

SUBTITLE H. 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-22.3,
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Subchapter 4, Reporting Requirements, was repealed and Subchapter 4, Establishment of Reporting Committees, was adopted as new rules; Subchapter 5, Appointment of Treasurers and Depositories, was repealed and Subchapter 5, Appointment of Campaign Officers and Depositories, was adopted as new rules; Subchapter 6, Deposit of Funds, was repealed and Subchapter 6, Receipt and Use of Funds, was adopted as new rules; Subchapter 7, Use or Transmittal of Deposited Funds; Surplus Campaign Funds, was in part repealed and in part recodified as Subchapter 6, Receipt and Use of Funds; Subchapter 8, Recordkeeping, was recodified as Subchapter 7, Recordkeeping; Subchapter 8,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Political Committee Reporting, was adopted as new rules; and Subchapter 9, Pre-Election and Post-Election Reports, was repealed by R.1993 d.509, effective October 18, 1993.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and Legislative Leadership Committee Reporting, was adopted as new rules, and Subchapter 10, Quarterly Reports, was repealed by R.1994 d.573, effective November 21, 1994.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Subchapter 11, Contributions; Reporting of, was repealed and Subchapter 10, Contribution Reporting, and Subchapter 11, Contribution Limits, were adopted as new rules by R.1995 d.209, effective April 17, 1995.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.

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).

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Amended by R.1990 d.526, effective November 5, 1990.

See: 22 N.J.R. 2251(a), 22 N.J.R. 3391(a).

Citations added.

Amended by R.2000 d.322, effective August 7, 2000.

See: 32 N.J.R. 1291(a), 32 N.J.R. 2930(a).

Inserted a reference to the Uniform Recall Election Law.

SUBCHAPTER 1. GENERAL PROVISIONS

19:25-1.1 Scope of regulations

The provisions of this chapter are promulgated pursuant to the New Jersey Campaign Contributions and Expenditures Reporting Act, P.L. 1973, c.83, as amended, N.J.S.A. 19:44A-1 and following ("the act"); the Gubernatorial Legislative Disclosure Statement Act; N.J.S.A. 19:44B-1 et seq.; the Uniform Recall Election Law, P.L. 1995, c. 105, N.J.S.A. 19:27A-1, and the Legislative Activities Disclosure Act of 1971, N.J.S.A. 52:13C-18 et seq. Such provisions shall constitute the rules and regulations of practice and procedure of the New Jersey Election Law Enforcement Commission ("the Commission").

19:25-1.2 Short title

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

19:25-1.3 Liberal construction of regulations

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

19:25-1.4 Relaxation

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

(e) In the event that a joint candidates committee makes a contribution to another joint candidates committee as described in (c) above, but there have been one or more contributions by the contributing joint candidates committee, or by a candidate committee established by one of the joint candidates committee's candidates, to one or more candidate committees of a candidate or candidates participating in the recipient joint candidates committee, or to the recipient joint candidates committee, the amount of a contribution that the recipient joint candidates committee may receive cannot, after application of the equal attribution requirement set forth in N.J.A.C. 19:25-11.5, exceed \$8,200 per candidate in the election.

Amended by R.1996 d.582, effective December 16, 1996 (operative January 1, 1997).

See: 28 N.J.R. 4388(b), 28 N.J.R. 5193(b).

Raised contribution limits.

Amended by R.2000 d.472, effective November 20, 2000 (operative January 1, 2001).

See: 32 N.J.R. 2987(a), 32 N.J.R. 4112(a).

Increased dollar amounts throughout.

Amended by R.2004 d.471, effective December 20, 2004 (operative January 1, 2005).

See: 36 N.J.R. 4071(a), 36 N.J.R. 5692(b).

Increased dollar amounts throughout.

19:25-11.5 Equal attribution requirements

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

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

1. Example: The ABC joint candidates committee, consisting of Candidates A, B and C, receives a contribution from an individual in the amount of \$7,800 in an election. For purposes of applying the contribution limits to the participating candidates and their individual candidate committees, the contribution must be equally attributed to each of the three participating candidates so that each is deemed to have received a contribution in the amount of \$2,600 in the election from the contributor. The sum of \$2,600 is the maximum amount an individual can contribute to a candidate in an election. Therefore, no further contributions can be made by the contributor in the election to the ABC joint candidates committee, or to any candidate committee established in the election by candidates A, B or C.

2. Example: The ABC joint candidates committee receives a contribution of \$300.00 in an election from a

contributor who has contributed \$2,600 in that election to an individual candidate committee established or maintained by candidate A. The sum of \$2,600 is the maximum amount an individual can contribute to a candidate committee in an election. Application of the equal attribution requirement set forth in (a) above would result in the attribution of \$100.00 to Candidate A of the total \$300.00 contribution to joint candidates committee ABC. Since the sum of the amount contributed to the candidate committee of A \$2,600 plus the attribution of \$100.00 of the \$300.00 contribution made to the ABC joint candidates committee, results in a total contribution from the contributor in the election of \$2,700 to Candidate A, the ABC joint candidates committee must refund the \$300.00 contribution to avoid receipt of an excessive contribution, or alternatively the candidate committee of A must refund \$100.00 in order that the total contribution from the contributor in the election does not exceed the \$2,600 per election contribution limit of candidate A.

Amended by R.1996 d.582, effective December 16, 1996 (operative January 1, 1997).

See: 28 N.J.R. 4388(b), 28 N.J.R. 5193(b).

Raised contribution limits.

Amended by R.2000 d.472, effective November 20, 2000 (operative January 1, 2001).

See: 32 N.J.R. 2987(a), 32 N.J.R. 4112(a).

In (b), increased dollar amounts throughout.

Amended by R.2004 d.471, effective December 20, 2004 (operative January 1, 2005).

See: 36 N.J.R. 4071(a), 36 N.J.R. 5692(b).

Increased dollar amounts throughout.

19:25-11.6 Public question political committees

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

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

19:25-11.7 County political party contribution limits

(a) In addition to the limits set forth in N.J.A.C. 19:25-11.2, a county political party committee shall not make a contribution, or aggregate contributions, in excess of \$8,200 in an election to a candidate committee established by a candidate seeking election for an office in another county.

(b) In addition to the limits set forth in N.J.A.C. 19:25-11.2, a county political party committee shall not make a contribution, or aggregate contributions, in excess of \$7,200 in a calendar year to a municipal political party committee in another county.

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

1. To a candidate for State legislature in a legislative district in which less than 20 percent of the legislative district's population resides in the county of the contributing county political party committee, a contribution not to exceed \$7,200 in the election; and

2. To a candidate for State legislature in a legislative district in which at least 20 percent but less than 40 percent of the legislative district's population resides in the county of the contributing county political party committee, a contribution not to exceed \$37,000 in the election.

Amended by R.1996 d.582, effective December 16, 1996 (operative January 1, 1997).

See: 28 N.J.R. 4388(b), 28 N.J.R. 5193(b).

Raised contribution thresholds and limits.

Amended by R.2000 d.472, effective November 20, 2000 (operative January 1, 2001).

See: 32 N.J.R. 2987(a), 32 N.J.R. 4112(a).

Increased dollar amounts throughout.

Amended by R.2004 d.471, effective December 20, 2004 (operative January 1, 2005).

See: 36 N.J.R. 4071(a), 36 N.J.R. 5692(b).

Increased dollar amounts throughout.

Amended by R.2005 d.192, effective June 20, 2005.

See: 37 N.J.R. 754(a), 37 N.J.R. 2228(a).

Amended dollar amounts throughout.

19:25-11.8 Return of excessive contributions

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

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

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

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

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

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

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

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

New Rule, R.1997 d.81, effective February 18, 1997.

See: 28 N.J.R. 5059(a), 29 N.J.R. 591(a).

Amended by R.2004 d.280, effective July 19, 2004.

See: 36 N.J.R. 1895(a), 36 N.J.R. 3418(a).

In (a), inserted "political committee, continuing political committee," preceding "political party committee" throughout the first sentence.

19:25-11.10 Partnership contributions prohibited

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

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.