

ELECTION LAW ENFORCEMENT COMMISSION

CHAPTER 25

REGULATIONS OF THE ELECTION LAW ENFORCEMENT COMMISSION

Authority

N.J.S.A. 19:27-17, 19:44A-6, 19:44A-38, 19:44B-7 and 52:13C-23.2; and P.L. 2004, c. 121, § 19.

Source and Effective Date

R.2005 d.192, effective May 26, 2005.
See: 37 N.J.R. 754(a), 37 N.J.R. 2228(a).

Chapter Expiration Date

Chapter 25, Regulations of the Election Law Enforcement Commission, expires on May 26, 2010.

Chapter Historical Note

Chapter 25, Regulations of the Election Law Enforcement Commission, was adopted as R.1974 d.267, effective September 25, 1974. See: 6 N.J.R. 371(a), 6 N.J.R. 418(a).

Pursuant to Executive Order No. 66(1978), Chapter 25, Regulations of the Election Law Enforcement Commission, was readopted as R.1990 d.526, effective October 1, 1990. See: 22 N.J.R. 2251(a), 22 N.J.R. 3391(a).

Subchapter 4, Reporting Requirements, was repealed and Subchapter 4, Establishment of Reporting Committees, was adopted as new rules; Subchapter 5, Appointment of Treasurers and Depositories, was repealed and Subchapter 5, Appointment of Campaign Officers and Depositories, was adopted as new rules; Subchapter 6, Deposit of Funds, was repealed and Subchapter 6, Receipt and Use of Funds, was adopted as new rules; Subchapter 7, Use or Transmittal of Deposited Funds; Surplus Campaign Funds, was in part repealed and in part recodified as Subchapter 6, Receipt and Use of Funds; Subchapter 8, Recordkeeping, was recodified as Subchapter 7, Recordkeeping; Subchapter 8, Candidate, Joint Candidates, and Political Committee Reporting, was adopted as new rules; and Subchapter 9, Pre-Election and Post-Election Reports, was repealed by R.1993 d.509, effective October 18, 1993. See: 25 N.J.R. 3429(b), 25 N.J.R. 4753(a).

Subchapter 9, Continuing Political Committee, Political Party Committee, and Legislative Leadership Committee Reporting, was adopted as new rules, and Subchapter 10, Quarterly Reports, was repealed by R.1994 d.573, effective November 21, 1994. See: 26 N.J.R. 3138(a), 26 N.J.R. 4638(a).

Subchapter 11, Contributions; Reporting of, was repealed and Subchapter 10, Contribution Reporting, and Subchapter 11, Contribution Limits, were adopted as new rules by R.1995 d.209, effective April 17, 1995. See: 27 N.J.R. 312(a), 27 N.J.R. 480(a), 27 N.J.R. 1643(c).

Pursuant to Executive Order No. 66(1978), Chapter 25, Regulations of the Election Law Enforcement Commission, was readopted as R.1995 d.509, effective August 16, 1995. See: 27 N.J.R. 2564(a), 27 N.J.R. 3621(d).

Subchapter 12, Reporting of Expenditures; Independent Expenditures, was repealed and Subchapter 12, Reporting of Expenditures; Independent Expenditures, was adopted as new rules by R.1995 d.433, effective August 21, 1995. See: 27 N.J.R. 2110(c), 27 N.J.R. 3214(a).

Subchapter 14, Advisory Opinions, was recodified as Subchapter 18, Advisory Opinions, and Subchapter 14, Recall Elections, was adopted as new rules by R.1996 d.10, effective January 2, 1996. See: 27 N.J.R. 3592(a), 27 N.J.R. 3770(a), 28 N.J.R. 177(a).

Subchapter 13, Allocation of Expenditures, was recodified as N.J.A.C. 19:25-12.10, Allocation, and Subchapter 13, Political Identification Statements, was adopted as new rules by R.1996 d.393, effective August 19, 1996. See: 28 N.J.R. 2521(a), 28 N.J.R. 3970(a).

Pursuant to Executive Order No. 66(1978), Chapter 25, Regulations of the Election Law Enforcement Commission, was readopted as R.2000 d.322, effective July 17, 2000. Subchapter 3, Pre-Candidate Activity; "Testing the Waters", was repealed by R.2000 d.322, effective August 7, 2000. See: 32 N.J.R. 1291(a), 32 N.J.R. 2930(a).

Subchapter 3, Electric Filing, was adopted as new rules by R.2004 d.280, effective July 19, 2004. See: 36 N.J.R. 1895(a), 36 N.J.R. 3418(a).

Chapter 25, Regulations of the Election Law Enforcement Commission, was readopted as R.2005 d.192, effective May 26, 2005. As a part of R.2005 d.192, Subchapter 21, Professional Campaign Fund Raisers, was adopted as new rules and former Subchapter 21, Severability Clause, was recodified as Subchapter 22, effective June 20, 2005. See: Source and Effective Date. See, also, section annotations.

Subchapter 23, New Jersey Fair and Clean Elections Pilot Project, was adopted as R.2005 d.272, effective August 15, 2005. See: 37 N.J.R. 1704(a), 37 N.J.R. 3051(b).

Subchapter 20, Lobbyists and Legislative Agents, was renamed Lobbyists and Governmental Affairs Agents by R.2005 d.427, effective December 5, 2005 (operative date of January 1, 2006). See: 37 N.J.R. 2838(a), 37 N.J.R. 4559(a).

Subchapter 24, State Contractor Contributions Prohibited; and Subchapter 25, Legislative, County and Municipal Contractor Contributions Prohibited, were adopted as new rules by R.2006 d.166, effective May 1, 2006. See: 38 N.J.R. 111(a), 38 N.J.R. 1864(a).

Subchapter 26, Contribution Disclosure by For-Profit and Nonprofit Entities, was adopted as new rules by R.2007 d.108, effective April 16, 2007. See: 38 N.J.R. 4661(a), 39 N.J.R. 1498(a).

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(b) Any penalty imposed pursuant to this subsection may be recovered in a summary proceeding pursuant to the "Penalty Enforcement Law of 1999" (P.L. 1999, c.274).

SUBCHAPTER 22. SEVERABILITY CLAUSE

19:25-22.1 Severability clause

If any regulation, or sentence, paragraph or section of this chapter, or the application thereof to any persons or circumstances shall be adjudged by a court of competent jurisdiction to be invalid, or if by legislative action any regulation shall lose its force and effect, such judgment or action shall not affect, impair or void the remainder of these regulations.

As amended, R.1981 d.54, effective February 13, 1981.

See: 13 N.J.R. 49(a), 13 N.J.R. 248(b).

Recodified from Chapter 18.

As amended, R.1983 d.285, effective July 18, 1983.

See: 15 N.J.R. 799(a), 15 N.J.R. 1183(a).

Recodified from Chapter 19.

As amended, R.1984 d.341, effective August 6, 1984.

See: 16 N.J.R. 1044(a), 16 N.J.R. 2154(a).

Recodified from Chapter 20.

SUBCHAPTER 23. NEW JERSEY FAIR AND CLEAN ELECTIONS PILOT PROJECT

19:25-23.1 Definitions

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

"Act" means P.L. 2004, c. 121.

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

"Certified candidate" means a candidate seeking election to the office of member of the General Assembly who chooses to seek such office pursuant to the provisions of the "New Jersey Fair and Clean Elections Pilot Project" and is certified as a New Jersey Fair and Clean Elections candidate pursuant to the Act and this subchapter.

"Commission" means the Election Law Enforcement Commission.

"Department" means the Department of the Treasury.

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

"Initial grant" means the amount calculated by the Commission, no later than the 25th day following the day of the primary election, for a legislative district to be equal to 75 percent of the average amount of money expended by

candidates who are members of the political parties seeking the office of member of the General Assembly in that legislative district in the two immediately preceding general elections for that office, which amount shall in no event exceed \$100,000.

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

"NJCEC" means the New Jersey Citizens' Clean Elections Commission established pursuant to the Act.

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

"Participating candidate" means a candidate seeking election to the office of member of the General Assembly who chooses to seek such office pursuant to the provisions of the Act and is seeking certification as a New Jersey Fair and Clean Elections candidate pursuant to the Act and this subchapter.

"Qualifying contribution" means any contribution of money made to a participating candidate:

1. That is a contribution from an individual who is a voter registered to vote in the legislative district the candidate represents or seeks to represent;
2. That is contributed during the designated qualifying period and received with the knowledge and approval of the candidate;
3. That is acknowledged by a written receipt from the participating candidate, on a form provided by the Commission, that identifies the name and mailing address of the contributor, and the occupation of that person and the name and mailing address of the person's employer; and
4. That equals contributions from 1,500 contributors for a candidate seeking election to the office of member of the General Assembly in 2005, each contribution in the form of a check or money order made payable to the Fund in support of a participating candidate, and comprised of at least 1,000 contributions of \$5.00 and at least 500 contributions of \$30.00.

"Qualifying period" means for a participating candidate seeking election to the office of member of the General Assembly in 2005, the period of time beginning the 25th day following the day of the primary election that year and ending at 4:00 P.M. on the 62nd day prior to the day of the next immediate general election.

"Seed money contribution" means a contribution of money of no more than \$200.00 per individual made to a

participating candidate and includes a contribution from the candidate or from a member of the candidate's immediate family.

19:25-23.2 Application of the Act in the 2005 general election

The New Jersey Fair and Clean Elections Pilot Project, established pursuant to the Act, shall be open to candidates seeking election to the office of member of the General Assembly in the 2005 general election in the two legislative districts selected pursuant to P.L. 2004, c. 121, §6. The pilot project shall be open to certified candidates for those offices nominated directly by petition. Candidates participating in the New Jersey Fair and Clean Elections Pilot Project shall comply with all applicable provisions of the Campaign Reporting Act unless otherwise provided by the Act or this subchapter.

19:25-23.3 Notification of selection of legislative districts

(a) The chairpersons of the two State political party committees shall, no later than the 21st day following the 2005 primary election, or the alternative selection committee shall, no later than the 25th day following the 2005 primary election, notify the Commission in writing or by fax of the legislative districts selected, pursuant to P.L. 2004, c. 121, §6, for the New Jersey Fair and Clean Elections Pilot Project.

(b) The Commission shall provide immediate written notification to all candidates for office of member of the General Assembly in the legislative districts selected pursuant to (a) above, of the provisions of the Act and this subchapter.

19:25-23.4 Declaration of Intent to be a Certified Candidate

(a) A candidate for the office of member of the General Assembly in the 2005 general election who intends to be a certified candidate shall certify and file with the Commission a Declaration of Intent to be a Certified Candidate.

(b) The Declaration of Intent to be a Certified Candidate shall be filed with the Commission no later than 4:00 P.M. on the 62nd day prior to the 2005 general election and shall include the following statements by the candidate:

1. That he or she is filing the Declaration of Intent to be a Certified Candidate in order to become a participating candidate in the New Jersey Fair and Clean Elections Pilot Project and shall comply with the requirements of the Act;
2. That on or after the date of filing of the Declaration of Intent to be a Certified Candidate he or she:
 - i. Shall suspend all access to existing candidate committee and joint candidates committee funds; and
 - ii. Shall not use existing candidate committee and joint candidates committee funds in any way that would

assist his or her 2005 general election candidacy if certified by the Commission as a Clean Elections candidate;

3. That he or she may use funds raised and reported to the Commission pursuant to the Campaign Reporting Act prior to becoming a participating candidate as the seed money required of a participating candidate, but only to the extent that such money can be attributable to contributions of \$200.00 or less from individuals;

4. That on and after the date of filing of the Declaration of Intent to be a Certified Candidate and until being certified by the Commission, he or she shall accept only seed money contributions, not to exceed \$3,000 in the aggregate, with each seed money contribution from an individual in an amount not to exceed \$200.00, and qualifying contributions;

5. That he or she shall not accept any seed money contribution in the form of a loan;

6. That upon receipt of notification by the Commission that he or she is a certified candidate, he or she:

- i. Shall not accept or spend any further seed money;
- ii. Shall transfer any remaining unspent seed money to the Fund; and
- iii. Shall limit the total amount of expenditures and obligations in the 2005 general election, including outstanding obligations, to the moneys distributed from the Fund;

7. That he or she shall comply with the Clean Elections Candidate debate requirement by making arrangements for and participating in two debates among candidates in his or her legislative district and by notifying the Commission on or before October 1st of the arrangements for the two debates; and

8. That he or she understands that, with the exception of a candidate seeking election by means of direct nomination by petition, he or she will not be certified by the Commission as a certified candidate unless the other candidate in his or her legislative district for election to the office of member of the General Assembly in the 2005 general election in his or her political party meets the criteria for and is eligible for certification as a Clean Elections candidate.

(c) All seed money contributions shall be deposited into a separate campaign depository established pursuant to N.J.A.C. 19:25-4.1A.

19:25-23.5 Written receipt for a qualifying contribution

(a) In addition to the records required to be made and maintained pursuant to N.J.A.C. 19:25-23.6, a participating candidate shall for each qualifying contribution make and

maintain a written receipt, on a form provided by the Commission, which shall contain the name and mailing address of the contributor, the occupation of the contributor, as required pursuant to N.J.A.C. 19:25-10.2A, and the name and mailing address of the contributor's employer, and which identifies whether the qualifying contribution was received by means of a check or money order.

(b) A participating candidate shall observe the requirements of N.J.A.C. 19:25-10.15 to determine whether or not a qualifying contribution received by means of a check is a contribution from an individual.

(c) The written receipt described in (a) above shall contain the signature of the contributor for each qualifying contribution received by means of a money order.

(d) A participating candidate shall maintain a copy of the written receipt for a qualifying contribution for a period of not less than four years after the date of the election to which it is relevant.

19:25-23.6 Recordkeeping

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

19:25-23.7 Submission of qualifying contributions for initial grant

(a) A candidate seeking to receive the initial grant of funds as a certified candidate shall, not later than the last date for filing a submission, pursuant to N.J.A.C. 19:25-23.8, file with the Commission a submission or submissions, on forms provided by the Commission, each submission containing the following statements by the candidate:

1. That since filing the Declaration of Intent to be a Certified Candidate he or she has accepted only seed money contributions, not to exceed \$3,000 in the aggregate, with each seed money contribution received from an individual in an amount not to exceed \$200.00, and qualifying contributions;

2. That no payment, gift or other thing of value has been given in exchange for a qualifying contribution; and

3. That a written receipt was made, pursuant to N.J.A.C. 19:25-23.6, for each qualifying contribution in the submission and that each qualifying contribution in the submission was:

i. Received from a voter registered to vote in the legislative district the candidate represents or seeks to represent;

ii. Received either by means of a check or money order made payable to the Fund; and

iii. Received during the qualifying period.

(b) The qualifying contributions shall accompany each submission.

(c) Each submission shall contain a list of the qualifying contributions which includes for each qualifying contribution the contributor's full name and mailing address, the date of receipt of the contribution, the amount of the contribution, the occupation of the contributor and the name and mailing address of the contributor's employer. The list shall also identify whether a qualifying contribution was received by means of a check or by means of a money order.

(d) A candidate shall report on each submission the total number of and total dollar amount of qualifying contributions contained in the submission and shall report the number of and total amount of \$5.00 qualifying contributions and the number of and total amount of \$30.00 qualifying contributions contained in the submission.

(e) A candidate shall report on his or her first submission all seed money contributions received since filing the Declaration of Intent to be a Certified Candidate, pursuant to N.J.A.C. 19:25-23.4, and shall report on each subsequent submission seed money contributions received since filing the last such submission.

(f) A candidate shall certify on his or her final submission as follows:

1. That during the qualifying period he or she obtained contributions from no fewer than 1,500 voters registered to vote in the legislative district the candidate represents or seeks to represent, which 1,500 contributions included at least 1,000 contributions of \$5.00 and at least 500 contributions of \$30.00; and

2. That during the qualifying period he or she accepted and spent only seed money contributions, not to exceed \$3,000 in the aggregate, with each seed money contribution from an individual in an amount not to exceed \$200.00.

19:25-23.8 Dates of submissions

(a) Submission filing dates are the second and fourth Thursdays in July and August immediately preceding the general election, the first Thursday in September immediately preceding the general election, and the fourth business day after the final day of the qualifying period. A submission must be received in the Commission's offices before 12:00 noon of a submission filing date to be deemed timely filed.

(b) In event that a date for submission shall fall on a holiday, the submission may be filed on the next succeeding business day which is not a holiday.

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

19:25-23.9 Notification of certification; initial grant

(a) The Commission shall within three days of receipt of a submission, certified by the candidate to be his or her final submission, notify the candidate in writing whether or not the candidate has met the criteria for certification as a New Jersey Fair and Clean Elections candidate and shall provide written notification to a candidate who has been denied certification of the reasons for the denial.

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

1. Signed and filed a Declaration of Intent to be a Certified Candidate, pursuant to N.J.A.C. 19:25-23.4;

2. Filed a submission or submissions reporting that the candidate has received 1,500 qualifying contributions, comprised of at least 1,000 contributions of \$5.00 and at least 500 contributions of \$30.00, each contribution in the form of a check or money order made payable to the Fund;

3. Certified that on and after the date of filing of the Declaration of Intent to be a Certified Candidate he or she accepted and spent only seed money contributions, not to exceed \$3,000 in the aggregate, with each seed money contribution from an individual in an amount not to exceed \$200.00; and

4. In the case of a candidate seeking election to the offices of member of the General Assembly by direct nomination has submitted to the Attorney General a petition of nomination with the required number of valid signatures, as required by N.J.S.A. 19:13-5.

(c) Except in the case of a candidate seeking office by means of direct nomination by petition, the Commission shall not certify a candidate as a New Jersey Fair and Clean Elections candidate unless both candidates for election to the office of member of the General Assembly in 2005 who are members of the same political party in the legislative district the candidates represent or seek to represent, meet the criteria established by this subchapter and are otherwise eligible to be certified as New Jersey Fair and Clean Elections candidates.

(d) The Commission shall immediately notify the Department that a candidate has been certified as a New Jersey Fair and Clean Elections candidate and shall notify the Department of the initial grant amount for that candidate. The Department shall provide the initial grant amount for each certified candidate no later than the third day following certification by the Commission.

(e) A candidate who is seeking the office of member of the General Assembly in 2005 by means of direct nomination by petition and who is certified by the Commission as a New Jersey Fair and Clean Elections candidate shall be eligible for an initial grant from the Fund in an amount equal to not more than half of the initial grant amount calculated by the Commission for that legislative district.

(f) A candidate who has been certified as a New Jersey Fair and Clean Elections candidate shall deposit the initial grant amount into the separate depository established pursuant to N.J.A.C. 19:25-23.4(c).

19:25-23.10 Appeal of certification decision

(a) To appeal a Commission decision to deny his or her certification as a Clean Elections candidate, a candidate shall within three days of receipt of written notification of the Commission's denial of certification file a written notice of appeal with the Commission which specifically responds to the reasons for non-certification provided pursuant to N.J.A.C. 19:25-23.9 and sets forth a detailed statement of facts and information, including copies of documents such as contribution receipts, to support the candidate's claim that he or she should be granted certification as a Clean Elections candidate.

(b) To appeal a decision by the Commission to grant certification as a Clean Elections candidate to an opposing 2005 general election candidate, a candidate shall within three days of the Commission's decision, file a written notice of appeal with the Commission which contains a detailed statement of facts and information to support the candidate's claim that his or her opponent should not have been certified as a Clean Elections candidate.

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

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

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

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

(g) Any candidate whose certification by the Commission as a Clean Elections candidate is revoked as a result of an

appeal to Superior Court shall return to the Commission for deposit into the Fund any unspent moneys received from the Fund.

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

19:25-23.11 Return of seed money; report

(a) Within 48 hours of receipt of notification by the Commission that a candidate is certified as a New Jersey Fair and Clean Elections candidate, the candidate shall:

1. Certify and file with the Commission a report, on a form provided by the Commission, reporting the total amount of seed money contributions, the total amount of seed money spent, and the amount of seed money remaining unspent on the date of receipt of notification that the candidate is a New Jersey Fair and Clean Elections candidate; and

2. File with the report for return to the Fund by the Commission a check made payable to the Fund in the amount of the unspent balance of seed money.

19:25-23.12 Reporting contributions

Notwithstanding the provisions of N.J.S.A. 19:44A-16, or any other law, rule or regulation relating to the reporting of campaign contributions by a candidate to the contrary, a certified candidate shall report all contributions received, regardless of amount.

19:25-23.13 Use of funds

(a) A candidate who has been notified by the Commission that he or she is a certified Clean Elections candidate shall limit his or her campaign expenditures and obligations, including outstanding obligations, to only the moneys distributed to the candidate from the Fund and shall not accept any other contributions unless specifically authorized by the Commission.

(b) All such funds distributed to a certified candidate from the Fund shall be used only for the purposes provided in N.J.S.A. 19:44A-11.2 and N.J.A.C. 19:25-8.

19:25-23.14 Use of name, image, or photograph of certified candidate

A certified candidate shall not authorize his or her name, image, or photograph to be used in any advertisements promoting the election of a nonparticipating candidate seeking public office in the same legislative district as the certified candidate.

19:25-23.15 Withdrawal

(a) A certified candidate who wishes to withdraw from the New Jersey Fair and Clean Elections Pilot Project and to cease being a certified candidate shall obtain approval to withdraw from the NJCCEC by:

1. Notifying the Election Law Enforcement Commission in writing prior to the day of the 2005 general election of his or her intent to withdraw from the New Jersey Fair and Clean Elections Pilot Project; and

2. Notifying the NJCCEC in writing at any time prior to the day of the election of his or her intent to withdraw from the New Jersey Fair and Clean Elections Pilot Project.

(b) A certified candidate whose withdrawal from the New Jersey Fair and Clean Elections Pilot Project has been approved by the NJCCEC shall remit to the Fund within 48 hours of approval of withdrawal any money received from the Fund pursuant to the Act, unless directed otherwise by the NJCCEC.

(c) The Commission may assess a monetary penalty for withdrawal in the amounts set forth in N.J.A.C. 19:25-23.32.

19:25-23.16 Additional funds for a certified candidate

(a) The Commission shall request additional funds from the Department for a certified candidate, as set forth in (b) or (c) below, after the following have occurred:

1. The deadline to file the Declaration of Intent to be a Certified Candidate has occurred;

2. The Commission has determined that the certified candidates seeking election to the office of member of the General Assembly in 2005 in a legislative district are opposed for election in that legislative district by nonparticipating candidates; and

3. The period for filing an appeal of certification pursuant to N.J.A.C. 19:25-23.10 has expired.

(b) For a certified candidate who is not seeking the office of member of the General Assembly in 2005 by means of direct nomination by petition, the Commission shall request an amount equal to the initial grant amount for that legislative district.

(c) For a certified candidate who is seeking the office of member of the General Assembly in 2005 by means of direct nomination by petition, the Commission shall request an amount equal to half of the initial grant amount for that legislative district.

(d) A certified candidate shall deposit the additional funds received pursuant to this section into the separate depository established pursuant to N.J.A.C. 19:25-23.4(c).

19:25-23.17 Claim for additional funds for excess contributions

(a) A certified candidate shall file a claim with the Commission, on a form provided by the Commission, to receive funds in addition to the initial grant amount if a report filed with the Commission by a nonparticipating candidate in the same legislative district, alone or in conjunction with money spent on behalf of the nonparticipating candidate by any other entity, discloses an aggregate amount of contributions received in excess of the initial grant amount in that legislative district.

(b) For the purposes of this section, the term "entity" includes a person, political committee, continuing political committee, political party committee, candidate committee, joint candidates committee, or legislative leadership committee not acting in concert with that nonparticipating candidate.

(c) The claim for additional funds pursuant to (a) above shall be certified as correct by the certified candidate and shall include evidence, including, but not limited to, copies of reports filed with the Commission, to establish that the nonparticipating candidate has received contributions which exceed the initial grant amount in that legislative district.

(d) The claim for addition funds pursuant to (a) above shall include the candidate's certification that the total amount spent in the election has not exceeded the sum of the maximum \$3,000 in seed money contributions, plus the initial grant amount, plus any additional sums provided to the candidate pursuant to this section and N.J.A.C. 19:25-23.18.

(e) Upon receipt of a certified claim from a candidate pursuant to this section, the Commission shall apply, as soon as practicable, to the Department for an additional amount of money from the Fund for the certified candidate equivalent to the excess amount set forth in the claim.

(f) A certified candidate may receive no more than the total amount of \$50,000 from the Fund for claims submitted pursuant to this section.

(g) A certified candidate shall deposit the additional funds received pursuant to this section into the separate depository established pursuant to N.J.A.C. 19:25-23.4(c).

19:25-23.18 Claim for additional funds for independent expenditures

(a) A certified candidate shall file a claim with the Commission, on a form provided by the Commission, to receive funds in addition to the initial grant amount if any other candidate or candidates, including a certified candidate, for the office of member of the General Assembly in the same legislative district is or are benefiting from an independent expenditure or independent expenditures in an amount greater than \$1,000.

(b) For the purposes of this section, the phrase "benefiting from an independent expenditure or independent expenditures" shall refer to an expenditure made on behalf of another candidate or candidates for General Assembly in the same legislative district as the certified candidate by a person, candidate committee, joint candidates committee, political committee, continuing political committee, political party committee, or legislative leadership committee not acting in concert with that other candidate or candidates, and which expenditure is made for a communication to support or defeat that other candidate or candidates for General Assembly in the same legislative district as the certified candidate and makes reference to same.

(c) The claim for additional funds pursuant to (a) above shall be certified as correct by the certified candidate and shall include evidence of the specific cost of the independent expenditure or independent expenditures, including, but not limited to, copies of independent expenditure communications, evidence of printing and mailing costs of the independent expenditure communications, and costs to produce or broadcast independent expenditure communications.

(d) The claim for addition funds pursuant to (a) above shall include the candidate's certification that the total amount spent in the election has not exceeded the sum of the maximum \$3,000 in seed money contributions, plus the initial grant amount, plus any additional sums provided to the candidate pursuant to this section and N.J.A.C. 19:25-23.17.

(e) Upon receipt of a certified claim from a candidate pursuant to this section, the Commission shall apply, as soon as practicable, to the Department for an additional amount of money from the Fund the certified candidate who is not benefiting from the independent expenditure or expenditures, which amount is equivalent to the cost of the independent expenditure or independent expenditures set forth in the claim.

(f) A certified candidate may receive no more than the total amount of \$50,000 from the Fund for claims submitted pursuant to this section.

(g) A certified candidate shall deposit the additional funds received pursuant to this section into the separate depository established pursuant to N.J.A.C. 19:25-23.4(c).

19:25-23.19 Return of unspent funds

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

1. To satisfy outstanding obligations incurred on or before the date of the election made for appropriate campaign purposes, or

2. To pay the reasonable and necessary costs of closing the campaign.

(b) Each certified candidate shall, upon the filing of a final report for the 2005 general election, return to the Commission for deposit into the Fund all unspent Fund moneys.

19:25-23.20 Political identification requirements

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

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

1. In the case of radio, an audio statement in the candidate's own voice, or if in conjunction with the other certified candidate each candidate's own voice, that identifies the candidate, the office the candidate is seeking, and that the candidate has approved the communication;

2. In the case of television, the Internet or any other similar form of communication containing audio and visual formats, a statement in the candidate's own voice, or if in conjunction with the other certified candidate in each candidate's own voice, that identifies the candidate, the office the candidate is seeking, and that the candidate has approved the communication, that is either spoken by the candidate during an unobscured full-screen view of the candidate or through a voice-over by the candidate accompanied by a clearly identifiable photograph or similar image of the candidate that occupies at least 80 percent of the vertical screen height, and includes the candidate's statement at the end of the communication in clearly readable writing in letters equal to at least four percent of the vertical picture height and visible for at least four seconds, except that an Internet communication consisting of printed material only, with or without photographs, shall include the written statement described above; or

3. In the case of any other form of communication, the communication shall include the written statement described in (b)2 above.

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

19:25-23.21 Voter's Guide statement

(a) Each candidate seeking election to the office of member of the General Assembly in the 2005 general election

in the two legislative districts selected pursuant to P.L. 2004, c. 121, §6 shall be entitled to have a statement submitted by the candidate included in the 2005 general election Voter's Guide.

(b) Each candidate who wishes such a statement to be included in the Voter's Guide shall submit to the Commission, on forms to be provided by the Commission, his or her proposed statement which shall not exceed 500 words in length. The statement shall be submitted to the Commission on or before the 48th day prior to the date on which the general election is to be held.

(c) The Voter's Guide shall list the name of each candidate seeking office at that election and shall identify the candidates that are certified candidates and the candidates that are nonparticipating candidates. The Commission shall post the Voter's Guide on its web site as soon as may be practicable.

19:25-23.22 Debate requirement; nonparticipating candidates

(a) Each certified candidate shall participate in two debates among candidates for the office of member of the General Assembly in the legislative district the candidate represents or seeks to represent. Each of the two debates shall be of at least one hour's duration.

(b) The certified candidates for the office of member of the General Assembly in the legislative district shall invite all nonparticipating candidates for the office of member of the General Assembly in the same legislative district to participate in the two candidates' debates.

(c) Each certified candidate in a legislative district shall cooperate in the selection of debate sponsors, pursuant to N.J.A.C. 19:25-23.23, and in making all arrangements for the two required debates.

19:25-23.23 Debate sponsor selection

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

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

1. Are unaffiliated with any political party or with any holder of or candidate for public office; and

2. Have not endorsed any candidate in the pending general election for the office of member of the General Assembly in the legislative district which the candidates represent or seek to represent and agree not to make any such endorsement until the completion of any debate sponsored by the organization.

19:25-23.24 Conduct of the debates; dates

(a) Each of the two required candidates' debates shall be of at least one hour's duration, and each of the two debates shall occur no earlier than October 3rd and no later than the fifth day prior to the general election in which the candidates are seeking election to the office of member of the General Assembly.

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

19:25-23.25 Candidate debate certification

(a) Each certified candidate shall certify and file with the Commission no later than October 1st a report containing the following information:

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

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

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

(c) If there will be an admission fee or ticket price for attendance at the debate, the certified candidates shall report, pursuant to (a) above, the amount of the admission fee or

ticket price and an explanation of why such an admission fee or ticket price is being charged.

(d) The certification filed pursuant to this section shall include the certified candidate's statement that nonparticipating candidates for the office of member of the General Assembly in the legislative district have been invited to participate in the two candidates' debates.

(e) The Commission shall review each debate certification filed pursuant to this section to ensure that no debate is scheduled at the same time and on the same date as a gubernatorial candidates' debate.

19:25-23.26 Complaint alleging failure to participate in debate

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

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

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

19:25-23.27 Candidate response to complaint for failure to participate in a debate or debates

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

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

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

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

19:25-23.28 Commission response to complaint for failure to participate in a debate or debates

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

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

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

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

19:25-23.29 Conduct of the hearing

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

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

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

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

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

(f) The Commission shall have the authority to assess the costs associated with a hearing held pursuant to this section

against any complainant, respondent or interested person permitted to appear.

19:25-23.30 Final decision of non-participation

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

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

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

19:25-23.31 Penalty for failure to debate

A certified candidate who is found by the Commission to have failed to participate in a required candidates' debate shall be liable to a penalty of not more than \$6,000 for the first offense and not more than \$12,000 for the second and each subsequent offense.

19:25-23.32 Monetary penalties

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

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

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

19:25-23.33 Criminal penalties

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

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

(c) Any individual found to be in violation of (b) above shall remit in an expedited manner to the Commission for deposit into the Fund all moneys distributed to the candidate since he or she was certified as a New Jersey Fair and Clean Elections candidate for the election cycle in which the offense occurred.

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

19:25-23.34 Disqualification as a candidate; forfeiture of office

(a) A candidate who is seeking certification as a Clean Elections candidate or who sought certification as a Clean Elections candidate shall be disqualified as a candidate for the public office sought or shall forfeit office if elected if the candidate files or filed a report that is found by the Commission to be in violation of the Act and this subchapter because:

1. The candidate accepted contributions other than qualifying contributions;
2. The candidate accepted seed money contributions greater than \$3,000 in the aggregate;
3. The candidate obtained qualifying contributions during the qualifying period from fewer than 1,500 voters registered to vote in the legislative district the candidate represents or seeks to represent; or
4. The candidate gave a payment, gift or other thing of value in exchange for a qualifying contribution.

SUBCHAPTER 24. STATE CONTRACTOR
CONTRIBUTIONS PROHIBITED

19:25-24.1 Definitions

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

“Business entity” means any natural or legal person, business corporation, professional services corporation, limited liability company, partnership, limited partnership, business trust, association or any other legal commercial entity organized under the laws of this State or any other state or foreign jurisdiction, and includes:

1. All principals who own or control more than 10 percent of the profits or assets of a business entity or 10 percent of the stock in the case of a business entity that is a corporation for profit, as appropriate;
2. Any subsidiaries directly or indirectly controlled by the business entity;
3. Any political organization organized under section 527 of the Internal Revenue Code that is directly or indirectly controlled by the business entity, other than a candidate committee or political party committee; and
4. If a business entity is a natural person, that person’s spouse or child, residing with the natural person.

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

“Campaign treasurer” means the person or persons appointed as treasurer by a candidate committee or the person or persons undertaking activity relating to contributions and expenditures of a candidate committee pursuant to the Campaign Reporting Act.

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

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

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

“Contribution reportable by the recipient” shall mean a contribution or contributions in excess of \$300.00 in the aggregate per election made to or received by a candidate committee or joint candidates committee or per calendar year made to or received by a political party committee or legislative leadership committee.