even if a benefit may be technically legal, acceptance of certain benefits may raise questions and create appearance issues.

A public servant should also be aware of the bribery provisions found under Section 36.02 of the Penal Code. A person may not offer, and a public servant may not accept, any benefit as consideration for the recipient's decision, opinion, recommendation, vote or other exercise of discretion as a public servant, party official or voter; any benefit as consideration for the recipient's decision, vote, recommendation or other exercise of official discretion in a judicial or administrative proceeding; or any benefit as consideration for a violation of a duty imposed by law on a public servant or party official.

Links to the Commission's "Can I Take It" guides are included on **pages 45 and 46** in this handbook. (Penal Code §§36.02; 36.07; 36.08; 36.09; 36.10)

POLITICAL PARTIES

Candidates for state chairman of a political party, candidates for county chair of a political party in counties with a population of 350,000 or more, and political committees supporting or opposing such candidates are subject to Title 15 reporting requirements/restrictions. The law provides an exemption from certain Title 15 requirements for county executive committees of a political party that do not accept political contributions or make political

expenditures that in the aggregate exceed \$34,220 annually. Such county executive committees must nevertheless maintain records of any political contributions or expenditure activity (Section 253.031(d)).

Should the committee exceed \$34,220, it must appoint a campaign treasurer no later than the 15th day after the threshold is exceeded and file complete reports as required by Chapter 254. Its first report must include any activity that occurred before the filing of the treasurer appointment.

A political party is allowed to accept contributions from corporations and labor organizations for certain limited purposes, such as administering a primary election or paying normal overhead costs not directed toward campaign activity. Such contributions to a county executive committee do not count toward the annual \$34,220 threshold. However, corporate or labor organization contributions in any amount will trigger a requirement for the county chair of the party to file a report even if the county executive committee has not exceeded the \$34,220 threshold and is not required to file a campaign treasurer appointment (Section 257.003). The county chair must continue to file the reports as long as the executive committee accepts or retains any corporate or labor organization funds.

It is illegal for a political party to accept contributions from corporations or labor organizations or make an expenditure from those contributions during the period beginning 60 days before the date of a general election for state and county offices and ending on election day.

https://www.ethics.state.tx.us/data/resources/guides/party_guide.pdf (Guide for Political Parties)

CERTAIN IRS REQUIREMENTS

Candidates and officeholders may use political contributions to defray federal income taxes that accrue on political contributions (Section 253.035(d)(2)). Political committees should also consult with the relevant IRS filing obligations for political organizations. In particular, general-purpose committees should prepare Form 8871, *Political Organization Notice of Section 527 Status*, to be filed with the IRS within 24 hours of the appointment of committee treasurer.

If your organization has any income that is derived from a source not related to the acceptance of political contributions and making political expenditures for political purposes, then Form 1120-POL, *U.S. Income Tax Return for Certain Political Organizations*, should be consulted to determine if tax is due on any income that is not otherwise tax exempt.

Finally, political committees should consult Form 990, *Return of Organization Exempt From Income Tax*, to determine whether it is exempt or if this annual informational report on all activities is required. Detailed information about IRS filing requirements for political organizations may be found on the IRS website at: <https://www.irs.gov/charities-non-profits/political-organizations>.

CONCLUSION

TXCPA hopes this handbook will be a useful tool during your campaign. The working sample provided herein may not address every situation you will face, but it contains the basic mechanics and requirements for campaign financing and reporting in accordance with the law. The important facts to remember are:

- Keep accurate records of all campaign receipts and disbursements.
- Report all of the information required under Title 15 of the Texas Election Code.

- File your reports on time and maintain records supporting the information in each report for at least two years from the filing deadline for the information contained in the report.
- If clarification is needed, do not hesitate to seek help from the Texas Ethics Commission (512-463-5800).
- If you need assistance with the financial accounting and reporting, call a CPA.

Please **see page 46** of this handbook for links to available resources. Forms, statutes, rules, guides and other relevant information are also available at the Texas Ethics Commission website at <https://www.ethics.state.tx.us>.

Clink on this link for the 2020 Filing Schedule:

<https://www.ethics.state.tx.us/data/filinginfo/schedules/s20state.pdf>

REPORTING TIPS FROM THE COMMISSION'S LEGAL DIVISION

POLITICAL COMMITTEES MAKING CONTRIBUTIONS – GETTING NAME AND ADDRESS RIGHT

Do you work with a political committee making contributions? Help candidates and officeholders comply!

When a political committee makes a political contribution, ensuring that all the information is provided to the recipient of your contribution can help him/her report it properly. To ensure the recipient of your contribution has the information needed, please consider the following points.

Committee Name: When making a contribution, provide the recipient with the full name of your political committee. For the full name, you can refer to the committee's name on your most recent campaign treasurer appointment.

Committee Address: Always provide the recipient with the political committee's full address.

Out-of-State Committees: If you work with an out-of-state committee, please see the Campaign Finance Guide for Political Committees available at this link: https://www.ethics.state.tx.us/data/resources/guides/out-of-state_committees_guide.pdf.

Reminder: A political contribution made by a committee is reported on the committee's own report as a "political expenditure" on Schedule F.

Last Revision: May 26, 2011

REPORTING EXPENSES FROM PERSONAL FUNDS

Spending your own money on your campaign? Avoid common reporting errors! If you intend to seek reimbursement of any amount from political contributions for a political expenditure made from your personal funds, report the expenditure in one of three ways. We think that Method #1 is the simplest method. Keep in mind that this reporting system is not an accounting system and duplication of expenditures is not uncommon when reporting transactions related to expenditures made from personal funds.

Method #1: Itemize the expenditure on the "Political Expenditures Made From Personal Funds" schedule (Schedule G) and check the box to indicate that you intend to seek reimbursement from political contributions. (You may not correct a report to allow reimbursement without subjecting yourself to a possible penalty.) When you reimburse yourself, which could be months or years later, report the reimbursement on the "Political Expenditures" schedule (Schedule F).

Example: On December 1, 2020, Candidate A spends \$500 of her own personal funds to purchase political advertising signs. She reports the expenditure to the vendor on Schedule G and checks the box to indicate that reimbursement is intended. One year later, Candidate A reimburses herself from political contributions. She reports the reimbursement on Schedule F. Candidate A is the payee and the purpose of the expenditure is to reimburse herself for a political expenditure made from personal funds on December 1, 2020. We stress that if you

intend to seek reimbursement from political contributions for a political expenditure of *any amount* made from personal funds, you must itemize the expenditure on Schedule G.

Method #2: Report the political expenditures made from your personal funds as a loan to your campaign on the "Loans" schedule (Schedule E). Next, report the political expenditures made from that loan on the "Political Expenditures" schedule (Schedule F). Remember, the amount you report as a loan in a reporting period may NOT exceed the amount you actually spent from personal funds in that reporting period. In other words, do not report a \$100,000 loan to your campaign if the amount actually spent from personal funds in the reporting period was \$5,000. When you reimburse yourself, which could be months or years later, report the reimbursement on the Schedule F.

Example: In one reporting period, Candidate B spends \$5,000 of his own personal funds to purchase political advertising materials. He spends \$3,000 at Business One and \$2,000 at Business Two. He reports the expenditures as a \$5,000 loan on Schedule E and then itemizes each of the two expenditures as a political expenditure on Schedule F. A year later, Candidate B reimburses himself from political contributions by disclosing the reimbursement on Schedule F. He reports the reimbursement on Schedule F. The payee in this instance is Candidate B. The category of the expenditure is "Loan Repayment/Reimbursement" and "political expenditure made from personal funds reported as a loan" is an acceptable brief description.

Method #3: Deposit personal funds in an account in which your political contributions are maintained and report that amount as a loan on the "Loans" schedule (Schedule E). Next, report the political expenditures made from that loan on the "Political Expenditures" schedule (Schedule F). When you reimburse yourself, which could be months or years later, report the reimbursement on the Schedule F. (Note that the reimbursement may not exceed the amount reported as a loan. Also note that personal funds deposited in an account in which political contributions are held are subject to the personal use restriction.)

Example: In one reporting period, Candidate C opens a campaign bank account and deposits \$5,000 of her own personal funds into the account. She makes one \$3,000 expenditure for political advertising. Candidate C has no other activity in the reporting period. She reports the \$5,000 as a loan on Schedule E, itemizes the \$3,000 expenditure for the political advertising on Schedule F and includes the remaining \$2,000 on her contributions maintained at the end of the reporting period total. A year later, Candidate C reimburses herself from political contributions by disclosing the reimbursement on Schedule F. The payee in this instance is Candidate C. The category of expenditure is "Loan Repayment/Reimbursement" and "political expenditure made from personal funds reported as a loan" is an acceptable brief description.

If you have any questions regarding your reporting requirements, please contact the Texas Ethics Commission legal department at 512-463-5800.

Last Revision: September 20, 2011

REPORTING STAFF REIMBURSEMENT

The following rule was adopted by the Texas Ethics Commission to allow a simplified method for reporting the use of political funds to reimburse a staff member for political expenditures made from the staff member's personal funds. Following the rule are examples of reporting under the rule.

S 20.62. Reporting Staff Reimbursement

(a) Political expenditures made out of personal funds by a staff member of an officeholder, a candidate or a political committee with the intent to seek reimbursement from the officeholder, candidate or political committee that in the aggregate do not exceed \$5,000 during the reporting period may be reported as follows IF the reimbursement occurs during the same reporting period that the initial expenditure was made:

(1) The amount of political expenditures that in the aggregate exceed \$100 and that are made during the reporting period, the full name and address of the persons to whom the expenditures are made, and the dates and purposes of the expenditures; and

(2) Included with the total amount or a specific listing of the political expenditures of \$100 or less made during the reporting period.

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

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

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

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

Example 1:

Javier Reyes, a candidate for governor, sends one of his staff members to Target to purchase \$500 in office supplies for his campaign. The staff member uses \$500 of her personal funds to purchase the supplies and is reimbursed by Candidate Reyes from his campaign funds during the same reporting period. Because the amount at issue is under \$5,000 and the reimbursement occurred during the same reporting period, the method described under subsection (a) is used. On his next campaign finance report, Candidate Reyes will simply report a \$500 political expenditure to Target as if he had made the expenditure himself from campaign funds.

Example 2:

Bob Smith, a candidate for state representative, sends one of his staff members to Target to purchase \$5,500 in office supplies for his campaign. The staff member uses \$5,500 of his personal funds to purchase the supplies and is reimbursed by Candidate Smith during the same reporting period. In this case, because the amount at issue exceeded \$5,000 during the reporting period, the reporting method described under subsection (b) must be used. Therefore, a three-step process must be used on Candidate Smith's next campaign finance report:

1. Candidate Smith first discloses a \$5,500 loan from his staff member;
2. Candidate Smith then discloses a \$5,500 political expenditure to Target on the same report; and
3. Candidate Smith also discloses a \$5,500 political expenditure to his staff member for the reimbursement of the loan on the same report.

Example 3:

Janet Lee, a candidate for state senator, sends one of her staff members to Target to purchase \$500 in office supplies for her campaign. The staff member uses \$500 of his personal funds to purchase the supplies and is NOT reimbursed by Candidate Lee during the same reporting period. In this case, since the staff member was not reimbursed by Candidate Lee during the same reporting period, the reporting method described under subsection (b) must be used. Therefore, a three-step process must be used:

1. Candidate Lee first discloses a \$500 loan from her staff member on her next campaign finance report;
2. Candidate Lee then discloses a \$500 political expenditure to Target on the same report; and
3. When Candidate Lee reimburses her staff member, she will disclose a \$500 political expenditure to her staff member for the reimbursement of the loan on the report covering that period.

Therefore, if Candidate Lee's staff member made the \$500 expenditure to Target during the period covered by the January semiannual report but was not reimbursed until the period covered by the July semiannual report, steps one and two would be disclosed on her January semiannual report and step three would be shown on her July semiannual report.

Last Revision: July 24, 2014

REPORTING TOTAL CONTRIBUTIONS MAINTAINED

The law requires you to disclose the total amount of political contributions accepted, including interest or other income on those contributions, maintained in one or more accounts in which political contributions are deposited as of the last day of the reporting period.

Our interpretation of the law has been that the "total amount of political contributions maintained" includes not only bank and savings account balances, but also gains made from certain investments. The Commission adopted the following rule to explicitly provide what must be included in the total amount of political contributions maintained.

§ 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) Balance on deposit in banks, savings and loan institutions, and other depository institutions; and

(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.

(b) For purposes of Election Code §§ 254.031(a)(8) and 254.0611(a)(1), the total amount of political contributions maintained includes personal funds that the filer intends to use for political expenditures only if the funds have been deposited in an account in which political contributions are held as permitted by Election Code § 253.0351(c). Note that when you calculate the total amount of contributions maintained, you are not required to reconcile your bank account or worry about checks that have not cleared by the end of the reporting period.

Please remember that if you wish to provide an explanation regarding the total amount of political contributions maintained disclosed on a report, you may do so in the "memo field" of the electronic filing software.

If you have any questions regarding your reporting requirements, please contact the Texas Ethics Commission legal department at 512-463-5800.

Last Revision: January 25, 2012

CAMPAIGN FINANCE REQUIREMENTS FOR CREDIT CARD EXPENDITURES

All expenditures made by credit card must be reported on Schedule F4, "Expenditures Made by Credit Card." This requirement applies to filers of electronic and paper campaign finance reports, including candidates, officeholders, political committees, political parties and direct campaign expenditure filers.

When a credit card is used to make a reportable expenditure, the expenditure must be reported on the new schedule by identifying the name and address of the vendor who sold the goods or services, NOT the credit card company that issued the credit card. The date, amount and purpose of the expenditure must also be disclosed, in addition to other information.

Once the credit card bill is paid, the payment must also be reported using the appropriate existing disbursement schedule (e.g., Schedule F1, Schedule G, Schedule H or Schedule I) by identifying the credit card company that receives the payment. The date, amount and purpose of the payment must also be disclosed, in addition to other information. See Ethics Commission Rules 20.57 and 20.59 and Section 254.035, Election Code.

Please see the following examples of reporting expenditures made by credit card.

Example 1: Candidate Using Credit Card to Make a Political Expenditure and Using Political Contributions to Pay the Credit Card Bill in the Same Reporting Period

A candidate for *non-judicial* office uses her credit card to buy \$1,000 in campaign office supplies from an office store. During the same reporting period, the candidate makes a payment from her political contributions account to pay the \$1,000 credit card bill.

To report that activity, the candidate would report all of the following on a campaign finance report (Form C/OH) covering the period in which she made the credit card charge and sent the payment to the credit card company:

- For the credit card charge: a \$1,000 expenditure on the "Expenditures Made by Credit Card" Schedule (F4). The schedule identifies the office store as the payee of the expenditure and includes the address, date, amount, a category of the expenditure as "Office Overhead/Rental Expense" and a description as "Campaign Office Supplies." In Section 9 of the schedule, the box for "Political" is also checked.
- For the payment to the credit card company: a \$1,000 expenditure on the "Political Expenditures from Political Contributions" Schedule (F1). The schedule identifies the credit card company as the payee of the expenditure and includes the address, date, amount, a category of the expenditure as "Credit Card Payment" and a description as "Payment of credit card bill for campaign office supplies."
- Both \$1,000 amounts reported on each schedule will also be included in the appropriate sections of Cover Sheet Pages 2 and 3.

Example 2: Candidate Using Credit Card to Make a Political Expenditure and Using Personal Funds to Pay the Credit Card Bill in the Same Reporting Period

A candidate for non-judicial office uses his credit card to purchase \$3,000 in political advertising materials from a print shop. During the same reporting period, the candidate makes a payment from his personal funds account to pay the \$3,000 credit card bill.

To report that activity, the candidate would report all of the following on a campaign finance report (Form C/OH) covering the period in which he made the credit card charge and sent the payment to the credit card company:

- For the credit card charge: a \$3,000 expenditure on the "Expenditures Made by Credit Card" Schedule (F4). The schedule identifies the print shop as the payee of the expenditure and includes the address, date, amount, a category of the expenditure as "Advertising Expense" and a description as "Political Advertising Materials." In Section 9 of the schedule, the box for "Political" is also checked.
- For the payment to the credit card company: a \$3,000 expenditure on the "Political Expenditures Made from Personal Funds" Schedule (G). The schedule identifies the credit card company as the payee of the expenditure and includes the address, date, amount, a category of the expenditure as "Credit Card Payment" and a description as "Payment of credit card bill for political advertising materials." If the candidate intends to seek reimbursement from political contributions, the candidate may also check the appropriate box in Section 6.
- Both \$3,000 amounts reported on each schedule will also be included in the appropriate sections of Cover Sheet Pages 2 and 3.

Example 3: Political Committee Using Credit Card to Make a Political Expenditure and Using Political Contributions to Pay the Credit Card Bill in Different Reporting Periods

A general-purpose committee uses its credit card to buy \$500 in political advertising in a newspaper. The committee receives the statement from the credit card company but does not send a payment until after the reporting period ends. When the committee sends a payment to the credit card company, it makes a \$500 payment from its political contributions account.

To report the credit card charge, the committee's campaign treasurer would report all of the following on a campaign finance report (Form GPAC) covering the period in which it made the credit card charge:

- A \$500 expenditure on the "Expenditures Made by Credit Card" Schedule (F4). The schedule identifies the newspaper as the payee of the expenditure and includes the address, date, amount, a category of the expenditure as "Advertising Expense" and a description as "Political Advertising." In Section 9 of the schedule, the box for "Political" is also checked.
- The \$500 amount reported on the "Expenditures Made by Credit Card" Schedule (F4) will also be included in the appropriate sections of Cover Sheet Pages 2 and 3.

To report the payment to the credit card company, the committee's campaign treasurer would also report all of the following on a campaign finance report (Form GPAC) covering the period in which it made the payment to the credit card company:

- A \$500 expenditure on the "Political Expenditures from Political Contributions" Schedule (F1). The schedule identifies the credit card company as the payee of the expenditure and includes the address, date, amount, a category of the expenditure as "Credit Card Payment" and a description as "Payment of credit card bill for political advertising."
- The \$500 amount reported on the "Political Expenditures from Political Contributions" Schedule (F1) will also be included in the appropriate sections of Cover Sheet Pages 2 and 3.

Example 4: Candidate Using Credit Card to Make a Political Expenditure and Using Political Contributions to Pay the Credit Card Bill in Different Reporting Periods

A candidate for judicial office uses her credit card to buy \$500 in political advertising in a newspaper. The candidate receives the statement from the credit card company but does not send a payment until after the reporting period ends. When the candidate sends a payment to the credit card company, she makes a \$500 payment from her political contributions account.

To report the credit card charge, the candidate would report all of the following on a campaign finance report (Form JC/OH) covering the period in which she made the credit card charge:

- A \$500 expenditure on the "Expenditures Made by Credit Card" Schedule (F4). The schedule identifies the newspaper as the payee of the expenditure and includes the address, date, amount, a category of the expenditure as "Advertising Expense" and a description as "Political Advertising." In Section 9 of the schedule, the box for "Political" is also checked.
- The \$500 amount reported on the "Expenditures Made by Credit Card" Schedule (F4) will also be included in the appropriate sections of Cover Sheet Pages 2 and 3.

To report the payment to the credit card company, the candidate would also report all of the following on a campaign finance report (Form JC/OH) covering the period in which the payment to the credit card company was made:

- A \$500 expenditure on the "Political Expenditures from Political Contributions" Schedule (F1). The schedule identifies the credit card company as the payee of the expenditure and includes the address, date, amount, a category of the expenditure as "Credit Card Payment" and a description as "Payment of credit card bill for political advertising."
- The \$500 amount reported on the "Political Expenditures from Political Contributions" Schedule (F1) will also be included in the appropriate sections of Cover Sheet Pages 2 and 3.
- For those filers eligible to file campaign finance reports on paper, please see the updated forms and instructions section of the Texas Ethics Commission website at <https://www.ethics.state.tx.us/>.

Last Revision: September 3, 2015

REPORTING THE PURPOSE OF EXPENDITURE

The new language is in **italics**.

S 20.61. Purpose of Expenditure (amendment effective January 1, 2018)

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

(1) A description of the category of goods, services or other thing of value for which an expenditure is made.

Examples of acceptable categories include:

- Advertising expense;
- Accounting/banking;
- Consulting expense;
- Contributions/donations made by candidate/officeholder/political committee;
- Event expense;
- Fees;
- Food/beverage expense;
- Gifts/awards/memorials expense;
- Legal services;
- Loan repayment/reimbursement;
- Office overhead/rental expense;
- Polling expense;
- Printing expense;
- Salaries/wages/contract labor;
- Solicitation/fundraising expense;
- Transportation equipment and related expense;
- Travel in district;
- Travel out of district;
- Other political expenditures

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

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

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

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

- (1) The name of the person or persons traveling on whose behalf the expenditure was made;
 - (2) The means of transportation;
 - (3) The name of the departure city or the name of each departure location;
 - (4) The name of the destination city or the name of each destination location;
 - (5) The dates on which the travel occurred; and
 - (6) The campaign or officeholder purpose of the travel, including the name of a conference, seminar or other event.
- (d) Except as provided by subsection (e) of this section, this rule applies to expenditures made on or after July 1, 2010.
- (e) The requirement to include an additional indication if an expenditure is an officeholder expenditure for living in Austin, Texas, applies to an expenditure made on or after July 1, 2014.
- (f) Comments: The purpose of an expenditure must include both a description of the category of goods or services received in exchange for the expenditure and a brief statement or description of the candidate, officeholder or political committee activity that is conducted by making the expenditure. A description of an expenditure that merely states the item or service purchased is not adequate, because doing so does not allow a person reading the report to know the allowable activity for which an expenditure was made.

The following is a list of examples that describe how the purpose of an expenditure may be reported under Section 20.61. This list is for illustrative purposes only. It is intended to provide helpful information and to assist filers in reporting the purpose of an expenditure under this rule. However, it is not and is not intended to be an exhaustive or exclusive list of how a filer may permissibly report the purpose of an expenditure under this rule. The rule does not require the candidate or officeholder to identify by name or affiliation an individual or group with whom the candidate or officeholder meets.

- (1) Example: Candidate X is seeking the office of state representative, District 2000. She purchases an airline ticket from ABC Airlines to attend a campaign rally within District 2000. The acceptable category for this expenditure is "travel in district." The candidate activity that is accomplished by making the expenditure is to attend a campaign rally. An acceptable brief statement is "airline ticket to attend campaign event."
- (2) Example: Candidate X purchases an airline ticket to attend a campaign event outside of District 2000, but within Texas. The acceptable category is "travel out of district." The candidate activity that is accomplished by making the expenditure is to attend a campaign event. An acceptable brief statement is "airline ticket to attend campaign or officeholder event."
- (3) Example: Candidate X purchases an airline ticket to attend an officeholder-related seminar outside of Texas. The acceptable method for the purpose of this expenditure is selecting the "travel out of district" category and completing the Schedule T (used to report travel outside of Texas).
- (4) Example: Candidate X contracts with an individual to do various campaign-related tasks, such as work on a campaign phone bank, sign distribution and staffing the office. The acceptable category is "salaries/wages/

contract labor." The candidate activity that is accomplished by making the expenditure is to compensate an individual working on the campaign. An acceptable brief statement is "contract labor for campaign services."

(5) Example: Officeholder X is seeking re-election and makes an expenditure to purchase a vehicle to use for campaign purposes and permissible officeholder purposes. The acceptable category is "transportation equipment and related expenses" and an acceptable brief description is "purchase of campaign/officeholder vehicle."

(6) Example: Candidate X makes an expenditure to repair a flat tire on a campaign vehicle purchased with political funds. The acceptable category is "transportation equipment and related expenses" and an acceptable brief description is "campaign vehicle repairs."

(7) Example: Officeholder X purchases flowers for a constituent. The acceptable category is "gifts/awards/memorials expense" and an acceptable brief description is "flowers for constituent."

(8) Example: Political Committee XYZ makes a political contribution to Candidate X. The acceptable category is "contributions/donations made by candidate/officeholder/political committee" and an acceptable brief description is "campaign contribution."

(9) Example: Candidate X makes an expenditure for a filing fee to get his name on the ballot. The acceptable category is "fees" and an acceptable brief description is "candidate filing fee."

(10) Example: Officeholder X makes an expenditure to attend a seminar related to performing a duty or engaging in an activity in connection with the office. The acceptable category is "fees" and an acceptable brief description is "attend officeholder seminar."

(11) Example: Candidate X makes an expenditure for political advertising to be broadcast by radio. The acceptable category is "advertising expense" and an acceptable brief description is "political advertising." Similarly, Candidate X makes an expenditure for political advertising to appear in a newspaper. The acceptable category is "advertising expense" and an acceptable brief description is "political advertising."

(12) Example: Officeholder X makes expenditures for printing and postage to mail a letter to all of her constituents, thanking them for their participation during the legislative session. Acceptable categories are "advertising expense" OR "printing expense" and an acceptable brief description is "letter to constituents."

(13) Example: Officeholder X makes an expenditure to pay the campaign office electric bill. The acceptable category is "office overhead/rental expense" and an acceptable brief description is "campaign office electric bill."

(14) Example: Officeholder X makes an expenditure to purchase paper, postage and other supplies for the campaign office. The acceptable category is "office overhead/rental expense" and an acceptable brief description is "campaign office supplies."

(15) Example: Officeholder X makes an expenditure to pay the campaign office monthly rent. The acceptable category is "office overhead/rental expense" and an acceptable brief description is "campaign office rent."

(16) Example: Candidate X hires a consultant for fundraising services. The acceptable category is "consulting expense" and an acceptable brief description is "campaign services."

(17) Example: Candidate/Officeholder X pays his attorney for legal fees related to either campaign matters or officeholder matters. The acceptable category is "legal services" and an acceptable brief description is "legal fees for campaign" or "for officeholder matters."

(18) Example: Candidate/Officeholder X makes food and beverage expenditures for a meeting with her constituents. The acceptable category is "food/beverage expense" and an acceptable brief statement is "meeting with constituents."

(19) Example: Candidate X makes food and beverage expenditures for a meeting to discuss candidate issues. The acceptable category is "food/beverage expense" and an acceptable brief statement is "meeting to discuss campaign issues."

(20) Example: Officeholder X makes food and beverage expenditures for a meeting to discuss officeholder issues. The acceptable category is "food/beverage expense" and an acceptable brief statement is "meeting to discuss officeholder issues."

(21) Example: Candidate/Officeholder X makes food and beverage expenditures for a meeting to discuss campaign and officeholder issues. The acceptable category is "food/beverage expense" and an acceptable brief statement is "meeting to discuss campaign/officeholder issues."

Texas Ethics Commission Rule 20.1 (Definition of Vendor) ((24) *Vendor – Any person providing goods or services to a candidate, officeholder, political committee or other filer under this chapter. The term does not include an employee of the candidate, officeholder, political committee or other filer.*

Resources:

IRS Form for Employer Identification Number

<https://www.irs.gov/pub/irs-pdf/fss4.pdf>

Candidate Reporting Forms

<https://www.ethics.state.tx.us/data/forms/coh/cta.pdf> (Campaign Treasurer Appointment)

<https://www.ethics.state.tx.us/data/forms/coh/coh.pdf> (Candidate/Officeholder Campaign Finance Report)

https://www.ethics.state.tx.us/data/forms/coh/daily-c_ coh.pdf (Candidate/Officeholder Daily Pre-Election Report)

https://www.ethics.state.tx.us/data/forms/coh/coh_ss.pdf (Candidate/Officeholder Special Session Report)

https://www.ethics.state.tx.us/data/resources/guides/coh_state_guide.pdf (Candidate/Officeholder TEC Guide)

Special-Purpose Committee Reporting Forms

<https://www.ethics.state.tx.us/data/forms/pacs/sta.pdf> (SPAC Treasurer Appointment)

<https://www.ethics.state.tx.us/data/forms/pacs/spac.pdf> (SPAC Campaign Finance Report)

https://www.ethics.state.tx.us/data/forms/pacs/daily-c_pac.pdf (SPAC Daily Pre-Election Report)

https://www.ethics.state.tx.us/data/forms/pacs/spac_ss.pdf (SPAC Special Session Report)

THE JUDICIAL CAMPAIGN FAIRNESS ACT

In 1995, the Texas Legislature adopted the Judicial Campaign Fairness Act (JCFA), various provisions of chapters 253 and 254 of Title 15, which apply significant campaign finance reporting requirements and restrictions to certain judges and judicial candidates. The act covers campaign/officeholder activity related to the following judicial offices:

- Chief justice or justice of the Supreme Court;
- Presiding judge or judge of the court of criminal appeals;
- Chief justice or justice of a court of appeals;
- District judge;
- Judge of a statutory county court;
- Judge of a statutory probate court.

A) No contributions without proper forms on file

A judge or judicial candidate (even write-ins) may not accept a campaign contribution or an officeholder contribution unless he/she has on file both a *Campaign Treasurer Appointment* and a *Judicial Declaration of Intent Regarding Expenditure Limits* form. The Ethics Commission has combined the forms on an *Appointment of a Campaign Treasurer by a Judicial Candidate* (form JCTA).

The Judicial Declaration of Intent has spaces to indicate whether the candidate will voluntarily comply with the limits on expenditures set forth in the JCFA ("Complying Candidate") or to indicate an intent not to comply with the limits ("Noncomplying Candidate").

B) Contributions prohibited except during election period

A judge, judicial candidate or judicial specific-purpose committee may accept a political contribution only during a specified period. That rule applies to both campaign and officeholder contributions. The acceptance period begins on the 210th day before a judge or judicial candidate is required to file an application for a place on the ballot or an application for nomination by convention. The period ends 120 days after the election in which the candidate last appeared on the ballot, regardless of whether the candidate has an opponent in that election. Judicial candidates who intend to file for a place on the ballot or for nomination by convention may accept contributions for the 2022 election during the following time period.

Beginning Date: **May 17, 2021**, (or if election is for an unexpired term, the date the vacancy occurs, whichever is later).

Ending Date:

- **June 29, 2022**, for candidates who lost in the primary election.
- **September 21, 2022**, for candidates who lost in the primary runoff election.
- **March 8, 2023**, for candidates who last appeared on the ballot in the general election.

C) Contribution Limits

A judicial candidate may not accept political contributions from a person exceeding certain totals in connection with an election. Those contribution limits are:

- \$5,000 for candidates for statewide judicial offices;
- \$5,000 for candidates for courts of appeals, district courts, statutory county courts or statutory probate courts if the population of the judicial district is more than 1 million;
- \$2,500 for candidates for courts of appeals, district courts, statutory county courts or statutory probate courts if the population of the judicial district is from 250,000 to 1 million;
- \$1,000 for candidates for courts of appeals, district courts, statutory county courts or statutory probate courts if the population of the judicial district is less than 250,000.

The above-described limits are aggregate limits and they limit the total contributions an individual or entity may make to a candidate concerning an election.

(1) Specific-Purpose Committees – A contribution to a specific-purpose committee to support a candidate, oppose that candidate's opponent or assist that candidate as an officeholder is considered as a contribution to the candidate for contribution limit purposes.

(2) Family Members of Contributors – A contribution from the spouse or unmarried minor child of an individual is considered to be from that individual. In short, under those special circumstances, the individual contribution limits also serve as a family limit.

(3) Family Members of Candidates – The described limits do not apply to contributions to a judicial candidate from that candidate's parents, children, brothers, sisters, grandparents or grandchildren. A contribution from the spouse of a judicial officeholder or candidate is considered separate from a contribution from the officeholder or candidate himself/herself, but a contribution from an unmarried minor child of a judicial officeholder/candidate is still considered to be a contribution from that officeholder/candidate.

(4) General-Purpose Committees – The limits described herein do not apply to contributions from a general-purpose committee. Such committees have an aggregate limit on contributions, which will be discussed in the next section. Additionally, rules regarding "third-party" limits apply to contributions and expenditures by general-purpose political committees.

(5) Persons Affiliated with Law Firms – Certain additional restrictions on contributions from individuals and entities affiliated with a law firm are also outlined below.

D) Limits on Total Contributions from General-Purpose Political Committees

As of 2019, the JCFA now specifically sets a cap on the amount of contributions a judicial candidate may accept from a particular general-purpose political committee during an election. The limits on contributions from general-purpose committees are:

- \$25,000 for a statewide judicial office.
- \$5,000 for any other judicial office.

The Act also sets a limit on the total contributions that the candidate may accept from general-purpose political committees in connection with one election. The limits on total political contributions from such political committees are:

- \$300,000 for a candidate for a statewide judicial office;
- \$75,000 for a candidate for chief justice or justice of a court of appeals if the population of the judicial district is more than one million;

- \$52,500 for a candidate for chief justice or justice of a court of appeals, if the population of the judicial district is one million or less;
- \$52,500 for a candidate for judge of a district court, a statutory county court or a statutory probate court if the population of the judicial district is more than one million;
- \$30,000 for a candidate for judge of a district court, a statutory county court or a statutory probate court if the population of the judicial district is 250,000 to one million;
- \$15,000 for a candidate for judge of a district court, a statutory county court or a statutory probate court if the population of the judicial district is less than \$250,000.

See revised Section 253.157, Election Code.

E) Limits on Contributions from Persons Affiliated with Law Firm

The JCFA places an additional restriction on contributions from persons and entities affiliated with law firms. A concept essential to understanding these added restrictions is that of a law firm's "restricted contributor class," which includes any general-purpose political committee established and controlled by a law firm or by members of a law firm; any partner, associate, shareholder or employee of a law firm; any person designated as "of the firm" or "of counsel" to the firm; and any spouse or minor child of any one of the potential group members listed earlier in this sentence.

The restriction applicable to those contributions from a law firm's "restricted contributor class" is complicated. For example: In connection with any one election, a judicial candidate may not accept a contribution of more than \$50 from a member of a law firm's "restricted contributor class" if the total of all contributions already accepted from members of the firm's "restricted contributor class" exceeds the statutory limits, which are listed below or if the contribution would cause the total to exceed the limits:

- \$30,000 for candidates for statewide judicial offices (\$5,000 from "persons" per 253.155(a)(1) + \$25,000 from GPACs per 253.157(a-1)(1));
- \$10,000 for candidates for courts of appeals, district judgeships, statutory county courts and statutory probate courts if the population of the judicial district is more than one million (\$5,000 from "persons" per 253.155(b)(2)(C) + \$5,000 from GPACs per 253.157(a-1)(2));
- \$7,500 for candidates for courts of appeals, district judgeships, statutory county courts and statutory probate courts if the population of the judicial district is from 250,000 to one million (\$2,500 from "persons" per 253.155(b)(2)(B) + \$5,000 from GPACs per 253.157(a-1)(2));
- \$6,000 for candidates for courts of appeals, district judgeships, statutory county courts and statutory probate courts, if the population of the judicial district is less than 250,000 (\$1,000 from "persons" per 253.155(b)(2)(A) + \$5,000 from GPACs per 253.157(a-1)(2)).

Please note that a law firm's "restricted contributor class" does not include a candidate's parents, children, brothers, sisters, grandparents or grandchildren. See Election Code Section 253.152 for full definitions of Child, Law Firm, Law Firm Group and Member of a Law Firm.

F) Third-party Limits

House Bill 3233 (2019) repealed all sections of the JCFA that set out voluntary expenditure limits for judicial candidates and notice requirements before third parties could spend over a certain amount in a judicial race.

G) Joint Campaign Activity

Passed in 2019, judicial candidates are now authorized to conduct joint campaign activities with each other. It is undetermined how this will play out in practice and there is little guidance yet from the Texas Ethics Commission. (See 253.1612, Election Code.)

H) Reporting and Disclosure – Additional Contents of Reports

Candidates, officeholders and judicial specific-purpose committees must continue to report the information required of all candidates under Chapter 254 of the Election Code. The JCFA requires that they also report the following additional information:

- A specific listing of each asset valued at \$940 or more bought with political contributions and on hand as of the last day of the reporting period;
- For each loan to the filer with an outstanding balance as of the last day of the reporting period, the full name and address of the lender and the full name and address of each guarantor of the loan other than the candidate; and
- For contributions required to be listed on Schedule A1 or A2, (i.e., contributions from contributors who have given more than \$90 during the reporting period) the principal occupation and job title of the contributor; the full name of the contributor's employer or law firm; and the name of the law firm, if any, of which the contributor's spouse is a member. If the contributor is a child, the filer must list the full name of the law firm, if any, of which either of the child's parents is a member.

These reporting requirements mean that judicial candidates, officeholders and specific-purpose committees will have to keep records of additional information for all contributions accepted, including the following:

- Contributor's occupation, job title and employer;
- The name of the law firm, if any, of which the contributor or the contributor's spouse is a "member" as defined in the law; and
- If the contributor is a child, the name of the law firm, if any, of which either of the child's parents is a member.

Because contributions from an individual's spouse and child count against the individual's contribution limit, in certain circumstances filers may also want to solicit information about whether a contributor's spouse or child has contributed.

For certain unopposed candidates, the general election and the primary election are considered one election for purposes of the contribution and reimbursement limits. However, the limits on contributions are increased by 25%. Any additional funds raised within the 25% threshold may only be used for officeholder expenditures. Keep records. (See 253.1621.)

IMPORTANT INFORMATION FOR JUDICIAL CANDIDATES AND OFFICEHOLDERS

Judicial Declaration of Intent Required. A candidate subject to the Judicial Campaign Fairness Act must file a campaign treasurer appointment and judicial declaration of intent regarding expenditure limits (Form JCTA) with the proper filing authority before accepting a campaign contribution or making or authorizing a campaign expenditure. NOTE: The Judicial Campaign Fairness Act applies to political contributions and expenditures in connection with the office of chief justice or justice, supreme court; presiding judge or judge, court of criminal appeals; chief justice or justice, court of appeals; district judge; judge, statutory county court; or judge, statutory probate court.

Limited Time Period for Accepting Contributions. A candidate subject to the Judicial Campaign Fairness Act may accept political contributions (campaign contributions or officeholder contributions) only during a limited time period.

Beginning Date. Candidates seeking an office that will be filled at the November 8, 2022, general election may accept political contributions during a time period that begins on **May 17, 2021**. (A **write-in candidate** may begin accepting contributions only after filing a declaration of write-in candidacy with the secretary of state or county judge, as applicable.)

Ending Date:

- **June 29, 2022**, for candidates who lost in the primary election.
- **September 21, 2022**, for candidates who lost in the primary runoff election.
- **March 3, 2023**, for candidates who last appeared on the ballot in the general election.

2017 Judicial District Populations. The restrictions in the Judicial Campaign Fairness Act include contribution and expenditure limits, which may vary according to the population of the judicial district. The 2021 population certification for each judicial district is located on the Ethics Commission's website at:

<https://www.ethics.state.tx.us/data/resources/judicial/JudicialDistrictPopulations.pdf>.

Other Restrictions. Candidates and officeholders subject to the Judicial Campaign Fairness Act must comply with various campaign finance restrictions that do not apply to nonjudicial candidates and officeholders. For more information, see the Ethics Commission's "Campaign Finance Guide for Judicial Candidates and Officeholders" on the Ethics Commission's website at:

https://www.ethics.state.tx.us/data/resources/guides/coh_local_guide.pdf.

Click on Form Links:

[The Judicial Campaign Fairness Act](#)

<https://www.ethics.state.tx.us/data/forms/coh/jcta.pdf>

<https://www.ethics.state.tx.us/data/forms/coh/jcoh.pdf>

<https://www.ethics.state.tx.us/data/forms/pacs/jspac.pdf>

<https://www.ethics.state.tx.us/data/forms/security/security-cf.pdf>

https://www.ethics.state.tx.us/data/forms/lobby/filer_id-req-lobby.pdf

https://www.ethics.state.tx.us/data/forms/affd/elf_pac_aff.pdf

https://www.ethics.state.tx.us/data/forms/affd/elf_coh_aff.pdf

<https://www.ethics.state.tx.us/data/statutes/title15.pdf>

<https://www.ethics.state.tx.us/data/resources/guides/Gpolfund.pdf>

https://www.ethics.state.tx.us/data/resources/advertising/Gpol_adv.pdf

https://www.ethics.state.tx.us/resources/guides/Bcan-i-tak-it_leg.php

https://www.ethics.state.tx.us/resources/guides/Bcan-i-tak-it_exec.php

2022 CAMPAIGN TREASURER'S HANDBOOK RESOURCE PAGE

Title 15 Texas Election Code

<https://www.ethics.state.tx.us/data/statutes/title15.pdf>

Texas Ethics Commission Rules

<https://www.ethics.state.tx.us/data/rules/commission/Rules.pdf>

Political Advertising Guide

https://www.ethics.state.tx.us/data/resources/advertising/Gpol_adv.pdf

Candidate/Officeholder Campaign Finance Report

<https://www.ethics.state.tx.us/data/forms/coh/coh.pdf>

Political Committees

<https://www.ethics.state.tx.us/data/filinginfo/schedules/s20state.pdf>

IRS Employer ID Number

<https://www.irs.gov/pub/irs-pdf/fss4.pdf>

Candidate and SPAC Forms

<https://www.ethics.state.tx.us/data/forms/coh/cta.pdf>

<https://www.ethics.state.tx.us/data/forms/coh/coh.pdf>

https://www.ethics.state.tx.us/data/forms/coh/daily_c_coh.pdf

https://www.ethics.state.tx.us/data/forms/coh/coh_ss.pdf

<https://www.ethics.state.tx.us/data/forms/pacs/sta.pdf>

<https://www.ethics.state.tx.us/data/forms/pacs/spac.pdf>

https://www.ethics.state.tx.us/data/forms/pacs/daily_c_pac.pdf

https://www.ethics.state.tx.us/data/forms/pacs/spac_ss.pdf

https://www.ethics.state.tx.us/resources/cf/Personal_Use_Of_Contributions.php (Personal Use of Contributions)

https://www.ethics.state.tx.us/resources/guides/Bcan-i-tak-it_leg.php (Gifts to Legislators)

https://www.ethics.state.tx.us/resources/guides/Bcan-i-tak-it_exec.php (Gifts to Executive Branch)

Judicial Candidate Forms

<https://www.ethics.state.tx.us/data/forms/coh/jcta.pdf>

<https://www.ethics.state.tx.us/data/forms/coh/jcoh.pdf>

<https://www.ethics.state.tx.us/data/forms/pacs/jspac.pdf>

https://www.ethics.state.tx.us/data/forms/security/security_cf.pdf

https://www.ethics.state.tx.us/data/forms/lobby/filer_id-req-lobby.pdf

https://www.ethics.state.tx.us/data/forms/affd/elf_pac_aff.pdf

https://www.ethics.state.tx.us/data/forms/affd/elf_coh_aff.pdf

<https://www.ethics.state.tx.us/data/statutes/title15.pdf>

<https://www.ethics.state.tx.us/data/resources/guides/Gpolfund.pdf>

https://www.ethics.state.tx.us/data/resources/advertising/Gpol_adv.pdf