

## SUBTITLE H. ELECTION LAW ENFORCEMENT COMMISSION

## CHAPTER 25

REGULATIONS OF THE ELECTION LAW  
ENFORCEMENT COMMISSION

## Authority

N.J.S.A. 19:44A-6, 19:44A-38, 19:44B-7, 52:13C-22.3.

## Source and Effective Date

R.1990 d.526, effective October 1, 1990.  
See: 22 N.J.R. 2251(a), 22 N.J.R. 3391(a).

## Executive Order No. 66(1978) Expiration Date

Chapter 25, Regulations of the Election Law Enforcement Commission, expires on October 1, 1995.

## Chapter Historical Note

Chapter 25, Regulations of the Election Law Enforcement Commission, became effective September 25, 1974 as R.1974 d.267. See: 6 N.J.R. 371(a), 6 N.J.R. 418(a). Amendments became effective December 9, 1975 as R.1975 d.359. See: 7 N.J.R. 527(a), 7 N.J.R. 52(b). Subchapter 15 became effective March 7, 1977 as R.1977 d.72. See: 9 N.J.R. 102(a), 9 N.J.R. 201(a). Rules in Subchapter 18 were originally codified as N.J.A.C. 19:25-15.38 and 15.39 which were adopted as R.1977 d.350, effective September 19, 1977. See: 9 N.J.R. 395(a), 9 N.J.R. 496(b). Further amendments became effective October 6, 1977 as R.1977 d.379. See: 9 N.J.R. 447(b), 9 N.J.R. 548(a). Further amendments became effective March 22, 1979 as R.1979 d.121. See: 11 N.J.R. 107(c), 11 N.J.R. 266(a). Further amendments became effective October 1, 1979 as R.1979 d.391. See: 11 N.J.R. 416(a), 11 N.J.R. 597(b). Amendments were filed as R.1980 d.348, effective August 6, 1980. See: 12 N.J.R. 439(b), 12 N.J.R. 557(a). The text of Subchapter 20 "Financial disclosure by lobbyists and legislative agents" replaced in its entirety text concerning "Lobbying disclosure" which was filed and became effective on August 6, 1980 as R.1980 d.349. See: 12 N.J.R. 442(a), 12 N.J.R. 557(b). Further amendments became effective on August 6, 1980 as R.1980 d.350. See: 12 N.J.R. 439(a), 12 N.J.R. 558(a). Subchapter 19 formerly contained rules concerning public financing of primary elections for governor which became effective September 25, 1980 as R.1980 d.411. See: 12 N.J.R. 555(a), 12 N.J.R. 681(b). The Subchapter 19 was repealed and recodified as N.J.A.C. 19:26-16 effective November 6, 1980 as R.1980 d.491. See: 12 N.J.R. 621(a), 12 N.J.R. 732(b). The previous text of Subchapter 16 on public financing of primary election for governor was codified as N.J.A.C. 19:25-19. Also, Investigations by Commission was recodified from Subchapter 16 to 19:25-17.33 effective November 6, 1980 as R.1980 d.491. See: 12 N.J.R. 621(a), 12 N.J.R. 732(b). Further amendments became effective February 13, 1981 as R.1981 d.54. See: 13 N.J.R. 49(a), 13 N.J.R. 248(b). Substantial amendments which also deleted the existing text of Subchapter 15 and substituted new text became effective February 13, 1981 as R.1981 d.54. See: 13 N.J.R. 49(a), 13 N.J.R. 248(b). Amendments became effective December 7, 1981 as R.1981 d.471. See: 13 N.J.R. 695(a), 13 N.J.R. 895(d), 14 N.J.R. 392(a). Subchapter 19 was readopted effective July 18, 1983 as R.1983 d.285. See: 15 N.J.R. 799(a), 15 N.J.R. 1183(a). Further amendments became effective July 18, 1983 as R.1983 d.287. Subchapter 3 which contained rules concerning limitation of expenditures was repealed and a new Subchapter 3 became effective. See: 15 N.J.R. 616(a), 15 N.J.R. 1182(e). Further amendments and the readoption to Subchapters 12 and 16 became effective March 12, 1984 as R.1984 d.85. See: 16 N.J.R. 236(a), 16 N.J.R. 748(b). Subchapter 20 was recodified without change from Subchapter 8 and Subchapter 21 was recodified from 19:25-20 and became effective August 6, 1984 as R.1984 d.324. See: 16 N.J.R. 1044(a), 16 N.J.R. 2154(a). Further amendments became effective August 6, 1984 as R.1984 d.324. See: 16 N.J.R. 1044(a), 16 N.J.R. 2154(a). Subchapters 2, 4, 5 through 10, 12, 13 and 20 were

readopted pursuant to the above R.1984 d.324. Subchapter 8 was originally "Financial disclosure by lobbyists and legislative agents" and was recodified to Subchapter 20, effective August 6, 1984 as R.1984 d.324. See: 16 N.J.R. 1044(a), 16 N.J.R. 2154(a). Subchapter 18 was repealed effective August 6, 1984 as R.1984 d.324. See: 16 N.J.R. 1044(a), 16 N.J.R. 2154(a). Amendments were filed as R.1984 d.461, effective October 15, 1984. See: 16 N.J.R. 2256(a), 16 N.J.R. 2830(a). Subchapters 1, 7 and 11 were readopted pursuant to Executive Order 66(1978) filed July 15, 1985 as R.1985 d.398. See: 17 N.J.R. 1399(b), 17 N.J.R. 1917(a). Further amendments became effective January 6, 1986 as R.1985 d.622. See: 17 N.J.R. 2531(a), 18 N.J.R. 95(a). Subchapter 15 was readopted pursuant to Executive Order 66(1978) effective January 9, 1986 as R.1986 d.17. See: 17 N.J.R. 2868(b), 18 N.J.R. 312(a). Subchapter 17 "Complaints and other proceedings" expired pursuant to Executive Order 66(1978) on March 15, 1984. Amendments were filed as R.1986 d.223 and d.224, effective June 16, 1986. See: 18 N.J.R. 630(a), 18 N.J.R. 1310(d); 18 N.J.R. 630(b), 18 N.J.R. 1311(a). New rules for Subchapter 17 became effective June 16, 1986 as R.1986 d.226. See: 18 N.J.R. 632(a), 18 N.J.R. 1311(c). Amendments were filed as R.1987 d.30, effective January 5, 1987. See: 18 N.J.R. 1359(a), 19 N.J.R. 141(d). Further amendments were filed as R.1989 d.99 and d.100, effective February 21, 1989. See: 20 N.J.R. 2640(a), 21 N.J.R. 458(a); 20 N.J.R. 3009(a), 21 N.J.R. 459(a). Amendments were filed as R.1989 d.623, effective December 18, 1989. See: 21 N.J.R. 3273(a), 21 N.J.R. 3931(a). Pursuant to Executive Order No. 66(1978), Chapter 25 was readopted as R.1990 d.526. See: Source and Effective Date.

See, also, Subchapter Historical Notes and section annotations for specific rulemaking activity.

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## 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.; 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").

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.

### 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.

### 19:25-1.5 Amendment of regulations

The commission may at any time and from time to time, rescind, alter or amend the provisions of this chapter in the manner prescribed by law as may be necessary to carry out the purposes of the act. Any new regulation resulting from such action shall be filed with the New Jersey Office of Administrative Law.

As amended, R.1984 d.324, effective August 6, 1984.

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

Deleted "Secretary of State" and added "Office of Administrative Law".

### 19:25-1.6 Practice where regulations do not govern

In any matter not governed by the provisions of this chapter, the commission shall exercise its discretion so as to carry out the purposes of the act.

### 19:25-1.7 Definitions

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

"The act" means The New Jersey Campaign Contributions and Expenditures Reporting Act, L.1973, c.83, as amended, N.J.S.A. 19:44A-1 and following.

"Candidate" means:

1. An individual seeking election to a public office of this State or of a county, municipality or school district to any election; and

2. An individual who shall have been elected or failed of election to an office, other than a party office, for which he sought election and who receives contributions and makes expenditures for any of the purposes authorized by N.J.S.A. 19:44A-11.2.

This definition does not include an individual seeking Federal elective office, or State, county or municipal political party office.

"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.

"Continuing political committee" includes any group of two or more persons acting jointly, or any corporation, partnership, or any other incorporated or unincorporated association, including a political club, political action committee, civic association or other organization, which in any calendar year contributes or expects to contribute at least \$2,500 to aid or promote the candidacy of an individual, or the candidacies of individuals, for elective public office, or the passage or defeat of a public question or public questions, and which may be expected to make contributions toward such aid or promotion or passage or defeat during a subsequent election, provided that the group, corporation, partnership, association or other organization has been determined by the commission to be a continuing political committee in accordance with N.J.S.A. 19:44A-8(b).



"Contribution" includes every loan, gift, subscription, advance or transfer of money or other thing of value, including any item of real property or personal property, tangible or intangible (but not including services provided without compensation by individuals volunteering a part or all of their time on behalf of a candidate, committee or organization), made to or on behalf of any candidate committee, joint candidates committee, political committee, continuing political committee, political party committee or legislative leadership committee and any pledge or other commitment or assumption of liability to make such transfer. For purposes of reports required under the provisions of the act, any such commitment or assumption shall be deemed to have been a contribution upon the date when such commitment is made or liability assumed. As set forth in N.J.A.C. 19:25-3.1, funds or other benefits received solely for the purpose of determining whether an individual should become a candidate are not contributions.

"District" means the State, legislative district, county, municipality or part thereof, school district or other district in which a candidate is seeking election to public office.

"Election" includes any election in which a public question is to be voted upon by the voters of the state or any political subdivision thereof; and any election for any public office of the State or any political subdivision thereof. It does not include Federal elective office, or State, county or municipal political party office.

"Election-related activity" means election activity related to a candidate for public office of the State of New Jersey or its political subdivisions, or public question submitted to the voters of the State of New Jersey or its political subdivisions as set forth in the act and includes, without limitation, contributions to candidates, expenditures for fundraising, expenditures on behalf of candidates and other related political expenditures.

"Expenditure" includes every transfer of money or other thing of value, including any item of real or personal property, tangible or intangible, made by any candidate committee, joint candidates committee, political committee, continuing political committee, political party committee, or legislative leadership committee and any pledge or other commitment or assumption of liability to make such transfer. For purposes of reports required under the provisions of the act, any such commitment or assumption shall be deemed to have been an expenditure upon the date when such commitment is made or liability assumed. As set forth in N.J.A.C. 19:25-3.1, payments or commitments made solely for the purpose of determining whether an individual should become a candidate are not expenditures.

1. Any cost incurred in covering or carrying a news story, commentary, or editorial by any broadcasting station, newspaper, magazine, or other periodical publication is not an expenditure, unless the facility is owned or controlled by a candidate committee, joint candidates

committee, political committee, continuing political committee, political party committee, or legislative leadership committee in which case the cost for a news story which represents a bona fide news account communicated in a publication of general circulation or on a licensed broadcasting facility, and which is part of a general pattern of campaign-related news accounts which give reasonably equal coverage to all opposing candidates in the circulation or listening areas, is not an expenditure.

"Family member" shall mean a spouse, child, parent or sibling.

"File" or "filed" means deposited in the office of the Commission designated in N.J.A.C. 19:25-2.1.

"Joint candidates committee" means a committee established pursuant to N.J.S.A. 19:44A-9(a) by at least two candidates for the same elective public offices in the same election in a legislative district, county, municipality or school district, but not more candidates than the total number of the same elective public offices to be filled in that election, for the purpose of receiving contributions and making expenditures. For the purposes of this definition, the offices of member of the Senate and members of the General Assembly shall be deemed to be the same elective public offices in a legislative district.

"Legislative leadership committee" means a committee established, authorized to be established, or designated by the President of the Senate, the Minority Leader of the Senate, the Speaker of the General Assembly, or the Minority Leader of the General Assembly pursuant to N.J.S.A. 19:44A-10.1 for the purpose of receiving contributions and making expenditures.

"Paid personal services" means personal, clerical, administrative or professional services of every kind and nature, including, without limitation, public relations, research, legal, canvassing, telephone, speech writing or other such services performed other than on a voluntary basis, the salary, cost or consideration of which is paid, borne or provided other than by the committee, candidate or organization for whom such services are rendered.

"Political committee" means any group of two or more persons acting jointly, or any corporation, partnership or any other incorporated or unincorporated association which is organized to or does aid or promote the nomination, election or defeat of any candidate or candidates for public office, or which is organized to, or does aid or promote the passage or defeat of a public question in any election. A club organized to promote the candidacy of one or more candidates or aid or defeat the passage of a public question, without a term of existence substantially longer than the campaign, is a political committee. Political committee does not include:

1. A candidate committee, joint candidates committee, continuing political committee, a political party committee, or a legislative leadership committee.

2. A contributor not involved in fund raising or other election-related activity does not become a political committee solely by virtue of having made a contribution to a candidate committee, joint candidates committee, political committee, continuing political committee, political party committee, or legislative leadership committee.

3. A municipal or county charter study commission or the members thereof shall not be deemed to be a political committee with respect to the subject matter of such charter study commission at any time prior to the filing of its report. Thereafter such commission or any two or more members, not otherwise excluded by these regulations, may constitute a political committee for such public question.

4. Except as set forth in paragraph 5 below of this definition, no person or persons holding elected or appointed public office in this State or any political subdivision thereof shall be deemed to be a political committee with respect to any public question by virtue of communication with their constituents or with public officials of the Federal government or of this or any other state or political subdivision thereof, or with the general public reasonably related to the duties of his or her public office.

5. Elected or appointed public officials, boards and commissions, and the members thereof, may become political committees with respect to a public question by virtue of fund raising or other election-related activities respecting such public questions.

"Political party committee" means the State committee of a political party, as organized pursuant to N.J.S.A. 19:5-4; any county committee of a political party, as organized pursuant to N.J.S.A. 19:5-3; or any municipal committee of a political party, as organized pursuant to N.J.S.A. 19:5-2.

"Public office" means any elective office of this State or any political subdivision thereof, except that it does not include State, county or municipal political party office.

"Public question" means any question, proposition or referendum (for example, a constitutional amendment or bond issue) required by the legislative or governing body of this State or any of its political subdivisions to be submitted by referendum procedure to the voters of the State or political subdivision for decision at elections.

"Public solicitation" means a solicitation as described in N.J.A.C. 19:25-10.7(a).

"Testimonial affair" means an affair of any kind or nature including, without limitation, cocktail parties, breakfasts, luncheons, dinners, dances, picnics or similar affairs directly or indirectly intended to raise campaign funds on behalf of a person who holds, or who is or was a candidate for nomination or election to public office in this State, or is directly or indirectly intended to raise funds on behalf of any candidate committee, joint candidates committee, political committee, continuing political committee, political party committee, and legislative leadership committee.

As amended, R.1980 d.350, effective August 6, 1980.

See: 12 N.J.R. 439(a), 12 N.J.R. 558(a).

As amended, R.1983 d.287, effective July 18, 1983.

See: 15 N.J.R. 616(a), 15 N.J.R. 1182(e).

Amended definitions of "contribution" and "expenditure".

As amended, R.1984 d.324, effective August 6, 1984.

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

Definitions amended.

Amended by R.1985 d.622, effective January 6, 1986.

See: 17 N.J.R. 2531(a), 18 N.J.R. 95(a).

Substituted "in any election" for "during any calendar year" in definition political committee.

Amended by R.1987 d.30, effective January 5, 1987.

See: 18 N.J.R. 1359(a), 19 N.J.R. 141(d).

New definition for "Surplus campaign funds".

Amended by R.1989 d.99, effective February 21, 1989.

See: 20 N.J.R. 2640(a), 21 N.J.R. 458(a).

Deleted text from "political committee", "unless the aggregate ..."

Amended by R.1989 d.100, effective February 21, 1989.

See: 20 N.J.R. 3009(a), 21 N.J.R. 459(a).

Deleted "political club" and deleted text from "political party committee": "A political club ... political party committee".

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

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

Definition added for file.

Amended by R.1991 d.207, effective April 15, 1991.

See: 23 N.J.R. 292(a), 23 N.J.R. 1150(a).

In "political committee," added "or appointed".

Administrative Corrections to "expenditure".

See: 25 N.J.R. 1228(b).

Amended by R.1993 d.509, effective October 18, 1993.

See: 25 N.J.R. 3429(b), 25 N.J.R. 4753(a).

Amended by R.1994 d.528, effective October 17, 1994.

See: 26 N.J.R. 2753(a), 26 N.J.R. 4214(a).

Amended 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).

#### Case Notes

Ruling that group was "political committee" could be applied to group itself, and, thus could be subjected to penalties under the Campaign Contributions and Expenditures Reporting Act. *New Jersey Election Law Enforcement Com'n v. Citizens to Make Mayor-Council Government Work*, 107 N.J. 380, 526 A.2d 1069 (1987).

#### 19:25-1.8 Gender, use of masculine to include feminine

Unless a different meaning clearly appears from the context, the use of a word importing the masculine shall be understood to include and to apply to the feminine as well.

#### 19:25-1.9 (Reserved)

R.1984 d.324, effective August 6, 1984.

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

Section "Information available to the public" repealed.

## SUBCHAPTER 2. ADMINISTRATIVE

### 19:25-2.1 Office

The office of the Election Law Enforcement Commission is located at 28 W. State Street, Trenton, New Jersey. All correspondence may be sent to the following address only: Election Law Enforcement Commission, CN-185, Trenton, New Jersey 08625-0185. The telephone number is: (609) 292-8700.

Amended by R.1984 d.324, effective August 6, 1984.

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

Zip code changed from "08625" to "08608".

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

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

Address and telephone number changed.

### 19:25-2.2 Access to documents

(a) Every document accepted for filing by the commission, including all reports, certified statements, requests for advisory opinions and replies to requests for advisory opinions, complaints or pleadings relating to a complaint, all final orders, decisions and opinions shall be maintained with the date of filing noted thereon by the commission.

(b) Any person shall, upon request, be afforded opportunity to examine a document, or a photocopy of any document so maintained.

Amended by R.1984 d.324, effective August 6, 1984.

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

"certified statements" substituted for "affidavits".

Recodified from 19:25-2.3 by R.1993 d.509, effective October 18, 1993.

See: 25 N.J.R. 3429(b), 25 N.J.R. 4753(a).

Prior text at 19:25-2.2, Hours of operation, repealed by R.1990 d.172, effective March 19, 1990. See: 22 N.J.R. 982(b).

### 19:25-2.3 Copies of documents; fees

(a) Photocopies of documents maintained by the Commission pursuant to N.J.A.C. 19:25-2.3 shall be provided at a fee of \$0.50 per page for the first 10 pages, \$0.25 per page for the 11th through the 20th pages, and \$0.15 per page for all pages over 20 pages, and for purposes of establishing fees under this section a two-sided photocopy shall be deemed as two pages.

(b) Computer-generated data shall be provided at the following fees:

1. \$0.10 per page (approximately 15 inches by 8½ inches) of computer-printed data;
2. \$0.10 per computer-printed gummed, address label; and
3. \$125.00 per magnetic, 9-track computer tape (approximately 3,600 feet).

(c) The above fees shall be due and payable at such time as the photocopies or computer-generated data has been prepared.

Amended by R.1984 d.324, effective August 6, 1984.

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

(a)1.-3. inserted.

Amended by R.1990 d.172, effective March 19, 1990.

See: 22 N.J.R. 22(a), 22 N.J.R. 982(b).

N.J.A.C. 19:25-2.4(a) and (b) deleted and (a), (b) and (c) added.

Amended by R.1991 d.207, effective April 15, 1991.

See: 23 N.J.R. 292(a), 23 N.J.R. 1150(a).

In (a), increased copying fees.

Recodified from 19:25-2.4 by R.1993 d.509, effective October 18, 1993.

See: 25 N.J.R. 3429(b), 25 N.J.R. 4753(a).

### 19:25-2.4 Release of documents

No original filed document referred to in N.J.A.C. 19:25-2.3 shall be released from the custody of the commission except upon express written direction of the executive director or upon court order.

As amended, R.1984 d.324, effective August 6, 1984.

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

Recodified from 19:25-2.5 by R.1993 d.509, effective October 18, 1993.

See: 25 N.J.R. 3429(b), 25 N.J.R. 4753(a).

### 19:25-2.5 Signatures

(a) Whenever authorized by the commission by resolution, the signature of the chairman of the commission on final decisions, orders or other determinations issued by the commission pursuant to N.J.S.A. 19:44A-22 may be a facsimile signature.

(b) Whenever authorized by the commission by resolution, the executive director, or such employee of the commission as may be from time to time designated in writing by the executive director, shall be authorized to sign final decisions, orders or other determinations of the commission pursuant to N.J.S.A. 19:44A-22 in the name of the chairman of the commission, or to affix to such final decisions, orders or other determinations pursuant to N.J.S.A. 19:44A-22 the facsimile signature of the chairman.

New Rule, R.1985 d.238, effective May 20, 1985.

See: 17 N.J.R. 683(b), 17 N.J.R. 1335(a).

Recodified from 19:25-2.6 by R.1993 d.509, effective October 18, 1993.

See: 25 N.J.R. 3429(b), 25 N.J.R. 4753(a).

## SUBCHAPTER 3. PRE-CANDIDATE ACTIVITY; "TESTING THE WATERS"

### 19:25-3.1 Exemption for activities conducted solely for the purpose of determining whether an individual will become a candidate; "Testing the Waters"

(a) Funds or other benefits received and payments made solely for the purpose of determining whether an individual should become a candidate are not contributions or expenditures. Activities contemplated under this exemption include, but are not limited to, expenses incurred for: conducting a poll, telephone calls and travel, or similar activity undertaken to determine whether an individual who has not established and is not maintaining a candidate committee or joint candidates committee should become a candidate.

(b) If the individual subsequently becomes a candidate, the funds received and payments made are contributions and expenditures subject to the limitations, prohibitions and requirements of the act. Such contributions and expenditures must be reported with the first report filed by the candidate committee or joint candidates committee, regardless of the date the funds were received or the payments made.

(c) This section is not applicable to:

1. A candidate who has established and is maintaining a candidate committee or joint candidates committee;
2. Funds received or payments made for general public political advertising; and
3. Funds received or payments made for activities designed to amass campaign funds that would be spent after the individual becomes a candidate.

(d) In no instance shall permissible activities conducted solely for the purpose of determining whether an individual will become a candidate be confined or limited on the basis of the total funds received or payments made for such purpose.

Amended by R.1984 d.324, effective August 6, 1984.

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

Text added: "or other benefits".

Amended by R.1992 d.458, effective November 16, 1992.

See: 24 N.J.R. 3026(a), 24 N.J.R. 4274(a).

Revised (a).

Amended by R.1993 d.509, effective October 18, 1993.

See: 25 N.J.R. 3429(b), 25 N.J.R. 4753(a).

#### 19:25-3.2 Recordkeeping for a prospective candidacy

(a) Any prospective candidate, or any person or group acting on behalf of the possible candidacy of a prospective candidate, receiving funds or other benefits and making payments for the purpose of determining whether that prospective candidate should become a candidate shall make and maintain written records of all such funds or other benefits received and of all payments made for that purpose.

(b) The records required by (a) above shall be maintained for a period of not less than four years after the transaction to which they relate occurred, or four years after the date of the election to which they relate, whichever is longer.

New Rule, R.1993 d.509, effective October 18, 1993.

See: 25 N.J.R. 3429(b), 25 N.J.R. 4753(a).

### SUBCHAPTER 4. ESTABLISHMENT OF REPORTING COMMITTEES

#### Source and Effective Date

R.1993 d.509, effective October 18, 1993.

See: 25 N.J.R. 3429(b), 25 N.J.R. 4753(a).

#### Subchapter Historical Note

Subchapter 4, originally Reporting Requirements; Generally, was repealed by R.1993 d.509 and new rules were adopted. See: Source and Effective Date.

#### 19:25-4.1 Establishment of a candidate committee

(a) A candidate or elected officeholder shall establish a candidate committee by appointing a treasurer and opening a depository for the purpose of receiving contributions and making expenditures no later than the date on which that candidate first receives any contribution or makes or incurs any expenditure in connection with an election, unless the candidate has already established a candidate committee which continues under an obligation to file reports. In the event a prior candidate committee exists, no additional candidate committee may be established.

(b) No later than 10 days after establishing a candidate committee, or no later than 29 days before the election, whichever occurs first, a candidate shall file a certificate of organization and designation of campaign depository containing the following information:

1. The full name of the candidate committee, which name must contain the name of the candidate and the office sought;
2. The name, mailing address and telephone number of the person appointed as chairperson;
3. The name, mailing and resident address and telephone number of the person appointed as treasurer; and
4. The name, mailing address and telephone number of the bank at which the campaign depository has been established, the account name and number, and the names, mailing addresses and telephone numbers of all persons authorized to sign checks or otherwise make transactions.

(c) The certificate of organization and designation of campaign depository shall be certified as true and correct by the candidate, chairperson, and treasurer. The candidate shall further certify that the candidate has not, and will not during the existence of the candidate committee, establish, authorize the establishment of, maintain, or participate directly or indirectly in the management or control of any political committee or continuing political committee.

(d) The candidate shall file an amendment to the certificate of organization and designation of campaign depository no later than three days after any of the information required in (b) above changes.

#### 19:25-4.2 Establishment of a joint candidates committee

(a) Two or more candidates seeking the same elective public offices in the same election shall establish a joint candidates committee for the purpose of receiving joint contributions and making joint expenditures no later than the date on which any of those candidates receives any joint contribution or makes or incurs any joint expenditure in connection with an election, unless the candidates have already established a joint candidates committee which continues under an obligation to file reports. In the event a prior joint candidates committee exists, no additional joint candidates committee may be established.

(b) No later than 10 days after establishing a joint candidates committee, or no later than 29 days before the election, whichever occurs first, the joint candidates committee shall file a certificate of organization and designation of campaign depository containing the following information:

1. The full name of the joint candidates committee, which name must contain the surname of each of the joint candidates and the office sought or, in the case of a joint committee including candidates for State Senate and State Assembly, the offices sought;
2. The name, mailing address and telephone number of the person appointed as chairperson;
3. The name, mailing and resident address and telephone number of the person appointed as treasurer; and
4. The name, mailing address and telephone number of the bank at which the campaign depository has been established, the account name and number, and the names, mailing addresses and telephone numbers of all persons authorized to sign checks or otherwise make transactions.

(c) The certificate of organization and designation of campaign depository shall be certified as true and correct by each of the joint candidates, by the chairperson, and by the treasurer. Each joint candidate shall further certify that the joint candidate has not and will not during the existence of the joint candidates committee establish, authorize the establishment of, maintain, or participate directly or indirectly in the management or control of any political committee or continuing political committee.

(d) The joint candidates committee shall file an amendment to the certificate of organization and designation of campaign depository no later than three days after any of the information required in (b) above changes.

#### 19:25-4.3 Individual seeking multiple offices

An individual who is a candidate for two or more offices in an election shall establish separate candidate committees, or separate joint candidates committees, or both, for each office sought.

#### 19:25-4.4 Establishment of a political committee

(a) Any group of two or more persons acting jointly, or any corporation, partnership, or any other incorporated or unincorporated association, which is organized to, or does, aid or promote the nomination, election or defeat of any candidate or candidates in an election, or which is organized to, or does, aid or promote the passage or defeat of a public question or questions in an election, and which raises or expends \$1,000 or more for those purposes, shall establish a political committee by appointing a treasurer and establishing a depository no later than the date on which the political committee first receives any contribution or makes or incurs any expenditure that when combined with other contribu-

tions received in an election, or expenditures made or incurred in an election, totals \$1,000 or more.

(b) No later than 10 days after a political committee is established, the political committee shall file a registration statement and designation of campaign depository containing the following information:

1. The full name of the political committee and identifying title, if different;
2. The mailing address of the political committee, and the name and resident address of a resident of New Jersey who is designated by the committee as the agent of the political committee to receive service of legal process;
3. The name, mailing address and telephone number of the person appointed as chairperson;
4. The name, mailing and resident address and telephone number of the person appointed as treasurer;
5. The name, mailing address and telephone number of the bank at which the campaign depository has been established, the account name and number, and the names, mailing addresses and telephone numbers of all persons authorized to sign checks or otherwise make transactions;
6. The general organizational category or affiliation of the political committee, including but not limited to: supporting or opposing a candidate or public officeholder, or support of or affiliation with a business, union, professional or trade association, ideological group, civic association, or other entity; and
7. A descriptive statement prepared by the organizers or officers that identifies:
  - i. The names and mailing address of the persons having control over the affairs of the political committee, including, but not limited to, persons in whose name or at whose direction or suggestion the committee solicits funds or makes contributions;
  - ii. The names and mailing addresses of persons not previously identified under (b)7i above who, directly or through an agent, participated in the initial organization of the committee;
  - iii. In the case of any identified person who is an individual, the occupation of that individual, home address, and name and mailing address of the individual's employer;
  - iv. In the case of any identified person that is a corporation, partnership, unincorporated association, or other organization, the name and mailing address of the organization; and
  - v. The economic, political or other particular interests and objectives which the political committee has been organized to or does advance.



(c) The registration statement and designation of campaign depository shall be certified as true and correct by the chairperson and treasurer, and they shall further certify that no candidate has established, authorized the establishment of, maintained or participated directly or indirectly in the management or control of the political committee, and no candidate shall be permitted to do so during the existence of the political committee.

(d) The political committee shall file an amendment to the registration statement and designation of campaign depository no later than three days after any of the information required in (b) above changes.

(e) A political committee shall file a registration statement and designation of campaign depository for each election in which it raises or expends \$1,000 or more to aid or promote the nomination, election or defeat of a candidate or candidates, or the passage or defeat of a public question.

(f) A political committee which expects to raise or expend funds in each of two or more successive elections may apply to the Commission to be certified as a continuing political committee.

#### **19:25-4.5 Establishment of a continuing political committee**

(a) Any group of two or more persons acting jointly, or any corporation, partnership, or any other incorporated or unincorporated association, including a political club, political action committee, civic association or other organization, which in any calendar year contributes or expects to contribute at least \$2,500 to aid or promote a candidate or candidates, or to aid or promote the passage or defeat of a public question or questions, and which may be expected to make contributions or expenditures in subsequent calendar years, shall become eligible to be certified by the Commission as a continuing political committee by appointing an organizational treasurer and organizational depository no later than the date on which the prospective continuing political committee first receives any contribution or makes or incurs any expenditure that when combined with other contributions received or expenditures made in a calendar year totals \$2,500 or more.

(b) No later than 10 days after a prospective continuing political committee becomes eligible to be certified, the prospective continuing political committee shall file a registration statement and designation of organizational depository containing the following information:

1. The full name of the prospective continuing political committee, and identifying title, if different;
2. The mailing address of the continuing political committee, and the name and resident address of a resident of New Jersey who is designated by the committee as the agent of the prospective continuing political committee to receive service of process;

3. The name, mailing address and telephone number of the person appointed as chairperson;

4. The name, mailing and resident address and telephone number of the person appointed as organizational treasurer;

5. The name, mailing address and telephone number of the bank at which the organizational depository has been established, the account name and number, and the names, mailing addresses and phone numbers of all persons authorized to sign checks or otherwise make transactions;

6. The general organizational category or affiliation of the prospective continuing political committee, including, but not limited to: supporting or opposing a candidate or public officeholder, or support of or affiliation with a business, union, professional or trade association, ideological group, civic association, or other entity; and

7. A descriptive statement prepared by the organizers or officers that identifies:

i. The names and mailing address of all the persons having control over the affairs of the prospective continuing political committee, including but not limited to persons in whose name or at whose direction or suggestion the committee solicits funds or makes contributions;

ii. The names and mailing addresses of persons not previously identified under (b)7i above who, directly or through an agent, participated in the initial organization of the committee;

iii. In the case of any identified person who is an individual, the occupation of that individual, home address, and name and mailing address of the individual's employer;

iv. In the case of any identified person that is a corporation, partnership, unincorporated association, or other organization, the name and mailing address of the organization; and

v. The economic, political or other particular interests and objectives which the prospective continuing political committee has been organized to or does advance.

(c) The registration statement and designation of organizational depository shall be certified as true and correct by the chairperson and organizational treasurer, and they shall further certify that no candidate has established, authorized the establishment of, maintained or participated directly or indirectly in the management or control of the continuing political committee, and no candidate shall be permitted to do so during the existence of the continuing political committee.



(d) The Commission shall certify a continuing political committee upon the satisfactory completion and filing of the registration statement and designation of organizational depository.

(e) The political committee shall file an amendment to the registration statement and designation of organizational depository no later than three days after any of the information required in (b) above changes.

#### **19:25-4.6 Designation by a political party committee**

(a) A political party committee shall designate on or before July 1 in each year an organizational treasurer and an organizational depository.

(b) No later than 10 days after designating an organizational treasurer and organizational depository, a political party committee shall file a designation of organizational depository containing the following information:

1. The full name of the political party committee, which shall include the name of the political party to which the committee is affiliated;
2. The name, mailing address and telephone number of the person appointed as chairperson;
3. The name, mailing and resident address and telephone number of the person appointed as organizational treasurer; and
4. The name, mailing address and telephone number of the bank at which the organizational depository has been established, the account name and number, and the names, mailing addresses and telephone numbers of all persons authorized to sign checks or otherwise make transactions.

(c) The designation of organizational depository shall be certified as true and correct by the chairperson and treasurer.

(d) The political party committee shall file an amendment to the certificate of organization and designation of organizational depository no later than three days after any of the information required in (b) above changes.

#### **19:25-4.7 Establishment of a legislative leadership committee**

(a) The President of the Senate, the Minority Leader of the Senate, the Speaker of the General Assembly, and the Minority Leader of the General Assembly may each establish, authorize the establishment of, or designate a State political party committee as a legislative leadership committee for the purpose of receiving contributions and making expenditures to aid or promote candidates, or to aid or promote the passage or defeat of public questions.

(b) The President of the Senate, the Minority Leader of the Senate, the Speaker of the General Assembly, and the

Minority Leader of the General Assembly, or the person authorized by any of them to establish a legislative leadership committee, shall appoint such members and adopt such bylaws for the maintenance of the committee as is deemed appropriate.

(c) Each legislative leadership committee shall appoint an organizational treasurer and designate an organizational depository no later than the date on which it first receives any contribution, or makes or incurs any expenditure. If a State political party committee is designated to serve as a legislative leadership committee, an organizational depository separate from the organizational depository of the State political party committee shall be established and be designated as a depository solely for receiving funds and making expenditures of the legislative leadership committee.

(d) No later than 10 days after a legislative leadership committee is established, the legislative leadership committee shall file a registration statement and designation of organizational depository containing the following information:

1. The full name of the legislative leadership committee, which name must contain the name of the legislative leader who established it or authorized establishment of it;
2. The mailing address of the legislative leadership committee and the name and resident address of a resident of New Jersey who shall have been designated by the committee as its agent to accept service of legal process;
3. The name, mailing and resident address and telephone number of the person appointed as organizational treasurer;
4. The name, mailing address and telephone number of the bank at which the organizational depository has been established, the account name and number, and the names, mailing addresses and telephone numbers of all persons authorized to sign checks or otherwise make transactions;
5. The political party affiliation of the legislative leadership committee, and a statement of the interests which are shared by leadership, members, or financial supporters; and
6. A copy of the bylaws adopted by the legislative leadership committee or, if none have been adopted, a statement to that effect.

(e) The registration statement and designation of organizational depository shall be certified as true and correct by the legislative leader who established, or authorized establishment of, the legislative leadership committee, and by the organizational treasurer.

(f) Within 30 days after a legislative leadership committee is established, the organizational treasurer shall file and certify as true and correct a written notice of the member-

ship containing the names, mailing addresses and telephone numbers of the chairperson, the vice-chairperson, and all other members of the committee.

(g) The legislative leadership committee or its organizational treasurer shall file an amendment to the registration statement and designation of organizational depository, or to the written notice of membership, within three days of the occurrence of any change in any of the information required by (d) or (f) above.

## SUBCHAPTER 5. APPOINTMENT OF CAMPAIGN OFFICERS AND DEPOSITORIES

### Subchapter Historical Note

Sections 5.1 through 5.7 were repealed by R.1993 d.509 and new rules were adopted, effective October 18, 1993. Subchapter 5 was also redesignated from "Appointment of Treasurers and Depositories" to "Appointment of Campaign Officers and Depositories". See: 25 N.J.R. 3429(b), 25 N.J.R. 4753(a).

### 19:25-5.1 Qualifications of campaign or committee officers

(a) Any competent person 18 years of age or older may serve as a campaign treasurer, deputy campaign treasurer, organizational treasurer, deputy organizational treasurer, committee chairperson, committee vice-chairperson, or committee member provided that person maintains a resident address within the State of New Jersey, or alternatively files a consent to service of legal process within the State of New Jersey as set forth in (c) below.

(b) A candidate may serve as his or her own campaign or deputy campaign treasurer, or as committee chairperson, vice-chairperson or member.

(c) Notwithstanding (a) above, no person serving as the chairperson of a political party committee or a legislative leadership committee shall be eligible to be appointed to or serve as:

1. Chairperson, treasurer, or deputy treasurer of a candidate committee or joint candidates committee, other than a candidate committee or joint candidates committee established to further the election of that person as a candidate;
2. Chairperson, treasurer, or deputy treasurer of a political committee; or
3. Chairperson, organizational treasurer, or deputy organizational treasurer of a continuing political committee.

(d) Any person appointed to serve, or serving, in any capacity specified in (a) above and not maintaining a resident address within the State of New Jersey shall file a consent to service of legal process at an address within this State within three days of appointment, or within three days of abandoning a resident address within this State.

### 19:25-5.2 Qualifications of depositories

(a) Any bank authorized by law to transact business in the State of New Jersey may be designated as a campaign or organizational depository, and may serve as campaign or organizational depository for any number of candidates or committees, except that any bank designated as a campaign depository by a candidate committee, or joint candidates committee, shall be located within the boundaries of any county in which the campaign is conducted.

(b) For the limited purpose of establishing a depository for investing campaign or organizational funds, a recognized investment institution authorized by law to transact business in the State of New Jersey may be designated as a depository, provided that the invested funds are not used for the benefit of any person or enterprise in which the candidate, or a campaign or committee official, has an economic interest.

(c) Notwithstanding (a) above, a bank or investment institution located outside the State of New Jersey may be designated as an organizational depository provided that the bank or investment institution files a consent to service of legal process at an address within this State prior to accepting or receiving any organizational funds.

### 19:25-5.3 Names of depositories

(a) A campaign or organizational depository account shall bear a name that conforms to the following requirements:

1. A campaign depository account designated by a candidate committee shall be named "Election Fund of (name of candidate)";
2. A campaign depository account designated by a joint candidates committee shall be named "Election Fund of (surnames of each of the joint candidates)";
3. A campaign depository account designated by a political committee shall be named "Election Fund of (name of political committee)";
4. An organizational depository account designated by a continuing political committee shall be named "Election Fund of (name of continuing political committee)";
5. An organizational depository account designated by a political party committee shall be named "Election Fund of (name of political party committee)"; and
6. An organizational depository account designated by a legislative leadership committee shall be named "Election Fund of (name of legislative leadership committee)".

### 19:25-5.4 Deputy treasurers and additional depositories

(a) A campaign treasurer of a candidate committee or joint candidates committee may appoint deputy campaign treasurers, and may designate additional campaign depositories, which depositories shall be located within the boundaries of any county in which the campaign is conducted.

(b) A campaign treasurer of a political committee, or an organizational treasurer of a political party committee, a continuing political committee, or a legislative leadership committee, may appoint deputy campaign or organizational treasurers, and may designate additional campaign organizational depositories.

(c) A campaign or organizational treasurer appointing deputy treasurers or additional depositories shall no later than five days after such appointment or designation file a notice, certified as true and correct by such campaign or organizational treasurer, containing the following information:

1. The name of the committee;
2. The name of the campaign or organizational treasurer;
3. The name, mailing and resident address and phone number of each person appointed deputy campaign or deputy organizational treasurer; and
4. The name, mailing address and phone number of the bank at which each additional campaign or organizational depository has been established, the account number of each additional depository, and the names, mailing addresses and phone numbers of all persons authorized to sign checks or otherwise made transactions for each depository.

#### 19:25-5.5 Removal or resignation of treasurers

In the case of the death, resignation or removal of a campaign treasurer or organizational treasurer, the candidate or committee shall notify the commission of such event within 10 days of its occurrence. The candidate or committee shall appoint a successor as soon as practicable but in no case more than 20 days after such death, resignation or removal and shall notify the commission of the appointment of the successor and file his or her name and address with the commission within three days of such appointment.

As amended, R.1980 d.348, effective August 6, 1980.

See: 12 N.J.R. 439(b), 12 N.J.R. 557(a).

As amended, R.1984 d.324, effective August 6, 1984.

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

Section recodified with amendments from N.J.A.C. 19:25-5.5.

Recodified from 19:25-5.8 and amended by R.1993 d.509, effective October 18, 1993.

See: 25 N.J.R. 3429(b), 25 N.J.R. 4753(a).

## SUBCHAPTER 6. RECEIPT AND USE OF FUNDS

### Source and Effective Date

R.1993 d.509, effective October 18, 1993.

See: 25 N.J.R. 3429(b), 25 N.J.R. 4753(a).

### Subchapter Historical Note

Subchapter 6, originally Deposit of Funds, was repealed by R.1993 d.509 and new rules were adopted. See: Source and Effective Date.

#### 19:25-6.1 Receipt and deposit of funds

(a) Funds received by a candidate committee, joint candidates committee, political committee, continuing political committee, political party committee or legislative leadership committee shall be delivered to the campaign or organizational treasurer and deposited by that treasurer in the campaign or organizational depository within 10 days of receipt by the committee, unless transferred prior to deposit pursuant to N.J.A.C. 19:25-6.2.

(b) The date of receipt by a committee of any funds is the date on which a campaign or organizational treasurer, or any other person so authorized, receives funds on behalf of the candidate committee, joint candidates committee, political committee, continuing political committee, political party committee, or legislative leadership committee.

#### 19:25-6.2 Transfer of funds without deposit

(a) A campaign or organizational treasurer may transfer funds (without depositing them) to a duly designated campaign or organizational treasurer of another candidate committee, joint candidates committee, political committee, continuing political committee, political party committee, or legislative leadership committee. Such a transfer of funds without deposit must be made within 10 days of receipt of the funds being transferred, and must be authorized by the candidate, candidates or committee which designated the treasurer.

(b) Any amount transferred pursuant to (a) above shall not be in excess of the amount that a candidate may contribute to another candidate in any election pursuant to N.J.S.A. 19:44A-11.3, except that this subsection shall not be construed to prohibit a county or municipal political party committee from transferring funds as authorized in (a) above.

(c) A campaign or organizational treasurer making any transfer pursuant to this section shall make a written record of all non-deposited funds so transferred, identifying those funds as to source and amount in the same manner as deposited funds, and a copy of that written record shall be included in the next campaign or quarterly report filed by the entity that made the transfer.

#### 19:25-6.3 Receipt of transferred funds

A candidate committee, joint candidates committee, political committee, continuing political committee, political party committee, or legislative leadership committee receiving any transfer of undeposited funds shall deliver those funds to its organizational or campaign treasurer for deposit in its campaign or organizational depository within 10 days of receipt.

**19:25-6.4 Expenditures through treasurer**

(a) No expenditure of money or other thing of value, nor obligation therefor, including, but not limited to, expenditures, loans or obligations of a candidate or of the candidate's family, shall be made or incurred, directly or indirectly, by a candidate committee, joint candidates committee, political committee, continuing political committee, political party committee, or legislative leadership committee except through:

1. The duly appointed campaign treasurer or deputy campaign treasurers of the candidate committee, joint candidates committee, or political committee;
2. The duly appointed organizational treasurer or deputy organizational treasurers of a political party committee, continuing political committee, or legislative leadership committee.

(b) Any expenditure by a candidate committee, joint candidates committee, political committee, continuing political committee, political party committee, or legislative leadership committee shall be made from the organizational or campaign depository established by the committee, except that nothing in this section shall be construed to prohibit an expenditure to establish a petty cash fund not to exceed \$100.00 to be used for occasional and incidental expenses, or an expenditure not to exceed \$100.00 to reimburse a candidate or campaign or organizational officer who has personally incurred an occasional and incidental expense on behalf of the committee.

Recodified from 19:25-7.1 and amended by R.1993 d.509, effective October 18, 1993.

See: 25 N.J.R. 3429(b), 25 N.J.R. 4753(a).

**19:25-6.5 Use or disposition of campaign funds**

(a) All contributions received by a candidate, candidate committee, joint candidates committee or legislative leadership committee shall be used only for the following purposes:

1. The payment of "campaign expenses" as that term is defined in (b) below.
2. The making of donations to any charitable organization described in section 170(c) of the Internal Revenue Code of 1954, as amended or modified, or non-profit organization which is exempt from taxation under section 501(c) of the Internal Revenue Code of 1954;
3. Transmittal to another candidate, candidate committee, joint candidates committee, political committee, continuing political committee, legislative leadership committee, or political party committee for the lawful use of such other candidate or committee;
4. The payment of the candidate committee's, joint candidates committee's or legislative leadership committee's overhead and administrative expenses related to its operation;
5. The pro-rata repayment of contributors, except that contributors of \$200.00 or less may be excluded from repayment; or

6. The payment of ordinary and necessary expenses of holding public office, as provided in N.J.A.C. 19:25-6.7.

(b) The term "campaign expenses" means any expense incurred or expenditure made by a candidate, candidate committee, joint candidates committee or legislative leadership committee from a campaign or organizational depository account for the purpose of paying for or leasing items or services used in connection with an election campaign, other than those items or services which may reasonably be considered to be for the "personal use" of the candidate, any person associated with the candidate or any of the members of a legislative leadership committee.

(c) The term "personal use" as used in (b) above means any use of contributions to pay or fulfill a commitment, obligation or expense of any person that would arise or exist irrespective of the candidate's campaign or irrespective of the candidate's ordinary and necessary expense of holding public office. "Personal use" includes, but is not limited to, the following:

1. A mortgage payment on property not owned by a candidate committee, joint candidates committee or legislative leadership committee making the payment;
2. A purchase, loan or lease payment on a vehicle not owned or leased by the candidate committee, joint candidates committee or legislative leadership committee making the payment, except that nothing herein shall be construed to prohibit reimbursement for use of a vehicle pursuant to N.J.A.C. 19:25-6.8;
3. The purchase of clothing, household food, and personal hygiene or health items or services;
4. A tuition payment, unless made for a course of study specifically related to the candidacy or officeholding duties of the candidate or officeholder who established or who controls the candidate committee, joint candidates committee or legislative leadership committee making the payment;
5. A payment for dues, fees or gratuities paid to a country club, fitness club, or other social or fraternal association, to its employees, or to a person working on its premises, unless the payment is part of the cost of a fundraising event held on the premises; or
6. The payment of a salary to a candidate by that candidate's candidate committee or joint candidates committee, or to a legislator by a legislative leadership committee established by or under the control of that legislator.

Recodified from 19:25-7.4 and amended by R.1993 d.509, effective October 18, 1993.

See: 25 N.J.R. 3429(b), 25 N.J.R. 4753(a).

Amended by R.1994 d.528, effective October 17, 1994.

See: 26 N.J.R. 2753(a), 26 N.J.R. 4214(a).

**19:25-6.6 Limitations on permissible expenses**

(a) A candidate committee, or a joint candidates committee, may pay a salary or fee to a family member of a candidate who has established or who controls the committee provided that the salary or fee paid for bona fide services received by the committee does not exceed fair market value.

(b) A legislative leadership committee may pay a salary or fee to a family member of a legislator who has established or who controls the committee provided that the salary or fee paid for bona fide services received by the committee does not exceed fair market value.

(c) A candidate committee, or a joint candidates committee, may pay for the use of an office or other property owned or leased by a candidate who has established or who controls the committee provided that the office or property is used by the committee and the payment does not exceed the fair market value for the bona fide use by the committee.

(d) A legislative leadership committee may pay for the use of an office or other property owned by a legislator who has established or who controls the committee provided that the office or property is used by the committee and the payment does not exceed the fair market value for the bona fide use by the committee.

(e) A candidate committee, or joint candidates committee, may purchase goods or services for use by the committee from a business or other enterprise in which the candidate who established or who controls the committee has a financial interest provided that the goods or services are bona fide and are sold or provided to the committee at fair market value, or if sold or provided at less than fair market value, that the committee reports receipt of an in-kind contribution to the extent the price is under fair market value.

(f) A legislative leadership committee may purchase goods or services for use by the committee from a business or other enterprise in which the candidate who established or who controls the committee has a financial interest provided that the goods or services are bona fide, and are sold or provided to the committee at fair market value, or if sold or provided at less than fair market value, that the committee reports receipt of an in-kind contribution to the extent the price is under fair market value.

New Rule, R.1994 d.528, effective October 17, 1994.  
See: 26 N.J.R. 2753(a), 26 N.J.R. 4214(a).

**19:25-6.7 Ordinary and necessary officeholding expenses**

(a) The term "ordinary and necessary expenses of holding public office" as used in N.J.A.C. 19:25-6.5(a)6 means any expense that reasonably promotes or carries out the responsibilities of a person holding elective public office, except that no funds received by a candidate, candidate committee,

or joint candidates committee shall be used for the payment of any expense arising from the furnishing, staffing or operation of an office used in connection with the officeholder's official duties as an elected public official.

(b) The word "furnishing" as used in (a) above shall be construed to prohibit the use of contributions received by a candidate, candidate committee or joint candidates committee for the purchase or lease of furniture, equipment or other appointments that are physically situated at an office facility used in connection with the officeholder's official duties as an elected public official. This prohibition shall not be applicable to the purchase or lease of office furniture or equipment situated in the residence of the officeholder and used in conjunction with the officeholder's duties.

(c) The word "staffing" as used in (a) above shall be construed to prohibit the use of contributions received by a candidate, candidate committee or joint candidates committee to pay a salary or fee as compensation to any person for performing duties to assist the officeholder in carrying out the officeholder's duties as an elected public official.

(d) The word "operation" as used in (a) above shall be construed to prohibit the use of contributions received by a candidate, candidate committee or joint candidates committee for the payment of any rent, utility or maintenance expense incurred for an office facility used in connection with the officeholder's official duties as an elected public official.

(e) Permissible uses of funds as ordinary and necessary expenses of holding public office shall include, but not be limited to, the following provided the costs are not paid for by the State of New Jersey, or by any political subdivision of the State:

1. Costs of communications to constituents, including:
  - i. The production, circulation and postage of news-letters, mailings or other written materials for officeholding duties;
  - ii. The sponsorship or holding of a seminar or other meeting to be attended by constituents;
  - iii. The making of donations to charitable or non-profit organizations or activities that promote the welfare of constituents, such as the sponsorship of a neighborhood sports team;
  - iv. The framing of honorary resolutions for constituents; and
  - v. The nominal purchase of memorial or get-well gifts, flowers, party favors, or similar items for constituents or other persons involved in the execution of the officeholder's duties;
2. Purchase of items including:
  - i. A portable telephone, including a telephone in the vehicle used by the officeholder for official travel;



ii. Signs indicating the location of the office used by the officeholder for carrying out official duties whether or not such signs are situated on the premises;

iii. Janitorial supplies and other consumables for the office used in connection with the officeholder's official duties, and funding of a "petty cash" account established pursuant to N.J.A.C. 19:25-6.4(b) for that purpose; and

iv. Newspapers, magazines or other periodicals used in connection with carrying out officeholding duties;

3. Costs of dues for membership in educational organizations related to officeholding duties, and costs of registration and attendance at conferences or seminars attended in connection with officeholding duties. Such costs may include the reasonable expense of travel, lodging, and other subsistence expenses; and

4. Cost of travel by means other than by a vehicle as described in N.J.A.C. 19:25-6.8, Vehicle use, when such travel is undertaken in connection with the performance of duties as an elected officeholder, provided that such travel is not undertaken for any purpose resulting in a person or financial benefit to the candidate or officeholder.

New Rule, R.1994 d.528, effective October 17, 1994.  
See: 26 N.J.R. 2753(a), 26 N.J.R. 4214(a).

#### 19:25-6.8 Vehicle use

(a) A candidate committee, joint candidates committee or legislative leadership committee may reimburse a candidate or officeholder for the use of a vehicle owned by that candidate provided that:

1. The candidate provides the committee with written records of:

- i. The date of the vehicle use;
- ii. The departure and arrival locations of the travel;
- iii. The number of miles the vehicle was used; and
- iv. The purpose of the use, which purpose must be for travel for campaign or officeholding duties; and

2. The rate of reimbursement does not exceed the rate permitted by the New Jersey Department of Treasury for compensating Executive Branch employees for use of personal vehicles, or the rate provided by the Internal Revenue Service for deduction of business travel mileage.

(b) A candidate committee, joint candidates committee or legislative leadership committee may purchase or lease a vehicle for campaign or officeholding travel by a candidate or officeholder provided that:

1. The vehicle remains an asset of the committee; and

2. The candidate or officeholder reimburses the committee at fair market value for any travel made by the candidate or any other person that was not necessitated by campaign or officeholding duties.

New Rule, R.1994 d.528, effective October 17, 1994.  
See: 26 N.J.R. 2753(a), 26 N.J.R. 4214(a).

#### 19:25-6.9 Funds remaining unspent at death of candidate

Any funds remaining upon the death of a candidate in the campaign depository of the deceased candidate's candidate committee, or joint candidates committee, shall be used for one or more of the purposes set forth in N.J.A.C. 19:25-6.5 by the committee's treasurer, or by whomever has control of the depository upon the death of the candidate.

New Rule, R.1994 d.528, effective October 17, 1994.  
See: 26 N.J.R. 2753(a), 26 N.J.R. 4214(a).

### SUBCHAPTER 7. RECORDKEEPING

#### Subchapter Historical Note

Subchapter 7, formerly Use or Transmittal of Deposited Funds; Surplus Campaign Funds, was repealed in part by R.1993 d.509, with portions recodified under Subchapter 6, Receipt and Use of Funds, effective October 18, 1993. Subchapter 7, Recordkeeping, was recodified from Subchapter 8. See: 25 N.J.R. 3429(b), 25 N.J.R. 4753(a).

#### 19:25-7.1 Recordkeeping requirements

(a) An organizational or campaign treasurer, or deputy organizational or campaign treasurer of a candidate committee, joint candidates committee, political committee, continuing political committee, political party committee, or legislative leadership committee, shall make and maintain a written record of all funds and contributions, including non-monetary contributions, and shall record the name and address of the contributor, the amount and date the contribution was received, and if the contributor is an individual, the occupation of the individual and the name and mailing address of the individual's employer.

(b) An organizational or campaign treasurer, or deputy organizational or campaign treasurer, of a candidate committee, joint candidates committee, political committee, continuing political committee, political party committee, or legislative leadership committee, shall make and maintain a written record of all funds expended by the committee, including the name and address of the recipient, the amount and date of the expenditure, and the purpose of the expenditure.

(c) The campaign or organizational treasurer of a candidate committee, joint candidates committee, or legislative leadership committee shall include as part of the record of any expenditure of such a committee, a notation or other reference disclosing which of the six enumerated permissible uses of funds set forth in N.J.A.C. 19:25-6.5(a) is applicable to the expenditure.



(d) A candidate, the candidates of a joint candidates committee, or the chairman of a political committee, continuing political committee, political party committee, or legislative leadership committee, shall take such steps as are necessary and appropriate to insure that a campaign treasurer, or organizational treasurer, appointed by the candidate committee, joint candidates committee, political committee, continuing political committee, political party committee, or legislative leadership committee, complies with the record-keeping requirements of this section and this chapter.

Amended by R.1989 d.99, effective February 21, 1989.

See: 20 N.J.R. 2640(a), 21 N.J.R. 458(a).

Added text in (a) "was received".

Recodified from 19:25-8.1 and amended by R.1993 d.509, effective October 18, 1993.

See: 25 N.J.R. 3429(b), 25 N.J.R. 4753(a).

### 19:25-7.2 Recordkeeping for credit card transactions

(a) Whenever a candidate committee, joint candidates committee, political committee, continuing political committee, political party committee, or legislative leadership committee purchases, or authorizes purchase of, goods or services by use of a credit card, the campaign or organizational treasurer shall make and maintain a record of the following information:

1. The exact name or title of the owner of the card, and the name of the lending institution that issued the card;
2. The date of the purchase;
3. The name and address of the vendor from whom the purchase was made;
4. The purpose of the purchase; and
5. The cost and description of the goods or services purchased.

New Rule, R.1993 d.509, effective October 18, 1993.

See: 25 N.J.R. 3429(b), 25 N.J.R. 4753(a).

### 19:25-7.3 Period of retention

All records required to be made by N.J.A.C. 19:25-7.1 shall be maintained for a period of not less than four years after the date of the election to which they are relevant, or a period of not less than four years after the transaction to which they relate occurred, whichever is longer.

Recodified from 19:25-8.2 and amended by R.1993 d.509, effective October 18, 1993.

See: 25 N.J.R. 3429(b), 25 N.J.R. 4753(a).

### 19:25-7.4 Affidavit for missing records

(a) An organizational or campaign treasurer unable to produce any record required to be made pursuant to N.J.A.C. 19:25-7.1, Recordkeeping requirements, shall submit to the Commission within 10 days after the Commission so requests an affidavit specifying which record cannot be produced and the reasons the record is unavailable. The affidavit shall specify:

1. Whether a written record was made at the time of the transaction and, if so, the name of the person who made it, the position of that person in the campaign or organization, and the reasons the record is no longer available; or
2. If no contemporaneous record was made, the name of the person, if any, assigned responsibility for making such a record and the reasons the record was not made.

(b) Any affidavit prepared pursuant to (a) above shall include a re-creation of the missing records based on bank statements, copies of negotiated checks or instruments, or any other source. A description of the efforts undertaken to re-create the missing record shall be included in the affidavit.

(c) The submission of an affidavit pursuant to (a) above shall not preclude or otherwise estop the Commission from undertaking penalty proceedings for failure to make or maintain records.

New Rule, R.1989 d.100, effective February 21, 1989.

See: 20 N.J.R. 3009(a), 21 N.J.R. 459(a).

Recodified from 19:25-8.3 and amended by R.1993 d.509, effective October 18, 1993.

See: 25 N.J.R. 3429(b), 25 N.J.R. 4753(a).

## SUBCHAPTER 8. CANDIDATE, JOINT CANDIDATES, AND POLITICAL COMMITTEE REPORTING

### Source and Effective Date

R.1993 d.509, effective October 18, 1993.

See: 25 N.J.R. 3429(b), 25 N.J.R. 4753(a).

### 19:25-8.1 Candidate or joint candidates committee election fund reports

(a) A candidate committee, or a joint candidates committee, shall file election fund reports of all contributions received, all expenditures made, and all other transactions of the election fund subject to reporting under the act and these regulations.

(b) The term "election fund reports" shall mean election-cycle reports as defined in N.J.A.C. 19:25-8.2(b), or quarterly reports as defined in N.J.A.C. 19:25-8.3(b), which reports shall be filed in accordance with N.J.A.C. 19:25-8.12, Time and place of filing reports.

(c) The initial election fund report of a candidate committee, or joint candidates committee, shall be either a 29-day preelection report or a quarterly report. In the event the committee is established within five months or less of the due date of the 29-day preelection report for the election in which the candidate or joint candidates is or are seeking office, the committee shall file the 29-day preelection report described in N.J.A.C. 19:25-8.2 report as its initial election fund report. However, if the committee is established more than five months prior to the due date of the 29-day preelection report for the election in which the candidate or joint candidates is or are seeking office, the committee shall file as its initial election fund report any quarterly report described in N.J.A.C. 19:25-8.3 that is due for filing within five months of the date the committee is established.

(d) The initial election fund report shall begin with the reporting of the first contribution received or expenditure made in the election (including any transaction that initially may have been pre-candidacy activity pursuant to N.J.A.C. 19:25-3.1), and shall report all subsequent contributions, expenditures, or other reportable transactions of the election fund occurring before the closing date applicable to the report.

(e) A candidate committee, or joint candidates committee, shall continue to file election fund reports until such time as it terminates its reporting requirements and files a final election fund report pursuant to N.J.A.C. 19:25-8.11.

#### 19:25-8.2 Election-cycle reports

(a) A candidate committee, or joint candidates committee, shall file election-cycle reports during any election in which the candidate, or joint candidates, is or are seeking election, or nomination for election.

(b) The term "election-cycle reports" shall mean the reports described below, which reports shall be due for filing on the following dates and shall report all contributions, expenditures, or other transactions of the election fund occurring within the following periods of time:

1. The 29-day preelection report shall be due for filing on the 29th day before the election and shall begin with the reporting of the first contribution received or expenditure made in an election (including any transaction that initially may have been pre-candidacy activity pursuant to N.J.A.C. 19:25-3.1); except that if the candidate committee, or joint candidates committee, filed, or was required to file, a prior quarterly report pursuant to N.J.A.C. 19:25-8.3, its 29-day preelection report shall begin with the first contribution received or expenditure made on or after 12:00 A.M. of the date on which the reporting period of the prior quarterly report ended. The 29-day preelection report shall end with the reporting of the last transaction occurring before 12:00 A.M. on the 31st day preceding the date of the election.

2. The 11-day preelection report shall be due for filing on the 11th day before the election and shall begin with the reporting of the first transaction occurring on or after 12:00 A.M. on the 31st day preceding the date of the election and end with the reporting of the last transaction occurring before 12:00 A.M. on the 13th day preceding the date of the election; and

3. The 20-day postelection report shall be due for filing on the 20th day following the election and shall begin with the reporting of the first transaction occurring on or after 12:00 A.M. on the 13th day preceding the date of the election and end with the reporting of the last transaction occurring before 12:00 A.M. on the 18th day following the date of the election.

(c) Notwithstanding (b) above, a candidate committee or joint candidates committee that is filing election fund reports in a municipal run-off election shall not be required to file the 20-day postelection report following the municipal election or the 29-day preelection report for the municipal run-off election. The 11-day preelection municipal run-off election report shall begin with the reporting of the first transaction occurring after 12:00 A.M. on the 13th day preceding the municipal election, and shall end with the reporting of the last transaction occurring before 12:00 A.M. on the 13th day preceding the municipal run-off election.

(d) The campaign treasurer and the candidate shall file and certify the correctness of a candidate committee election-cycle report, and shall certify that no contributions have been received in violation of the contribution limits prescribed by the act.

(e) The campaign treasurer and the joint candidates shall file and each certify the correctness of a joint candidates committee election-cycle report, and certify that no contributions have been received in violation of the contribution limits prescribed by the act.

#### Case Notes

Grand jury transcripts would not be disclosed to Election Law Enforcement Commission (ELEC), even though investigation dealt with election law. Matter of Grand Jury Testimony, 124 N.J. 443, 591 A.2d 614 (1991).

#### 19:25-8.3 Quarterly reports

(a) A candidate committee, or joint candidates committee, shall file quarterly reports for any period of time it is not required to file election-cycle reports pursuant to N.J.A.C. 19:25-8.2.

(b) The term "quarterly reports" shall mean the reports described below, which reports shall be due for filing and shall cover the following periods of time:

1. The first quarterly report shall be due for filing on April 15 of a calendar year and shall begin with the reporting of transactions occurring on or after 12:00 A.M. of January 1 of the calendar year of the filing date and end with the reporting of transactions occurring before 12:00 A.M. of April 1 of that calendar year;

2. The second quarterly report shall be due for filing on July 15 of a calendar year and shall begin with the reporting of transactions occurring on or after 12:00 A.M. on April 1 of the calendar year of the filing date and end with the reporting of transactions occurring before 12:00 A.M. of July 1 of that calendar year;

3. The third quarterly report shall be due for filing on October 15 of a calendar year and shall begin with the reporting of transactions occurring on or after 12:00 A.M. on July 1 of the calendar year of the filing date and end with the reporting of transactions occurring before 12:00 A.M. of October 1 of that calendar year; and,

4. The fourth quarterly report shall be due for filing on January 15 of a calendar year and shall begin with the reporting of transactions occurring on or after 12:00 A.M. on October 1 of the calendar year preceding the calendar year of the filing date and end with the reporting of transactions occurring before 12:00 A.M. of January 1 of the calendar year of the filing date.

(c) A candidate committee, or joint candidates committee, that does not terminate its election-cycle filing requirements with its 20-day postelection report and is therefore required to file quarterly reports, shall start filing quarterly reports on the following dates:

1. For a school board candidate, or joint candidates, the committee shall file a third quarter report on October 15 of the calendar year of the school board election;

2. For a municipal or municipal run-off election candidate, or joint candidates, the committee shall file a third quarter report on October 15 of the calendar year of the municipal or municipal run-off election;

3. For a primary election candidate, or joint candidates, who is or are defeated in a primary election or otherwise is or are not running in the following general election, the committee shall file a third quarter report on October 15 of the calendar year of the primary election;

4. For a general election candidate, or joint candidates, the committee shall file a first quarter report on April 15 of the calendar year following the general election; or

5. For a special election candidate, or joint candidates, the committee shall file a quarterly report on a quarterly report filing date set forth in (b) above that falls within five months of the date on which the 20-day postelection report closed, that is 12:00 A.M. of the 18th day after the date of the special election.

(d) The initial quarterly report filed by a candidate committee, or joint candidates committee, after the filing of a 20-day postelection report, shall begin with the reporting of the first contribution received, expenditure made, or other reportable transaction occurring after 12:00 A.M. on the 18th day following the date of election. Subsequent quarterly reports shall cover the time periods set forth in (b) above.

(e) The campaign treasurer and the candidate, or joint candidates, shall file and each certify the correctness of each quarterly report, and shall certify that no contributions have

been received in violation of the contribution limits prescribed by the act.

#### 19:25-8.4 Candidate certified statements (Form A-1 or A-2)

(a) There shall be no obligation to file the election fund reports referred to in N.J.A.C. 19:25-8.1 on behalf of any candidate committee of a candidate who files no later than five months after the date on which the committee is established, or no later than the 29th day before the election in which the candidate is seeking office, whichever is earlier, a certified statement (Form A-1) to the effect that the total amount expended or to be expended on behalf of his or her candidacy by the candidate committee, or by any candidate committee, joint candidates committee, political committee, continuing political committee, political party committee, legislative leadership committee or person shall not in the aggregate exceed \$2,000 in that election.

(b) There shall be no obligation to file the election fund reports referred to in N.J.A.C. 19:25-8.1 on behalf of a joint candidates committee if the joint committee files no later than five months after the date on which the committee is established, or no later than the 29th day before the election in which the joint candidates are seeking office, whichever is earlier, a certified statement (Form A-2) to the effect that the total amount to be expended on behalf of the joint candidacies by the joint candidates committee or by any candidate committee, joint candidates committee, political committee, continuing political committee, political party committee, legislative leadership committee or person shall not in the aggregate exceed the following amounts:

1. In the case of a joint candidates committee consisting of two candidates, \$4,000 in the election; or

2. In the case of a joint candidates committee consisting of three or more candidates, \$6,000 in the election.

(c) If a candidate committee or joint candidates committee which has filed a certified statement receives any contribution from any one source aggregating more than \$200.00 it shall file a report which shall provide the name and mailing address of the source, the date or dates received, and the aggregate total amount of contributions therefrom, and where the source is an individual, the occupation of the individual and the name and mailing address of the individual's employer. The report shall be signed by the campaign treasurer and filed no later than:

1. On the filing date for a quarterly report if the contribution is received within any quarterly report period prescribed by N.J.A.C. 19:25-8.3(b);

2. On the 29th day preceding the date of the election if the contribution was not required to be reported in a prior quarterly report period and is received prior to 12:00 A.M. on the 31st day preceding the date of the election;

3. On the 11th day preceding the date of the election if the contribution is received on or after 12:00 A.M. on the 31st day preceding the election but before 12:00 A.M. on the 13th day preceding the election; or

4. On the 20th day following the date of the election if the contribution is received on or after 12:00 A.M. on the 13th day preceding the election but before 12:00 A.M. on the 18th day following the election.

(d) A candidate, or joint candidates, for election to an office or offices of a school board, or a write-in candidate for any office, making expenditures within the limits provided in (a) or (b) above, shall not be required to file certified statements pursuant to (a) and (b) above, and any candidate committee, or joint candidates committee, established by such a candidate, or joint candidates, shall not be required to file election fund reports pursuant to N.J.A.C. 19:25-8.1. However, any candidate committee, or joint candidates committee, established by such a candidate or joint candidates, must file the reports required by (c) above. For the purposes of this section, the term "write-in candidate" shall mean an individual seeking or having sought election to a public office who has not filed an effective nominating petition for that office and whose name does not appear as a candidate for that office on the ballot used for that election.

#### **19:25-8.5 Candidate not receiving contributions or making expenditures**

A candidate who has not established a candidate committee or appointed a treasurer and opened a campaign depository because no contributions have been received and no expenditures have been made, and who reasonably expects not to receive any contributions or make any expenditures in the election in which the candidate is seeking office, shall file a certified statement (Form A-1) so indicating no later than the 29th day preceding the date of the election in which the candidate is seeking office. In the event the candidate subsequently receives a contribution in the election, the candidate must establish a candidate committee as provided by N.J.A.C. 19:25-4.1 and file reports pursuant to N.J.A.C. 19:25-8.

#### **19:25-8.6 Contributions received immediately before an election**

(a) A campaign treasurer of a candidate committee, or joint candidates committee, shall file a report or other written notice of any contribution in excess of \$500.00, or any aggregate contributions from a contributor which total in excess of \$500.00, received on or after 12:00 A.M. on the 13th day preceding the date of an election in which the candidate, or joint candidates, is or are seeking election, but before 12:00 A.M. on the date of the election, which report shall contain:

1. The name of the recipient candidate committee, or joint candidates committee;

2. The date the contribution was received;

3. The amount of the contribution;

4. The name and mailing address of the contributor; and

5. If the contributor is an individual, the occupation of the individual and the name and mailing address of the individual's employer.

(b) The report or written notice described in (a) above shall be filed with the Commission within 48 hours of receipt of the contribution, and shall be signed by the campaign treasurer or a candidate, except that a report made by telegram need not be signed. Use of electronic facsimile transmission (that is, fax) to file the report or written notice is permitted.

Amended by R.1995 d.253, effective May 15, 1995.  
See: 27 N.J.R. 1161(a), 27 N.J.R. 2010(a).

#### **19:25-8.7 Termination of election fund reporting**

(a) A candidate committee, or a joint candidates committee, may certify a 20-day postelection report or a quarterly report as its final election fund report and thereby terminate further quarterly reporting provided:

1. There is no remaining balance in any depository opened or maintained by the candidate committee, or joint candidates committee;

2. There are no outstanding obligations of the candidate committee, or joint candidates committee; or, if outstanding obligations exist, the total amount does not exceed \$1,000, or does not exceed 10 percent of the expenditures of the election fund with respect to the election, whichever amount is less; or written evidence is provided that any existing outstanding obligations are likely to be discharged or forgiven; and

3. The candidate committee, or joint candidates committee has been dissolved and wound up its business for the past election, or elections.

(b) The campaign treasurer, and the candidate, or each joint candidate, shall file and each certify the final election fund report.

(c) Notwithstanding (a) above, if after filing a final election fund report, a candidate, or joint candidates, receives or receive any subsequent contributions, makes or make any expenditures, or assumes or assume any obligation in connection with the election for which the candidate or joint candidates was or were seeking office, the candidate, or joint candidates, shall establish a candidate committee, or joint candidates committee, and that committee shall resume filing election fund reports pursuant to N.J.A.C. 19:25-8.1.

**19:25-8.8 Political committee election fund reports**

(a) A political committee receiving or expending more than \$1,000 in an election shall file election fund reports of all contributions received, all expenditures made, and all other financial transactions of its election fund subject to reporting, and such reports shall be filed on the same dates and be pertinent to the same periods of time as set forth in N.J.A.C. 19:25-8.1 for candidate committee reports.

(b) The campaign treasurer of the political committee shall file and certify the correctness of the reports described in (a) above, and shall certify that no contributions have been received in violation of the contribution limits prescribed by the act.

**19:25-8.9 Political committee contributions received immediately before an election**

(a) A campaign treasurer of a political committee shall file a report or other written notice of any contribution in excess of \$500.00, or any aggregate contributions from a contributor which total in excess of \$500.00, received on or after 12:00 A.M. on the 13th day preceding the date of the election but before 12:00 A.M. on the date of the election, which report shall contain:

1. The name of the recipient political committee;
2. The date the contribution was received;
3. The amount of the contribution;
4. The name and mailing address of the contributor; and
5. If the contributor is an individual, the occupation of the individual and the name and mailing address of the individual's employer.

(b) The report or written notice described in (a) above shall be filed with the Commission within 48 hours of receipt of the contribution, and shall be signed by the campaign treasurer, except that a report made by telegram need not be signed. Use of electronic facsimile transmission (that is, fax) to file the report or written notice is permitted.

Amended by R.1995 d.253, effective May 15, 1995.  
See: 27 N.J.R. 1161(a), 27 N.J.R. 2010(a).

**19:25-8.10 Political committee expenditures made immediately before an election**

(a) A campaign treasurer of a political committee shall file a report (Form E-1) of any expenditure of money or other thing of value in excess of \$500.00 made, incurred or authorized by the political committee to support or defeat a candidate in an election, or to aid the passage or defeat of a public question, which expenditure is made, incurred or authorized on or after 12:00 A.M. on the 13th day preceding the date of the election but before 12:00 A.M. on the date of the election. The report shall contain:

1. The name of the political committee;
2. The name and mailing address of the person, firm or recipient; or organization to whom or which the expenditure was paid or given; and
3. The amount and purpose of the expenditure.

(b) The report or written notice described in (a) above shall be filed with the Commission within 48 hours of the making of the expenditure, and shall be signed by the campaign treasurer, except that a report made by telegram need not be signed. Use of electronic facsimile transmission (that is, fax) to file the report or written notice is permitted.

Amended by R.1995 d.253, effective May 15, 1995.  
See: 27 N.J.R. 1161(a), 27 N.J.R. 2010(a).

**19:25-8.11 Termination of political committee quarterly reporting**

(a) A political committee may certify a 20-day postelection report or a quarterly report as its final election fund report and thereby terminate further reporting provided:

1. There is no remaining balance in any depository opened or maintained by the political committee;
2. There are no outstanding obligations of the political committee; or, if outstanding obligations exist, the total amount does not exceed \$1,000, or does not exceed 10 percent of the expenditures of the election fund with respect to the election, whichever amount is less; or written evidence is provided that any existing outstanding obligations are likely to be discharged or forgiven; and
3. The political committee has been dissolved and wound up its business for the past election, or elections.

(b) The campaign treasurer of the political committee shall certify and file the final election fund report.

**19:25-8.12 Time and place of filing reports**

(a) An original and two copies of all reports required to be filed must be received at the Commission offices no later than 5:00 P.M. on the date the report is due for filing in order to be deemed timely filed. A report submitted by United States mail postmarked on or before a filing date but not received until after 5:00 P.M. of the date the report is due for filing will not be deemed timely filed. A report or written notice of contributions received immediately before an election made pursuant to N.J.A.C. 19:25-8.6 or 8.9, or a report or written notice of expenditures made immediately before an election pursuant to N.J.A.C. 19:25-8.10, may be filed by electronic facsimile transmission (that is, fax).



(b) For election-cycle reports filed pursuant to N.J.A.C. 19:25-8.2 for primary and general elections only, filing may be accomplished by filing an original and three copies with the appropriate county clerk for transmittal to the Commission, provided that the reports are filed with the county clerk no later than 12:00 noon on the date due for filing. Any reports filed after 12:00 noon on the date due for filing will not be deemed timely filed until received by the Commission. The county clerk shall retain one of the copies of the report, and transmit the original and two copies to the Commission. The copy retained by the county clerk shall be duly certified by the campaign treasurer as a duplicate copy. This subsection is not applicable to election-cycle reports other than primary or general elections, and is not applicable to quarterly reports.

(c) With the exception of reports filed with a county clerk pursuant to (b) above, an additional copy of a candidate committee, or joint candidates committee, report filed pursuant to N.J.A.C. 19:25-8.1 shall be filed with the county clerk of the county in which the candidate, or joint candidates, seek office. A candidate, or joint candidates, for State legislative office, shall file a copy with the county clerk of the county, or county clerks of the counties, in which the candidate, or joint candidates, resides or reside, if the legislative district includes more than one county. Such a report shall be duly certified as a duplicate copy by the campaign treasurer.

Amended by R.1995 d.253, effective May 15, 1995.  
See: 27 N.J.R. 1161(a), 27 N.J.R. 2010(a).

## SUBCHAPTER 9. CONTINUING POLITICAL COMMITTEE, POLITICAL PARTY COMMITTEE, AND LEGISLATIVE LEADERSHIP COMMITTEE REPORTING

### Authority

N.J.S.A. 19:44A-6.

### Source and Effective Date

R.1994 d.573, effective November 21, 1994.  
See: 26 N.J.R. 3138(a), 26 N.J.R. 4638(a).

### Subchapter Historical Note

Subchapter 9, formerly Pre-Election and Post-Election Reports, was repealed by R.1993 d.509, effective October 19, 1993. See: 25 N.J.R. 3429(b), 25 N.J.R. 4653(a).

### 19:25-9.1 Quarterly reports

(a) A continuing political committee, a political party committee, or a legislative leadership committee shall file quarterly reports of all contributions received, all expenditures made, and all other transactions of its election fund subject to reporting, which reports shall be due for filing and shall cover the following periods of time:

1. The first quarterly report shall be due for filing on April 15 of a calendar year and shall begin with the reporting of transactions occurring on or after 12:01 A.M. of January 1 of the calendar year of the filing date and end with the reporting of transactions occurring before 12:01 A.M. of April 1 of that calendar year;

2. The second quarterly report shall be due for filing on July 15 of a calendar year and shall begin with the reporting of transactions occurring on or after 12:01 A.M. on April 1 of the calendar year of the filing date and end with the reporting of transactions occurring before 12:01 A.M. of July 1 of that calendar year;

3. The third quarterly report shall be due for filing on October 15 of a calendar year and shall begin with the reporting of transactions occurring on or after 12:01 A.M. on July 1 of the calendar year of the filing date and end with the reporting of transactions occurring before 12:01 A.M. of October 1 of that calendar year; and

4. The fourth quarterly report shall be due for filing on January 15 of a calendar year and shall begin with the reporting of transactions occurring on or after 12:01 A.M. on October 1 of the calendar year preceding the calendar year of the filing date and end with the reporting of transactions occurring before 12:01 A.M. of January 1 of the calendar year of the filing date.

(b) The initial quarterly report shall be filed for the calendar year quarter in which the continuing political committee, political party committee, or legislative leadership committee was established or required to be established, and, in the case of a continuing political committee, quarterly reports shall continue to be filed in each calendar year quarter pursuant to (a) above until such time as a final quarterly report is filed pursuant to N.J.A.C. 19:25-9.5. A political party committee or a legislative leadership committee cannot terminate quarterly reporting requirements.

(c) The organizational treasurer shall file and certify the correctness of the quarterly report, and shall certify that no contributions have been received in violation of the contribution limits prescribed by the act.

### 19:25-9.2 Certified statement (Form A-3)

(a) There shall be no obligation to file the quarterly reports referred to in N.J.A.C. 19:25-9.1 on behalf of a continuing political committee, political party committee, or legislative leadership committee that files no later than January 15 of a calendar year a certified statement (Form A-3) to the effect that the total amount to be raised or expended in that calendar year shall not exceed \$2,500.

(b) In the event a continuing political committee, political party committee, or legislative leadership committee files a certified statement (Form A-3) pursuant to (a) above, and total expenditures exceed \$2,500 during the calendar year for which the statement was filed, the committee shall:

1. File a quarterly report pursuant to N.J.A.C. 19:25-9.1 on the date relevant to the calendar year quarter in which \$2,500 of expenditures was exceeded, and that quarterly report shall include all contributions received and all expenditures made from the beginning of the calendar year; and



2. Continue filing quarterly reports for the remainder of that calendar year, unless a final quarterly report is filed pursuant to N.J.A.C. 19:25-9.5.

(c) If a continuing political committee, political party committee, or legislative leadership committee, which has filed a certified statement for a calendar year pursuant to (a) above, receives during any calendar year quarter a contribution, or aggregate contributions from a contributor, that exceeds the sum of \$200.00, that committee shall file on the dates provided in N.J.A.C. 19:25-9.1 a report containing the following information:

1. The name and mailing address of the contributor;
2. The date the contribution was received;
3. The amount of the contribution, or if the contribution was other than money, a description of the contribution and its value as determined pursuant to N.J.A.C. 19:25-10.4; and
4. If the contributor was an individual, the occupation of the contributor and the name and mailing address of the individual's employer.

Amended 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).

### **19:25-9.3 Contributions received immediately before an election**

(a) An organizational treasurer of a continuing political committee, a political party committee, or a legislative leadership committee shall file a report or other written notice with the Commission of any contribution in excess of \$500.00, or any aggregate contributions from a contributor which total in excess of \$500.00, received after the closing date of its most recent quarterly report and on or before the date of an election in which the committee has made or intends to make any contribution or expenditure to aid or promote any candidate or the passage or defeat of any public question. The closing dates of quarterly reports are set forth in N.J.A.C. 19:25-9.1(a).

(b) The report or written notice described in (a) above shall be filed with the Commission within 48 hours of receipt of a contribution in excess of \$500.00, or within 48 hours of receipt of aggregate contributions from a contributor which total in excess of \$500.00, except that all such contributions or aggregate contributions received prior to 12:01 A.M. of the 13th day preceding the date of an election may be reported together on a report or written notice to be filed with the Commission no later than the 11th day before that election. A contribution or aggregate contributions from a contributor totaling in excess of \$500.00 received on or after 12:01 A.M. on the 13th day before the election must be reported within 48 hours of receipt.

(c) The report or written notice described in (a) above shall contain the following information:

1. The name of the recipient committee;
2. The date the contribution was received;

3. The amount of the contribution, or if the contribution was other than money, a description of the contribution and its value as determined pursuant to N.J.A.C. 19:25-10.4;

4. The name and mailing address of the contributor; and

5. If the contributor is an individual, the occupation of the individual and the name and mailing address of the individual's employer.

(d) The report or written notice described in (a) above shall be signed by the organizational treasurer, except that a report made by telegram need not be signed. Use of electronic facsimile transmission (that is, fax) to file the report or written notice is permitted.

Amended 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).  
Amended by R.1995 d.253, effective May 15, 1995.  
See: 27 N.J.R. 1161(a), 27 N.J.R. 2010(a).

### **19:25-9.4 Continuing political committee expenditures made immediately before a primary or general election**

(a) An organizational treasurer of a continuing political committee shall file a report (Form E-3) of an expenditure of money or other thing of value in excess of \$500.00, or aggregate expenditures that total in excess of \$500.00, made, incurred or authorized in a primary or general election by the continuing political committee to support or defeat a candidate, or to aid the passage or defeat of a public question, which expenditure is, or aggregate expenditures are made, incurred or authorized after March 31 and on or before the day of the primary election, or after September 30 and on or before the day of the general election. The report shall contain:

1. The name of the continuing political committee making the expenditure;
2. The name and mailing address of the person, firm or recipient; or the name and mailing address of the organization to whom or which the expenditure was paid or given; and
3. The amount and purpose of the expenditure.

(b) The report or written notice described in (a) above shall be signed by the organizational treasurer and filed with the Commission within 48 hours of the making, authorizing or incurring of the expenditure, or aggregate expenditures, except that all expenditures or aggregate expenditures made, incurred or authorized before 12:01 A.M. on the 13th day preceding the date of a primary or general election may be reported together on a report or written notice to be filed no later than the 11th day before that election. A report of an expenditure or aggregate expenditures in excess of \$500.00 made, incurred or authorized on or after 12:01 A.M. on the 13th day preceding the date of a primary or general election shall be filed within 48 hours of receipt, and such a report made by telegram need not be signed. Use of electronic facsimile transmission (that is, fax) to file the report or written notice is permitted.

Amended by R.1995 d.253, effective May 15, 1995.  
See: 27 N.J.R. 1161(a), 27 N.J.R. 2010(a).

### 19:25-9.5 Termination of continuing political committee reporting

(a) A continuing political committee may certify a quarterly report as its final quarterly report and thereby terminate further quarterly reporting provided:

1. The continuing political committee has ceased making contributions to aid or promote any candidate, or to aid or promote the passage or defeat of any public question;
2. The final quarterly report makes a final accounting of any funds used or relating to aiding or promoting any candidate or the passage or defeat of any public question, including the final disposition of any remaining balance; and
3. The continuing political committee is dissolved.

(b) The chairperson and the organizational treasurer shall file and each certify the final quarterly report.

### 19:25-9.6 Time and place of filing reports

An original and two copies of all reports required to be filed must be received at the Commission offices no later than 5:00 P.M. on the date the report is due for filing in order to be deemed timely filed. A report submitted by United States mail postmarked on or before a filing date but not received until after 5:00 P.M. of the date the report is due for filing will not be deemed timely filed. A report or written notice pursuant to N.J.A.C. 19:25-9.3 of contributions received immediately before an election, or a report or written notice pursuant to N.J.A.C. 19:25-9.4 of expenditures made immediately before an election, may be made by electronic facsimile transmission (that is, fax).

Amended by R.1995 d.253, effective May 15, 1995.  
See: 27 N.J.R. 1161(a), 27 N.J.R. 2010(a).

## SUBCHAPTER 10. CONTRIBUTION REPORTING

### Source and Effective Date

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).

### 19:25-10.1 General provisions

Each contribution received by a candidate, candidate committee, joint candidates committee, political committee, continuing political committee, political party committee or legislative leadership committee must be reported at the time and in the manner provided in the act and this subchapter.

### 19:25-10.2 Contributions of more than \$200.00

(a) A contribution received by a candidate committee, joint candidates committee, or political committee during an election fund report period established in N.J.A.C. 19:25-8 in an amount of more than \$200.00, or aggregate contributions received by such a committee in an election from a contributor totalling more than \$200.00 during such a report period, must be reported by providing the following information:

1. The date the contribution was received or, if more than one contribution was received in the reporting period, the dates the aggregate contributions were 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, or amount of aggregate contributions in the reporting period; and
5. The total amount of all contributions received from the contributor in the election to date.

(b) A contribution received by a continuing political committee, a political party committee, or a legislative leadership committee during a calendar year of more than \$200.00 from a contributor, or aggregate contributions received by such a committee during a calendar year from a contributor totalling more than \$200.00, must be reported by providing the following information:

1. The date the contribution was received or, if more than one contribution was received in the reporting period, the dates the aggregate contributions were 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, or amount of aggregate contributions in the reporting period; and
5. The total amount of all contributions received from the contributor in the calendar year to date.

(c) A candidate committee or joint candidates committee which has filed a certified statement (that is, Form A-1 or A-2) in an election and which receives a contribution in that election of more than \$200.00, or aggregate contributions from a contributor of more than \$200.00, shall file the report provided in N.J.A.C. 19:25-8.4(c).

(d) A continuing political committee, political party committee, or legislative leadership committee which has filed a certified statement (Form A-3) in a calendar year and which receives in that calendar year a contribution of more than \$200.00, or aggregate contributions from a contributor of more than \$200.00, shall file the report provided in N.J.A.C. 19:25-9.2(c).

**19:25-10.3 Contributions of \$200.00 or less**

(a) A contribution received by a candidate, candidate committee, joint candidates committee or political committee in an amount of \$200.00 or less in an election must be reported on the election fund report required by N.J.A.C. 19:25-8.2 or 8.3 for the time period in which the contribution was received by including the amount of the contribution in the total sum reported in the report for all contributions received in the amount of \$200.00 or less, but the name and mailing address of the contributor or the occupation of a contributor who is an individual and the name and mailing address of the individual's employer is not required to be reported.

(b) At any time during an election pursuant to (a) above, if the aggregate amount received from a contributor by a candidate, candidate committee, joint candidates committee, or political committee exceeds the sum of \$200.00, the contribution resulting in aggregate contributions totalling more than \$200.00 and each subsequent contribution (regardless of amount) received from the contributor during the election must be reported on the pertinent election fund report in the same manner as a contribution of more than \$200.00 pursuant to N.J.A.C. 19:25-10.2(a).

(c) A contribution received by a continuing political committee, a political party committee or a legislative leadership committee in an amount of \$200.00 or less in a calendar year must be reported on the quarterly report required by N.J.A.C. 19:25-9.1 for the calendar year quarter in which the contribution was received by including the amount of the contribution in the total sum reported for the quarterly reporting period of all contributions received in the amount of \$200.00 or less, but the name and mailing address of the contributor or the occupation of a contributor who is an individual and name and mailing address of the individual's employer is not required to be reported.

(d) At any time during a calendar year pursuant to (c) above, if the aggregate amount received from a contributor by a continuing political committee, political party committee, or legislative leadership committee exceeds the sum of \$200.00, the contribution resulting in aggregate contributions totalling more than \$200.00 and each subsequent contribution (regardless of amount) received from the contributor during the remainder of the calendar year must be reported on the pertinent quarterly report in the same manner as a contribution of more than \$200.00 pursuant to N.J.A.C. 19:25-10.2(b).

**19:25-10.4 Computation of contribution amounts**

(a) A contribution received in the form of goods shall be reported in an amount equal to the fair market value of the goods to the candidate committee, joint candidates committee, political committee, continuing political committee, political party committee or legislative leadership committee receiving such goods.

(b) A contribution in the form of "paid personal services" as defined in N.J.A.C. 19:25-1.7, Definitions, shall be reported in an amount equal to the amount of salary, compensation or consideration for said services paid by the contributor to the individual performing said services.

(c) Personal services performed by an individual on a voluntary, non-compensated basis do not constitute a reportable contribution.

1. Example 1: E is a certified public accountant, who, in aid of the candidacy of candidate A has undertaken to set up the necessary books and records to reflect the financial operations of the campaign of candidate A. E employs in his office several accountants, bookkeepers and clerical personnel who perform some of the work required to maintain the financial records for the campaign of candidate A. The services of E do not constitute a contribution to candidate A since they are voluntary and uncompensated personal services. The value of the services of the accountants and other employees of E, estimated as described in (b) above, are a contribution to candidate A.

**19:25-10.5 Contributions of paid personal services**

(a) The treasurer or organizational treasurer of a candidate committee, joint candidates committee, political committee, continuing political committee, political party committee, or legislative leadership committee shall upon receipt of a contribution in the form of paid personal services pursuant to N.J.A.C. 19:25-10.4(b) obtain from the person contributing the paid personal services a written statement setting forth the amount of compensation paid by the contributor to the individual performing the services.

(b) In any written statement required pursuant to (a) above, if the individual performing the services for the candidate committee, joint candidates committee, political committee, continuing political committee, political party committee or legislative leadership committee, also performed other services during the same period for the contributor, and the manner of payment was such that payment for the contributed services cannot readily be segregated from contemporary payment for the other services, the contributor shall so state in the written statement and shall either:

1. Set forth the contributor's best estimate of the dollar amount of payment to each such individual which is attributable to the contribution of the paid personal services, and shall certify the substantial accuracy of the same; or

2. If unable to determine such amount with sufficient accuracy, set forth the total compensation paid by the contributor to each such individual for the period of time during which the paid personal services were performed.

**19:25-10.6 Currency contributions**

(a) A candidate, candidate committee, joint candidates committee, political committee, continuing political committee, political party committee, or legislative leadership committee, or the treasurer or organizational treasurer of such committee, may accept a contribution in the form of currency provided that it is received in an aggregate amount not to exceed \$200.00 in an election, or a calendar year, whichever is applicable to the recipient candidate or committee, and provided the contributor simultaneously submits a written record to the committee or treasurer containing the following:

1. The date the contribution was made;
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; and
5. The signature of the contributor.

(b) A contributor may make a contribution in the form of currency provided that the contribution in an aggregate amount does not exceed \$200.00 in an election to a candidate, candidate committee, joint candidates committee, or political committee, or does not exceed \$200.00 in a calendar year to a continuing political committee, political party committee or legislative leadership committee, and provided such contributor shall simultaneously submit to the committee or its treasurer a written record containing the following:

1. The date the contribution was made;
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; and
5. The signature of the contributor.

(c) Nothing in this section shall prohibit the making of, or receipt of, currency contributions not to exceed \$20.00 per contributor made or received under the public solicitation provisions at N.J.A.C. 19:25-10.7.

**19:25-10.7 Public solicitations**

(a) The term "public solicitation" means any activity by or on behalf of any candidate, political committee, continuing political committee, candidate committee, joint candidates committee, legislative leadership committee or political party committee whereby either:

1. Members of the general public are personally solicited for on-the-spot cash contributions not to exceed \$20.00 per person; or
2. Members of the general public are personally solicited for on-the-spot purchase of items having tangible value as merchandise, at a price not to exceed \$20.00 per item.

(b) Proceeds of a public solicitation must be reported as contributions, however there shall be no obligation to make or maintain records of or report the identity of any contributor, and such proceeds shall not be deemed as anonymous contributions.

(c) In the event contributions are received as the result of a public solicitation, the date and location of each such public solicitation must be identified in any report showing receipt of proceeds from the public solicitation.

**19:25-10.8 Anonymous contributions**

(a) No contribution shall be made by a person or received by a candidate, candidate committee, joint candidates committee, political committee, continuing political committee, political party committee or legislative leadership committee on an anonymous basis, that is without making known, or knowing, the identity of the person making the contribution, or in a fictitious name, or by one person or group in the name of another, and no person shall contribute or purport to contribute to any candidate, candidate committee, joint candidates committee, political committee, continuing political committee, political party committee, or legislative leadership committee, any funds or property not actually belonging to him or her and in his or her full custody and control, or which have been given or furnished to him or her by any other person or group for the purpose of making a contribution thereof.

(b) A contribution shall not be deemed anonymous if the identity of the contributor was known to the candidate, candidate committee, joint candidates committee, political committee, continuing political committee, political party committee or legislative leadership committee, or to the treasurer or organizational treasurer of such committee, at the time when the contribution was received, even though the committee or treasurer may later be unable to identify the contributor because of loss or destruction of records. Nothing in this subsection shall be construed to prevent the Commission from imposing a penalty pursuant to the act or these regulations for failure to keep proper records.

(c) A group contribution, that is a contribution made collectively by persons who are members of the contributing group, shall not be deemed an anonymous contribution by any individual member of the group.

**19:25-10.9 Contributions for pre-candidacy activity**

In the event that an individual who has been receiving funds or other benefits pursuant to N.J.A.C. 19:25-3.1 solely for the purpose of determining whether or not to become a candidate, actually becomes a candidate in an election, all funds or benefits received in connection with his or her pre-candidacy activity shall be considered contributions under the act and shall be reported in accordance with the applicable reporting requirements in the initial report filed by such candidate's candidate committee, or joint candidates committee.

**19:25-10.10 Political communication contributions**

(a) The term "political communication" means any written statement, pamphlet, advertisement or other printed or broadcast matter containing an explicit appeal for the election or defeat of a candidate which is circulated or broadcast to an audience substantially comprised of persons eligible to vote for the candidate on whose behalf the appeal is directed. Words such as "Vote for (name of candidate)," "Vote against (name of opposing candidate)," "Elect (name of candidate)," "Support (name of candidate)," "Defeat (name of opposing candidate)," "Reject (name of opposing candidate)," and other similar explicit political directives constitute examples of appeals for the election or defeat of a candidate.

(b) A written statement, pamphlet, advertisement or other printed or broadcast matter that does not contain an explicit appeal pursuant to (a) above for the nomination for election or for the election or defeat of a candidate shall be deemed to be a political communication if it meets the following conditions:

1. The communication is circulated or broadcast within 90 days of the date of any election in which the candidate on whose behalf the communication is made is seeking nomination for election or elected office; except that in the case of a candidate for nomination for the office of Governor in a primary election, the period of time that a communication shall be deemed political shall be on or after January 1st in a year in which a primary election for Governor is being conducted, and in the case of a candidate for election to the office of Governor in a general election, the period of time that a communication shall be deemed political shall begin on the day following the date of the gubernatorial primary election;

2. The communication is circulated or broadcast to an audience substantially comprised of persons eligible to vote for the candidate on whose behalf the communication was made;

3. The communication contains a statement or reference concerning the governmental or political objectives or achievements of the candidate; and

4. The production, circulation or broadcast of the communication, or any cost associated with the production, circulation or broadcast of the communication, has been made in whole or in part with the cooperation of, prior consent of, in consultation with, or at the request or suggestion of the candidate.

(c) Nothing contained in (b) above shall be construed to require reporting of a communication by an incumbent officeholder seeking reelection if the communication is in writing and is made to a constituent in direct response to a prior communication received from that constituent, if it is circulated or broadcast for the sole and limited purpose of communicating governmental events requiring constituents to make applications or take other actions before the date of the upcoming election, or if it is circulated or broadcast to constituents for the sole and limited purpose of communicating facts relevant to a bona fide public emergency.

(d) Nothing contained in (b) above shall be construed to require reporting of a communication by a candidate seeking nomination for election in a primary election if that candidate is not opposed by another candidate seeking nomination for election in that primary election.

**19:25-10.11 Reporting of political communication costs**

(a) If any political communication as defined in N.J.A.C. 19:25-10.10 is incurred or paid for by any candidate committee or joint candidates committee, the committee shall report such expenditure in accordance with N.J.A.C. 19:25-12.

(b) Any political communication as defined by N.J.A.C. 19:25-10.10 incurred or paid for by any person or entity other than the candidate's candidate committee or joint candidates committee, which political communication is prepared, made or circulated with the consent or cooperation of the candidate, shall be reported by that candidate as a campaign contribution of goods and/or services in accordance with N.J.A.C. 19:25-10.4(a).

(c) Any political communication not prepared, made or circulated with the consent or cooperation of a candidate and incurred or paid for by any other person or entity shall be reported in accordance with N.J.A.C. 19:25-12.

**19:25-10.12 Interest income**

Any payment received as interest income for funds on deposit in a campaign or organizational depository account established pursuant to N.J.A.C. 19:25-5.2 is not subject to contributor identification requirements, provided that such interest payment amount is included in amounts reported as received and deposited.

**19:25-10.13 Loans as contributions**

(a) A loan received by a candidate, candidate committee, joint candidates committee, political committee, continuing political committee, political party committee or legislative leadership committee, or by the treasurer of such committee, shall be reported as a contribution by the person or entity making the loan.

(b) Notwithstanding (a) above, if a loan is made to a candidate, committee or treasurer by a banking or lending institution, and if the candidate as an individual using personal assets, or some third party person or entity, in the ordinary course of business, has guaranteed, co-signed or



otherwise assured repayment of the loan to the banking or lending institution, the contributor of the loan shall be reported as the person or entity guaranteeing, co-signing or otherwise assuring the repayment of the loan, and the banking or lending institution shall not be deemed to be the contributor.

(c) A loan made by a banking or lending institution to a candidate, candidate committee, joint candidates committee, political committee, continuing political committee, political party committee or legislative leadership committee which loan is not secured pursuant to (b) above is a contribution to the candidate or committee by that banking or lending institution.

excess of such contribution limits, except that candidates for nomination for election to the office of Governor shall be subject to the contribution limits set forth in N.J.A.C. 19:25-16, Public Financing of Primary Election for Governor, and candidates for election to the office of Governor shall be subject to the contribution limits set forth in N.J.A.C. 19:25-15, Public Financing: General Elections for the Office of Governor.

(b) All political committees, continuing political committees, legislative leadership committees, political party committees, and all treasurers or organizational treasurers of such committees, shall observe the contribution limits set forth in this subchapter and shall not knowingly accept any contribution in violation of such contribution limits.

## SUBCHAPTER 11. CONTRIBUTION LIMITS

### Source and Effective Date

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).

### Subchapter Historical Note

Subchapter 11, originally Contributions; Reporting of, was repealed by R.1995 d.209, effective April 17, 1995. See: 27 N.J.R. 1643(a). See, now, Subchapter 10, Contribution Reporting.

## 19:25-11.2 Contribution limit chart

(a) The following chart sets forth the contribution limits applicable to persons or entities making contributions to candidates, candidate committees, political committees, continuing political committees, legislative leadership committees, and State, county or municipal political party committees:

### 19:25-11.1 Candidates subject to contribution limits

(a) All candidates, candidate committees, and joint candidates committees, and all treasurers of such committees, shall observe the contribution limits set forth in this subchapter and shall not knowingly accept any contribution in

### Entities Making Contributions

### Entities Receiving Contributions

	Candidate Committee (see N.J.A.C. 19:25-11.3)	Political Committee (see N.J.A.C. 19:25-11.6)	Continuing Political Committee	Legislative Leadership Committee	State Political Party Committee	County Political Party Committee	Municipal Political Party Committee
Individual to:	\$1,500 per election	No Limit	No Limit	\$25,000 per year	\$25,000 per year	\$25,000 per year	\$5,000 per year
Corporation or Union to:	\$1,500 per election	No Limit	No Limit	\$25,000 per year	\$25,000 per year	\$25,000 per year	\$5,000 per year
Association or Group to:	\$1,500 per election	No Limit	No Limit	\$25,000 per year	\$25,000 per year	\$25,000 per year	\$5,000 per year
Candidate Committee to: (see N.J.A.C. 19:25-11.3)	\$5,000 per election	\$5,000 per election	\$5,000 per year	\$25,000 per year	\$25,000 per year	\$25,000 per year	\$5,000 per year
Political Committee to:	\$5,000 per election	\$5,000 per election	\$5,000 per year	\$25,000 per year	\$25,000 per year	\$25,000 per year	\$5,000 per year
Continuing Political Committee to:	\$5,000 per election	\$5,000 per election	\$5,000 per year	\$25,000 per year	\$25,000 per year	\$25,000 per year	\$5,000 per year
Legislative Leadership Committee to:							
State Political Party Committee to:							
County Political Party Committee to: (see N.J.A.C. 19:25-11.7)	NO LIMITS, except those set forth in N.J.A.C. 19:25-11.7 for a county political party committee.						



## Entities Making Contributions

## Entities Receiving Contributions

	Candidate Committee (see N.J.A.C. 19:25-11.3)	Political Committee (see N.J.A.C. 19:25-11.6)	Continuing Political Committee	Legislative Leadership Committee	State Political Party Committee	County Political Party Committee	Municipal Political Party Committee
Municipal Political Party Committee to:							
National Political Party Committee to:	\$5,000 per election	\$5,000 per election	\$5,000 per year	\$25,000 per year	\$50,000 per year	\$25,000 per year	\$5,000 per year

(b) No contributing person or entity listed in (a) above shall make a contribution, or aggregate contributions, in excess of the contribution limits set forth in (a) above.

(c) No candidate, candidate committee, political committee, continuing political committee, legislative leadership committee, political party committee, or treasurer or organizational treasurer of any of such committee, shall knowingly accept a contribution, or aggregate contributions, in excess of the contribution limits set forth in (a) above.

**19:25-11.3 Candidate contributions**

(a) A candidate may make a contribution as an individual and subject to the limits set forth in this subchapter notwithstanding any contribution made by the candidate's candidate committee or joint candidates committee, provided that the contribution made by the candidate as an individual is not derived from funds controlled by the candidate committee or joint candidates committee.

(b) Notwithstanding the contribution limits set forth in N.J.A.C. 19:25-11.2 above, a candidate, or a corporation one hundred percent of the stock of which is owned by the candidate, or by the candidate's spouse, child, parent, or sibling residing in the candidate's household, may make contributions without limit to a candidate committee established by that candidate, or to a joint candidates committee established by that candidate.

(c) Notwithstanding the contribution limits set forth in N.J.A.C. 19:25-11.2 above, a candidate committee can make contributions in an election without limit to another candidate committee if both the contributing and recipient candidate committees are established by candidates who are seeking nomination for election, or election to, legislative offices within the same legislative district, or to the same offices within the same political subdivision of this State.

**19:25-11.4 Joint candidates committee contribution limits**

(a) A joint candidates committee established by candidates who have not established any candidate committees in an election may accept a contribution from a contributor in an amount equal to but not in excess of the sum of the number of candidates participating in the joint candidates committee multiplied by the contribution limit applicable to a contribution made by the contributing entity to a candidate committee of a single candidate.

1. Example. A joint candidates committee in which three candidates are participating, none of whom have established candidate committees, may receive from an individual a contribution not to exceed \$4,500 in an election, that is three multiplied by the \$1,500 contribution limit applicable to a contribution from an individual to a candidate committee.

(b) A joint candidates committee established by candidates who have not established any candidate committees in an election may make a contribution to a political committee not to exceed \$5,000 per candidate in the election, and may make a contribution to a continuing political committee not to exceed \$5,000 per candidate in a calendar year.

(c) In the event any of the candidates participating in a joint candidates committee also has established a candidate committee in an election, the amount of a contribution that the joint candidates committee may accept from a contributor without violating the contribution limit will be determined by application of the equal attribution requirement set forth in N.J.A.C. 19:25-11.5, Equal attribution requirements.

(d) A joint candidates committee may receive a contribution in an election from another joint candidates committee in an amount equal to \$5,000 multiplied by the number of candidates participating in the contributing joint candidates committee, and that sum may be further multiplied by the number of the candidates participating in the recipient joint candidates committee, provided that the contributing joint candidates committee, and any candidate committee established by any of the participating candidates, have not made any other contributions to the recipient joint candidates committee, or to any candidate committee established by any of the candidates participating in the recipient joint candidates committee.

1. Example. Joint candidates committee ABC has three candidates participating in it (candidates A, B and C) and wishes to make a contribution to a joint candidates committee DEFG with four candidates participating in it (candidates D, E, F and G). Neither the joint candidates committee ABC, nor any individual candidate committee established by candidates A, B or C, has made any contributions in the election to the joint candidates committee DEFG, or to any individual candidate committee established or maintained by candidates D, E, F or G. Joint candidates committee ABC may contribute the sum of \$60,000 in the election to joint candidates committee

DEFG, that is \$5,000 multiplied by three (that is, the three candidates participating in ABC), for a total of \$15,000, further multiplied by four (that is, the four candidates participating in DEFG) for a total maximum permissible contribution in the election of \$60,000.

(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 \$5,000 per candidate in the election.

#### **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 \$4,500 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 \$1,500 in the election from the contributor. The sum of \$1,500 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 in an election from a contributor who has contributed \$1,500 in that election to an individual candidate committee established or maintained by candidate A. The sum of \$1,500 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 (\$1,500), 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 \$1,600 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 \$1,500 per election contribution limit of candidate A.

#### **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 \$5,000 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 \$5,000 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 \$5,000 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 \$25,000 in the election.

#### 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.

### SUBCHAPTER 12. REPORTING OF EXPENDITURES: INDEPENDENT EXPENDITURES

#### Authority

N.J.S.A. 19:44A-6.

#### Source and Effective Date

R.1984 d.324, effective August 6, 1984.  
See: 16 N.J.R. 1044(a), 16 N.J.R. 2154(a).

#### Historical Note

This subchapter was filed and became effective September 25, 1974 as R.1974 d.267. See: 6 N.J.R. 371(a), 6 N.J.R. 418(a). Amendments were filed and became effective December 9, 1975 as R.1975 d.359. See: 7 N.J.R. 527(a), 7 N.J.R. 52(b). Further amendments were filed and became effective October 6, 1977 as R.1977 d.379. See: 9 N.J.R. 447(b), 9 N.J.R. 548(a). As amended, R.1979 d.121, effective March 22, 1979. See: 11 N.J.R. 107(c), 11 N.J.R. 266(a). Further revisions were filed and became effective August 6, 1980 as R.1980 d.348. See: 12 N.J.R. 439(c), 12 N.J.R. 557(a). Further amendments were filed and became effective July 18, 1983 as R.1983 d.287. See: 15 N.J.R. 616(a), 15 N.J.R. 1182(e). Further amendments and readoption were filed and became effective March 12, 1984 as R.1984 d.85. See: 16 N.J.R. 236(a), 16 N.J.R. 748(b). Further amendments were filed and became effective August 6, 1984 as R.1984 d.324. See: 16 N.J.R. 1044(a), 16 N.J.R. 2154(a). See chapter and section levels for further amendments.

#### 19:25-12.1 General provisions

Except as otherwise provided, every expenditure to aid or promote the nomination, election or defeat of any candidate or candidates for public office, or to aid or promote the passage or defeat of a public question in any election must be reported.

As amended, R.1977 d.379, effective October 6, 1977.  
See: 9 N.J.R. 447(b), 9 N.J.R. 548(a).  
As amended, R.1979 d.121, effective March 22, 1979.  
See: 11 N.J.R. 107(c), 11 N.J.R. 266(a).  
As amended, R.1980 d.348, effective August 6, 1980.  
See: 12 N.J.R. 439(c), 12 N.J.R. 557(a).  
As amended, R.1980 d.350, effective August 6, 1980.  
See: 12 N.J.R. 439(a), 12 N.J.R. 558(a).  
As amended, R.1984 d.324, effective August 6, 1984.  
See: 16 N.J.R. 1044(a), 16 N.J.R. 2154(a).

This section was formerly "Reporting of expenditures".

#### 19:25-12.2 Expenditures for election-related activity

(a) Candidates and political committees shall maintain records with respect to all expenditures in aid or furtherance of election-related activity and shall report such expenditures in accordance with the provisions of N.J.A.C. 19:25-9 (preelection and post-election reports).

(b) When a candidate, political committee, an individual seeking party office or a continuing political committee makes or authorizes an expenditure on behalf of a candidate, the committee or individual shall provide written notification to the candidate pursuant to N.J.A.C. 19:25-9.6 or 19:25-10.4.

(c) Payment by cash for expenditures is not unlawful; in case of such payments, receipts must be obtained from the ultimate payees and accurate records must be maintained by the campaign treasurer and included in the report for such candidate to reflect the identity of each payee, the date and amount of payment and a brief statement of the purposes of such expenditure. Expenditures incurred by lawful payment to workers on election day are expenditures on behalf of candidates.

(d) Where the purchase of goods or services is made by use of credit card, the reporting of such purchase must include:

1. The exact name or title of the owner of the card, and the name of the lending institution that issued the card;
2. The date of the purchase;
3. The name and address of the vendor from whom the purchase was made;
4. The date of the purchase;
5. The purpose of the purchase; and
6. The cost of the goods or services purchased.

(e) Payment by use of credit card reported pursuant to (d) above shall not be deemed to be in violation of N.J.S.A. 19:44A-11, requiring campaign expenditures to be made through the campaign or organizational treasurer.

As amended, R.1975 d.359, effective December 9, 1975.

See: 7 N.J.R. 527(a), 7 N.J.R. 52(b).

As amended, R.1984 d.324, effective August 6, 1984.

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

This section was formerly "Testimonial affairs".

Amended by R.1989 d.100, effective February 21, 1989.

See: 20 N.J.R. 3009(a), 21 N.J.R. 459(a).

Added (d)-(e).

#### **19:25-12.3 Computation of expenditures; political committees and candidates**

Every expenditure by a political committee or a candidate is determined to be an expenditure for election-related activity as described in N.J.A.C. 19:25-12.1.

R.1984 d.324, effective August 6, 1984.

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

#### **19:25-12.4 Computation of expenditures by continuing political committees**

(a) The calculation of expenditures by a continuing political committee shall include all expenditures as defined in the act and this chapter, and shall include all contributions including in-kind contributions made for election purposes.

(b) Expenditures shall be reported as follows:

1. If the committee is a political party committee as defined in this chapter, every expenditure is determined to be an expenditure for election-related activity as described in N.J.A.C. 19:25-12.1 and is reportable in full;

2. If the committee is a major purpose continuing political committee as defined in this chapter, every expenditure is determined to be an expenditure for election-related activity as described in N.J.A.C. 19:25-12.1 and is reportable in full;

3. If the committee is a multi-purpose continuing political committee as defined in this chapter, the following expenditures shall be reported:

i. All contributions, including in-kind contributions, made with respect to a candidate or public question; and

ii. All expenditures which are reasonably related to election activity for:

(1) Fund raising and solicitation expenses incurred in whole or in part for election-related activities; and,

(2) A prorated portion of general organizational and administration expenses incurred for election-related activity.

4. If the committee is a peripheral continuing political committee, no reporting shall be required with respect to expenditures, including contributions and in-kind contributions, unless:

i. The committee is engaged in fund raising and solicitation expenses with respect to election-related activity; or

ii. The continuing political committee has filed or is required to file reports as a separate segregated fund pursuant to 2 U.S.C. § 441b (Federal Election Campaign Act Amendment of 1976, P.L. 94-283) in a calendar year, in which case expenditures made to aid or promote candidates for public office in New Jersey or for the passage or defeat of a public question in New Jersey are reportable in full.

5. Nothing in 4 above shall be construed so as to permit the nonreporting of earmarked contributions, as described in N.J.A.C. 19:25-7.6, received or made by a continuing political committee.

6. Any group of two or more persons which is not required to file quarterly reports as a continuing political committee by virtue of the operation of the act or of this chapter may nevertheless have preelection and post-election reporting obligation as a political committee with respect to any election as to which it becomes:

i. An independent political committee contributing or expending more than \$1,000; or

ii. Is a political committee which is not independent contributing or expending any amount, by virtue of election-related activity including fund raising, with respect to a candidate or public question.

R.1984 d.324, effective August 6, 1984.

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

As amended, R.1984 d.460, effective October 15, 1984.

See: 16 N.J.R. 2258(a), 16 N.J.R. 2830(b).

Section substantially amended.

Amended by R.1989 d.99, effective February 21, 1989.

See: 20 N.J.R. 2640(a), 21 N.J.R. 458(a).

Deleted (b)4ii.

**19:25-12.5 Public question reporting threshold**

A political committee which is a political committee solely as to one or more public questions with respect to any election shall not be subject to the reporting or other requirements of the Act if the total amount of its expenditures for such election does not exceed \$2,500.

As amended, R.1980 d.348, effective August 6, 1980.

See: 12 N.J.R. 439(b), 12 N.J.R. 557(a).

As amended, R.1984 d.324, effective August 6, 1984.

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

This section was recodified from 19:25-12.3.

**19:25-12.6 "Street money" expenditures**

(a) For purposes of this section the term "street money" includes all payments to workers involved in get-out-the-vote drives on or close to election day or payments to challengers or poll watchers, or other payments related to election day efforts on behalf of candidates, political committees for candidates or for public questions, or for political party committees. The term includes payments made to campaign workers, party organizations or other committees either by check payable to such named persons or organizations, or by delivery of cash to such persons or organizations, and includes payments intended for further transfer to election day workers or other ultimate payees.

(b) "Street money" expenditure must be reported in accordance with the provisions of the act and of this chapter, and must be properly and reasonably allocated among the candidates and public questions for whose benefit they are made or incurred. In addition to the other reporting requirements imposed by the provisions of the act and of this chapter, the reports to the commission shall include the name, address and amount of payment for each person who receives \$25.00 or more of street money, as either an initial, intermediate or ultimate payee.

R.1984 d.324, effective August 6, 1984.

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

**19:25-12.7 Independent expenditures**

(a) Independent expenditures shall be subject to all of the reporting and disclosure requirements of the act. Every person, political committee, or continuing political committee making an independent expenditure and required to report under the act shall include in the reports required under the act a sworn statement on a form provided by the Commission that such independent expenditure was not made with the cooperation or prior consent of, or in consultation with or at the request or suggestion of, the candidate or any person or committee acting on behalf of the candidate.

(b) Any advertisement which is an independent expenditure shall include a clear and conspicuous statement that the advertisement is not authorized by any candidate and shall state the name and address of the person or organization making the expenditure.

Amended by R.1980 d.348, effective August 6, 1980.

See: 12 N.J.R. 439(b), 12 N.J.R. 557(a).

Amended by R.1984 d.324, effective August 6, 1984.

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

Recodified from 19:25-12.4.

Amended by R.1992 d.458, effective November 16, 1992.

See: 24 N.J.R. 3026(a), 24 N.J.R. 4274(a).

Revised (a).

**19:25-12.8 Reporting of independent expenditures**

(a) Any person, not acting in concert with any other person or committee, who expends personally from his own funds without being reimbursed more than \$1,000 to support or defeat a candidate or more than \$2,500 to aid the passage or defeat of a public question shall be required to report all such expenditures in accordance with (b) below.

(b) Expenditures required to be reported pursuant to (a) above shall be reported either:

1. To the campaign treasurer of the candidate or political committee, or organizational treasurer for a continuing political committee, on whose behalf such expenditure or contribution was made, or to his or her deputy, who shall cause the same to be included in his or her report to the commission subject to the provisions of sections 8 and 16 of the act; or

2. Directly to the commission at the same time and in the same manner as a political committee subject to the provisions of section 8 of the act.

As amended, R.1980 d.348, effective August 6, 1980.

See: 12 N.J.R. 439(b), 12 N.J.R. 557(a).

As amended, R.1984 d.324, effective August 6, 1984.

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

Recodified from 19:25-12.5.

**19:25-12.9 Expenditures for pre-candidacy activity**

When an individual becomes a candidate, all funds received or payments made in connection with his or her testing the waters activity prior to becoming a candidate shall be considered contributions or expenditures under the act and shall be reported in accordance with the applicable reporting requirements in the first report filed by such candidate's campaign committee. The individual shall keep records of the name of each contributor, the date of receipt and amount of all contributions received and all expenditures made in connection with the individual's testing the waters activity prior to becoming a candidate.

As amended, R.1983 d.287, effective July 18, 1983.

See: 15 N.J.R. 616(a), 15 N.J.R. 1182(e).

As amended, R.1984 d.324, effective August 6, 1984.

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

Recodified from 19:25-12.6.

## SUBCHAPTER 13. ALLOCATION OF EXPENDITURES

**19:25-13.1 Allocation**

(a) Where an expenditure is made on behalf of two or more candidates, the expenditure must be allocated between



such candidates in a reasonable manner so as to fairly reflect the relative value to each of the candidates of such expenditure. The initial allocation should be made by the committee or candidates on a reasonable basis, and in advance of the expenditure where possible. All documents and financial records relating to the allocation and the expenditure should be retained:

1. Example: "Committee for A and B" is conducting a political campaign on behalf of candidate A and candidate B. The committee proposes to expend \$100.00 for the purchase of a quantity of bumper stickers containing the slogan "Vote for A and B". The committee determines that the stickers are of equal value to each of the candidates. Thus, \$50.00 of the expenditure should be allocated to candidate A and \$50.00 should be allocated to candidate B. Financial records and a record of the facts on which the allocation is based must be retained.

As amended, R.1984 d.324, effective August 6, 1984.  
See: 16 N.J.R. 1044(a), 16 N.J.R. 2154(a).  
"should be retained . . . reports A" deleted.

#### Case Notes

Allocation required only where expenditure made on behalf of two or more candidates. *Friends of Governor Tom Kean v. New Jersey Election Law Enforcement Commission*, 203 N.J.Super. 523, 497 A.2d 555 (App.Div.1985), affirmed 102 N.J. 319, 508 A.2d 200 (1985).

## SUBCHAPTER 14. ADVISORY OPINIONS

### 19:25-14.1 Scope of advisory opinions

Under section 6 of the Act, the commission is authorized through its legal counsel to render advisory opinions as to whether a given and specific set of facts and circumstances would constitute a violation of any of the provisions of the act or render any person subject to any of its reporting requirements.

#### Case Notes

Advisory opinions cannot alter legislative enactment or frustrate statutory policy; contested opinions invalid. *Friends of Governor Tom Kean v. New Jersey Election Law Enforcement Commission*, 203 N.J.Super. 523, 497 A.2d 555 (App.Div.1985), affirmed 102 N.J. 319, 508 A.2d 200 (1985).

### 19:25-14.2 Extension of time

Unless an extension of time is consented to by any person requesting an advisory opinion, the commission shall render its advisory opinion within 10 days of receipt of the request therefor. Failure of the commission to reply to a request for an advisory opinion within the time so fixed or agreed to shall preclude it from instituting proceedings for imposition of a penalty upon any person for a violation of this act occurring prior to receipt of the advisory opinion by such person and arising out of the particular facts and circumstances set forth in such request, except as such facts and circumstances may give rise to a violation when taken in conjunction with other facts and circumstances not set forth in such request.

### 19:25-14.3 Procedure for advisory opinions

All requests for advisory opinions must be addressed in writing to the commission and must set forth in detail the particular facts and circumstances with respect to which the advisory opinion is sought.

## SUBCHAPTER 15. PUBLIC FINANCING; GENERAL ELECTIONS FOR THE OFFICE OF GOVERNOR

#### Authority

N.J.S.A. 19:44A-38.

#### Source and Effective Date

R.1986 d.17, effective January 9, 1986.  
See: 17 N.J.R. 2868(b), 18 N.J.R. 312(a).

#### Historical Note

All provisions of this subchapter became effective March 7, 1977 as R.1977 d.72. See: 9 N.J.R. 102(a), 9 N.J.R. 201(a). Substantial amendments which deleted the existing text of the subchapter and substituted new text therefor were adopted R.1981 d.54, effective February 13, 1981. This subchapter was readopted pursuant to Executive Order 66(1978) effective January 9, 1986 as R.1986 d.17. See: 17 N.J.R. 2868(b), 18 N.J.R. 312(a). See chapter and section levels for further amendments.

This subchapter has been recodified by R.1989 d.341, effective June 5, 1989. Below is a cross-reference chart reflecting recodification changes.

### RECODIFICATION CHART

Old Citation	New Citation
19:25-15.1	19:25-15.1
through	through
19:25-15.28	19:25-28
—	19:25-15.29
19:25-15.29	19:25-15.30
19:25-15.30	19:25-15.31
19:25-15.31	19:25-15.32
19:25-15.32	19:25-15.33
19:25-15.33	19:25-15.34
19:25-15.34	19:25-15.35
19:25-15.35	19:25-15.36
19:25-15.36	19:25-15.37
19:25-15.37	19:25-15.38
19:25-15.38	19:25-15.39
19:25-15.39	19:25-15.40
19:25-15.40	19:25-15.41
19:25-15.41	19:25-15.42
19:25-15.42	19:25-15.43
19:25-15.43	19:25-15.44
19:25-15.44	19:25-15.45
19:25-15.45	19:25-15.46
19:25-15.46	19:25-15.47
—	19:25-15.48
—	19:25-15.49
—	19:25-15.50
—	19:25-15.51
—	19:25-15.52
—	19:25-15.53
—	19:25-15.54
—	19:25-15.55

Old Citation	New Citation
—	19:25-15.56
—	19:25-15.57
—	19:25-15.58
19:25-15.47	19:25-15.59
19:25-15.48	19:25-15.60
19:25-15.49	19:25-15.61
19:25-15.50	19:25-15.62
19:25-15.51	19:25-15.63
—	19:25-15.64

### 19:25-15.1 Scope of subchapter

The provisions of this subchapter shall be applicable to the general election campaign for nomination for election to the office of Governor of New Jersey in November 1977 and every such gubernatorial campaign held thereafter, except that the provisions shall not apply to any general election campaign for the office of Governor for which the Legislature fails to make an appropriation for public funding.

### 19:25-15.2 Definitions; generally

The words and terms used in this subchapter are used as defined herein or in N.J.A.C. 19:25-1.7.

### 19:25-15.3 Definitions for this subchapter

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

“Candidate” means anyone who has filed a nominating petition, or has filed a form D-1 with the Commission, or has solicited contributions or made or incurred expenditures on behalf of his or her candidacy, or has allowed others to solicit contributions or make or incur expenditures on behalf of his or her candidacy for election to the office of Governor of New Jersey in any general election for which the Legislature makes an appropriation for public funding.

“Contribution” is used as defined in N.J.A.C. 19:25-1.7 and includes loans, except that a loan in the ordinary course of business by a bank pursuant to N.J.S.A. 19:44A-44 is not a contribution by that bank.

“Contribution eligible for match” means contributions from one contributor to be matched from public funds on a two-for-one basis. No contribution which must be or is intended by the contributor or the recipient to be refunded or repaid at any time, no loan obtained pursuant to N.J.S.A. 19:44A-44, no amount of the candidate’s own funds in the aggregate in excess of \$1,800, no in-kind contribution and no other moneys received by the candidate, his or her campaign treasurer, or deputy campaign treasurer, except those contributions described in N.J.S.A. 19:44A-29(a) shall be deemed contributions eligible for match. Funds received by an individual who is “testing the waters” may be matched when the individual becomes a candidate if such contributions meet all the requirements of the regulations.

“County committee” means the county committee of a political party established pursuant to N.J.S.A. 19:5-3.

“Debate sponsor” means the organization or organizations to which the Commission has delegated the responsibility for conducting one or both of the televised interactive general election debates.

“Depository bank account” means the campaign bank account designated by a candidate pursuant to N.J.S.A. 19:44A-9 for the deposit pursuant to N.J.S.A. 19:44A-12 of funds received by the campaign treasurer.

“Gubernatorial inaugural fund-raising event” means any event or events held between the date of the general election for the office of Governor and 30 days after the date of the inauguration of the Governor, whether the event is sponsored by the inaugural committee, the state committee representing the party of the Governor-elect is a prominent participant or for which solicitations of contributions include the name of the Governor-elect in prominent display.

“Independent expenditure” is an expenditure in aid of a candidate which is not made with the cooperation or prior consent of, or in consultation with or at the request or suggestion of, the candidate or any person or committee acting on behalf of the candidate.

“Interactive general election debate” means the moderated reciprocal discussion of issues among the candidates for the office of Governor which involves responses by the candidates to questions posed by the representative or representatives of the sponsor organization.

“Matching fund account” means the campaign bank account opened pursuant to N.J.S.A. 19:44A-32 by a campaign treasurer of a candidate, or deputy campaign treasurer, in which only contributions eligible for match may be deposited.

“Municipal committee” means the municipal committee of a political party established pursuant to N.J.S.A. 19:5-2.

“Non-participating candidate” means any candidate who does not make application for public funding in a general election pursuant to N.J.S.A. 19:25-15.17, or who is not a “qualified candidate” as that term is defined in this section. In no case shall a candidate who qualified for and receives any public funding for a general election be subsequently deemed a non-participating candidate for that election.

“Own funds” means funds to which the candidate is legally and beneficially entitled, but shall not include funds as to which the candidate is a trustee or funds given or otherwise transferred to the candidate by any person other than the spouse of the candidate for use in aid of his or her candidacy.

“Person” includes corporations, associations and labor unions. For purposes of this subchapter, person does not include a political committee or continuing political commit-

tee. A spouse of any person is deemed to be a separate person.

"Political committee" means any two or more persons acting jointly, or any corporation, partnership or any other incorporated or unincorporated association which is organized to, or does aid or promote the nomination, election or defeat of a candidate for the office of Governor, but shall not mean a duly constituted State, county, or municipal committee of a political party.

"Principal campaign committee" means the political committee designated by the candidate to receive contributions and make expenditures on behalf of his or her candidacy.

"Public fund account" means the campaign bank account maintained by the commission pursuant to N.J.A.C. 19:25-15.20 on behalf of a qualified candidate and for the deposit of public matching funds.

"Qualified candidate" means:

1. Any candidate for election to the office of Governor whose name appears on the general election ballot and who has deposited and expended \$177,000 pursuant to N.J.S.A. 19:44A-32; and who, not later than September 1 preceding a general election in which the office of Governor is to be filled, notifies the Election Law Enforcement Commission in writing that the candidate intends that application will be made on the candidate's behalf for monies for general election campaign expenses pursuant to N.J.S.A. 19:44A-33, and signs a statement of agreement, in a form to be prescribed by the Commission, to participate in two interactive gubernatorial general election debates; or

2. Any candidate for election to the office of Governor whose name does not appear on the general election ballot, but who has deposited and expended \$177,000 pursuant to N.J.S.A. 19:44A-32 and who, not later than September 1 preceding a general election in which the office of Governor is to be filled, notifies the Election Law Enforcement Commission in writing that the candidate intends that application will be made on the candidate's behalf for monies for general election campaign expenses pursuant to N.J.S.A. 19:44A-33, and signs a statement of agreement, in a form to be prescribed by the Commission, to participate in two interactive gubernatorial general election debates.

"State committee" means the State committee of a political party established pursuant to N.J.S.A. 19:5-4.

"State committee account" means the campaign bank account created by a State committee of a political party pursuant to N.J.S.A. 19:44A-29(d) in behalf of any candidate the committee intends to or does assist for election to the office of Governor in a general election, and in which only contributions eligible for match may be deposited and proceeds from any loan made by the State committee pursuant to N.J.S.A. 19:44A-44.

"Statement of agreement" means a written declaration by a candidate for election to the office of Governor who intends that application will be made on that candidate's behalf to receive monies for general election campaign expenses pursuant to N.J.S.A. 19:44A-33 that the candidate undertakes to abide by the terms of any rules established by any private organization sponsoring a gubernatorial general election debate. The statement of agreement shall include an acknowledgment of notice to the candidate who signs it that failure on that candidate's part to participate in either of the gubernatorial general election debates may be cause for termination of the payment of such monies on the candidate's behalf and for the imposition of liability for the return to the Commission of such monies as may previously have been so paid.

As amended, R.1983 d.287, effective July 18, 1983.

See: 15 N.J.R. 616(a), 15 N.J.R. 1182(e).

New language added to definition of "contribution eligible for match"; "Funds received ... of the regulations."

"contributed" changed to "deposited", in "matching fund account".

As amended, R.1984 d.561, effective December 17, 1984.

See: 16 N.J.R. 2765(a), 16 N.J.R. 3485(b).

Amended by R.1985 d.239, effective May 20, 1985.

See: 17 N.J.R. 684(a), 17 N.J.R. 1326(b).

Added text to definition political committee: "When used in ... N.J.S.A. 19:44A-3(n)(2)".

Amended by R.1989 d.341, effective June 5, 1989.

See: 21 N.J.R. 1109(a), 21 N.J.R. 1837(a).

Increased contribution limit from \$800.00 to \$1,500; expanded definition of "qualified candidate"; and added definitions for "debate sponsor", "interactive general election debate" and "statement of agreement".

Amended by R.1993 d.207, effective May 17, 1993.

See: 25 N.J.R. 910(a), 25 N.J.R. 1994(a).

Revised definitions.

#### Case Notes

Independent expenditure defined. Friends of Governor Tom Kean v. New Jersey Election Law Enforcement Commission, 203 N.J.Super. 523, 497 A.2d 555 (App.Div.1985), affirmed 102 N.J. 319, 508 A.2d 200 (1985).

#### 19:25-15.4 Appointment of treasurers and depositories

(a) Each candidate in a general election, whether or not publicly declared and whether or not intending to participate in public funding, shall on or before the first Monday following the date of the primary election for nomination for the office of Governor designate to the Commission the name and address of his or her principal campaign committee for the general election. A candidate may designate as his or her principal campaign committee a committee which has engaged in campaign activity prior to the designation date specified in this subsection.

(b) Each candidate in a general election, whether or not publicly declared and whether or not intending to participate in public funding, shall appoint a campaign treasurer and designate a depository bank account and shall notify the Commission pursuant to N.J.A.C. 19:25-5.2, Appointment by candidates, of such appointment and designation no later than the tenth day after receipt of any contribution or after incurring or making any expenditure, whichever comes first.

(c) No political committee, other than the principal campaign committee designated pursuant to (a) above, may contribute to any candidate or expend on behalf of such candidate more than \$1,800.

As amended, R.1983 d.287, effective July 18, 1983.  
See: 15 N.J.R. 616(a), 15 N.J.R. 1182(e).

(b) and (c) added.

As amended, R.1984 d.561, effective December 17, 1984.  
See: 16 N.J.R. 2765(a), 16 N.J.R. 3485(b).

Section substantially amended.

New rule, R.1989 d.43, effective January 17, 1989.

See: 20 N.J.R. 2642(a), 21 N.J.R. 173(d).

Repealed old text.

Amended by R.1989 d.341, effective June 5, 1989.

See: 21 N.J.R. 1109(a), 21 N.J.R. 1837(a).

Increased contribution from \$800.00 to \$1,500.

Amended by R.1993 d.207, effective May 17, 1993.

See: 25 N.J.R. 910(a), 25 N.J.R. 1994(a).

Revised (c).

### 19:25-15.5 Pre-candidacy activity

(a) All funds or other benefits received and payments made pursuant to N.J.A.C. 19:25-3.1 by an individual, or a committee in his or her behalf, solely for the purpose of determining whether that individual should become a candidate (for example "testing the waters") are not contributions or expenditures. All funds so received shall be deposited in a separate depository established solely for that purpose. The individual or committee shall keep written records of all such funds received and payments made for a period of not less than four years after the transaction to which they relate occurred or four years after the date of the election to which they are relevant, whichever is longer.

(b) An individual, or a committee on that individual's behalf, shall file with the Commission a notice containing the name, address and account number of the depository established pursuant to N.J.A.C. 19:25-15.5(a) above not later than 10 days after the receipt of funds for the purpose of determining whether that individual should become a candidate.

(c) In the event the individual on whose behalf funds are received and payments made solely for the purpose of determining whether the individual should become a candidate does in fact become a candidate, the funds received and payments made are contributions subject to the contribution limit contained in N.J.A.C. 19:25-15.12 and expenditures subject to the expenditure limit contained in N.J.A.C. 19:25-15.11(a)3 and shall be reported with the first report filed by the candidate or the campaign committee of the candidate, regardless of the date the funds were received or the payments made. This exemption does not apply to funds received or payments made for general public political advertising; nor does this exemption apply to funds received or payments made for activities designed to amass campaign funds that would be spent after the individual becomes a candidate. In no instance shall permissible activities conducted solely for the purpose of determining whether an individual will become a candidate be confined or limited on

the basis of total funds received or payments made for such purpose.

(d) The separate depository established pursuant to (a) above may be designated by that individual as the matching fund account under N.J.A.C. 19:25-15.17(b), provided that the account and all the contributions deposited in it meet all of the requirements of N.J.A.C. 19:25-15.17(b).

As amended, R.1984 d.561, effective December 17, 1984.

See: 16 N.J.R. 2765(a), 16 N.J.R. 3485(b).

New rule, R.1989 d.43, effective January 17, 1989.

See: 20 N.J.R. 2642(a), 21 N.J.R. 173(d).

Repealed old text.

Amended by R.1989 d.341, effective June 5, 1989.

See: 21 N.J.R. 1109(a), 21 N.J.R. 1837(a).

Amended to implement statutory changes made by Section 8 of P.L. 1989 c4, added language to (c) and new (d).

Amended by R.1993 d.207, effective May 17, 1993.

See: 25 N.J.R. 910(a), 25 N.J.R. 1994(a).

Revised (a) and (d).

### 19:25-15.6 Contribution limits; applicability

(a) No candidate for the office of Governor, whether or not intending to participate in public funding, and no campaign treasurer or deputy campaign treasurer of such candidate shall knowingly accept from any person, candidate, political committee, or continuing political committee any contribution in aid of the candidacy of or in behalf of such candidate in the aggregate in excess of \$1,800 in any general election.

(b) No State committee, and no campaign treasurer or deputy campaign treasurer of such State committee, shall knowingly accept from any person, candidate, political committee, or continuing political committee any contribution in aid of the candidacy of or in behalf of any candidate for the office of Governor in the aggregate in excess of \$1,800 in any general election, whether or not such candidate intends to participate in public funding.

Amended by R.1989 d.341, effective June 5, 1989.

See: 21 N.J.R. 1109(a), 21 N.J.R. 1837(a).

Added "continuing political committee" as entity and increased contribution limit from \$800.00 to \$1,500.

Amended by R.1993 d.207, effective May 17, 1993.

See: 25 N.J.R. 910(a), 25 N.J.R. 1994(a).

Revised text.

### 19:25-15.7 Separately maintained primary and general bank accounts

(a) Any candidate may establish and designate to the Commission a depository bank account, and/or a matching fund account pursuant to N.J.A.C. 19:25-15.17(b), for a gubernatorial general election and may deposit contributions in such respective accounts at any time after designation. Such general election bank accounts may be established prior to the date of the primary election for nomination for the office of Governor, and prior to the conclusion of any such candidate's primary election campaign. However, if a candidate establishes general election bank accounts prior to or on the date of the primary election for the office

of Governor, and such candidate is also a candidate in such primary election, no moneys deposited in such candidate's general election accounts may be transferred or expended until the day following such primary election and may not be expended at any time for primary election expenses.

(b) No candidate establishing bank accounts for the general election may deposit or transfer at any time into such accounts any contributions received on behalf of such candidate's primary election campaign.

(c) No moneys deposited in a candidate's campaign bank accounts for the primary election may be expended at any time for any general election expense of such candidate.

(d) The primary election campaign bank accounts of each candidate (i.e. depository bank account, matching fund account and public fund account) shall be separate from the general election campaign bank accounts of such candidate and shall be separately designated in reports required to be filed under the act. Funds in primary election campaign accounts shall not be commingled with funds in general election campaign accounts.

As amended, R.1984 d.561, effective December 17, 1984.

See: 16 N.J.R. 2765(a), 16 N.J.R. 3485(b).

Deleted the text "with commission approval".

Amended by R.1989 d.341, effective June 5, 1989.

See: 21 N.J.R. 1109(a), 21 N.J.R. 1837(a).

"Commission" capitalized.

#### 19:25-15.8 Return of contributions; certification

(a) Any candidate in the general election who receives and deposits any contributions in such candidate's general election depository bank account or matching fund account on or prior to the date of the primary election for nomination to the office of Governor, and who is defeated at such primary election thereby terminating such candidate's general election campaign must promptly return to each contributor any contribution received and deposited on behalf of such candidate's general election campaign.

(b) Any candidate who receives contributions as described in (a) above shall certify to the commission in a report to be filed within 30 days after the primary election for nomination to the office of Governor a typed or printed list of contributors showing each contributor's full name and full mailing address (number, street, city, state, zip code), the date of receipt of each contribution, the dollar amount of each contribution and the date and amount of each contribution returned by the candidate. In the event a candidate is unable to return any contribution, or part thereof, for any reason, such candidate shall certify in such report the reasons for inability to return such contribution. In no event shall any such unreturned contribution be withdrawn by the candidate from his or her general election depository bank account until the commission has approved of disposition of such unreturned contributions.

As amended, R.1984 d.561, effective December 17, 1984.

See: 16 N.J.R. 2765(a), 16 N.J.R. 3485(b).

Deleted text and substituted "number, street, city, state, zip code".

#### 19:25-15.9 Candidates deemed non-participating; effect

Any candidate who does not by September 1 preceding a general election in which the office of Governor is to be filled apply for public funding in a general election pursuant to N.J.A.C. 19:25-15.17 shall be deemed non-participating in public funding of that general election and shall not receive public funds on his or her behalf.

As amended, R.1984 d.561, effective December 17, 1984.

See: 16 N.J.R. 2765(a), 16 N.J.R. 3485(b).

Substituted "the candidate" for "he".

Amended by R.1989 d.341, effective June 5, 1989.

See: 21 N.J.R. 1109(a), 21 N.J.R. 1837(a).

September 1 established as deadline for applying for public funds; (b) deleted.

#### 19:25-15.10 Non-participating candidates; generally

(a) A non-participating candidate is subject to the \$1,800 limitation on contributions from a person, political committee or continuing political committee, pursuant to N.J.S.A. 19:44A-29.

(b) A non-participating candidate is subject to the \$1,800 limit on guarantors of bank loans, except if the guarantor is the non-participating candidate himself or herself.

(c) A non-participating candidate is not subject to:

1. The overall campaign expenditure limit contained in N.J.S.A. 19:44A-7;
2. The \$25,000 limit on own funds contained in N.J.S.A. 19:44A-29;
3. The \$50,000 limit on bank loans contained in N.J.S.A. 19:44A-33; and
4. Any limits on the amount of bank loans to be guaranteed by the candidate personally.

As amended, R.1984 d.561, effective December 17, 1984.

See: 16 N.J.R. 2765(a), 16 N.J.R. 3485(b).

(b) added: "or herself".

Amended by R.1989 d.341, effective June 5, 1989.

See: 21 N.J.R. 1109(a), 21 N.J.R. 1837(a).

Increased contribution limit from \$800.00 to \$1,500 and added reference to continuing political committee.

Amended by R.1993 d.207, effective May 17, 1993.

See: 25 N.J.R. 910(a), 25 N.J.R. 1994(a).

Revised (a) and (b).

#### 19:25-15.11 Limitations on participating candidates

(a) Each candidate intending to participate in public funding, in addition to any other requirement imposed by the act (N.J.S.A. 19:44A-1 et seq.) or this subchapter, is subject to the following limitations:



1. No candidate receiving public funds may make expenditures from his or her own funds, including any contributions from his or her own funds, in aid of his or her candidacy in excess of \$25,000. Any loan guaranteed with such candidate's own funds must be included in calculating the aggregate contribution of the candidate in aid of his or her candidacy until such time as the loan is no longer outstanding.

2. No candidate, or his or her campaign treasurer or deputy campaign treasurer, shall borrow an amount that at any one time exceeds \$50,000 in the aggregate, and such loan must be repaid in full not later than 20 days prior to the general election for which the loan was made from moneys accepted or allocated pursuant to N.J.S.A. 19:44A-29. Certification of such repayment shall be made by the borrower to the Commission in accordance with N.J.A.C. 19:25-15.30.

3. The amount which any qualified candidate may spend in aid of his or her candidacy shall not exceed \$5,900,000, which amount shall include all expenditures for testing the waters activity prior to candidacy. Such amount shall not include expenditures listed in N.J.A.C. 19:25-15.26.

4. Contributions by any candidate in excess of \$1,800 from his or her own funds in aid of his or her candidacy shall not be deposited in a matching fund account and shall not be calculated in determining if such candidate is a qualified candidate eligible for public matching funds.

As amended, R.1983 d.287, effective July 18, 1983.  
See: 15 N.J.R. 616(a), 15 N.J.R. 1182(e).

"or her" added.

(a)3: "except that such" deleted and "which amount ... such" added.

As amended, R.1984 d.561, effective December 17, 1984.

See: 16 N.J.R. 2765(a), 16 N.J.R. 3485(b).

Amended by R.1989 d.341, effective June 5, 1989.

See: 21 N.J.R. 1109(a), 21 N.J.R. 1837(a).

Increased general election expenditure limit to \$5,000,000 and increased contribution limit from \$800.00 to \$1,500.

Amended by R.1993 d.207, effective May 17, 1993.

See: 25 N.J.R. 910(a), 25 N.J.R. 1994(a).

Revised (a)3 and 4.

#### **19:25-15.12 Who may or may not contribute; (generally**

(a) No person, political committee or continuing political committee, other than a candidate contributing his or her own funds to his or her campaign, shall make any contribution to any candidate, the candidate's campaign treasurer or deputy campaign treasurer, or to any other person or committee, in aid of the candidacy of or in behalf of a candidate, whether or not participating in public funding, for election to the office of Governor in a general election, in the aggregate in excess of \$1,800. Any such contribution in excess of \$1,800 must be promptly returned to the contributor, and evidence of repayment shall be submitted to the Commission.

(b) Subject to the limitations contained in this subchapter and the act, any person may contribute to more than one candidate.

(c) A corporation, association or labor organization 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 which, when added to any other contribution by any related or affiliated corporation, association or labor organization, exceeds \$1,800 in the aggregate. 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 contributions and the degree to which the decisions whether to contribute, to what candidate and in what amount are independent decisions.

As amended, R.1984 d.561, effective December 17, 1984.

See: 16 N.J.R. 2765(a), 16 N.J.R. 3485(b).

Amended by R.1985 d.239, effective May 20, 1985.

See: 17 N.J.R. 684(a), 17 N.J.R. 1335(b).

Added text to (a): "Notwithstanding the provision ... in N.J.S.A. 19:44A-3(n)(2)."

Amended by R.1989 d.341, effective June 5, 1989.

See: 21 N.J.R. 1109(a), 21 N.J.R. 1837(a).

Deleted unnecessary language in (a) regarding use of term "continuing political committee" and increased contribution limit from \$800.00 to \$1,500.

Amended by R.1993 d.207, effective May 17, 1993.

See: 25 N.J.R. 910(a), 25 N.J.R. 1994(a).

Revised (a) and (c).

#### **Case Notes**

Former regulation valid. *Common Cause of New Jersey v. New Jersey Election Law Enforcement Commission*, 155 N.J.Super. 241, 382 A.2d 681 (App.Div.1978).

#### **19:25-15.13 Corporate or labor organization communications**

Communications on any subject by a corporation to its stockholders and their families, or by a labor organization to its members and their families, and nonpartisan registration and get-out-the-vote campaigns by a corporation aimed at its stockholders and their families, or by a labor organization aimed at its members and their families, shall not be construed to be in aid of the candidacy of or in behalf of a candidate for election to the office of Governor in any general election.

#### **19:25-15.14 Contributions eligible for match; generally**

(a) To be eligible for matching with public funds for a gubernatorial general election, a contribution must have been received by a candidate at a time when that candidate was seeking or had sought election for the office of Governor, except that a contribution received and deposited pursuant to N.J.A.C. 19:25-15.7, Separately maintained primary and general bank accounts, or pursuant to N.J.A.C.

19:25-15.5, Pre-candidacy activity, for the purpose of determining whether an individual should become a candidate for election for the office of Governor shall be eligible. Any funds received prior to the inception of such a candidacy, or prior to the inception of fund raising activity to determine whether an individual should become a candidate for election for the office of Governor and not deposited pursuant to N.J.A.C. 19:25-15.5 or pursuant to N.J.A.C. 19:25-7.1(a) shall not be eligible for match.

(b) Only contributions in cash or by check, money order or negotiable instrument shall be contributions eligible for match. Loans shall not be eligible for match. In-kind contributions shall not be eligible for match, but will count toward the individual contribution limit of \$1,800 and the overall expenditure limit contained in N.J.S.A. 19:44A-7 except for expenses not subject to expenditure limits pursuant to N.J.A.C. 19:25-15.26. The total of all contributions eligible for match from any person or political committee, or continuing political committee shall not exceed \$1,800 in the aggregate.

(c) A maximum of \$1,800 in the aggregate of a candidate's own funds may be deposited in the matching fund account.

(d) Every contribution eligible for match must be accompanied by a written statement which shall identify the individual making the contribution by full name and full mailing address (number, street, city, state, zip code), the name of the candidate, the amount and date of receipt of the contribution, and shall bear the signature of the contributor. The requirement of such written statement will be deemed to be satisfied in the case where a contribution is made by means of a check, money order or other negotiable instrument payable on demand and to the order of, or specially endorsed without qualification to, the candidate or to his or her campaign committee, if such check, money order or instrument contains all of the foregoing information.

(e) A contribution received from a contributing member of a political committee which has made a prior contribution to the candidate shall be eligible for matching funds, provided that the political committee is a bona fide political entity with at least 15 contributing members and was not created to circumvent the contribution limit contained in the act.

As amended, R.1984 d.561, effective December 17, 1984.

See: 16 N.J.R. 2765(a), 16 N.J.R. 3485(b).

Amended by R.1989 d.43, effective January 17, 1989.

See: 20 N.J.R. 2642(a), 21 N.J.R. 173(d).

Added new (a); recodified old (a)-(c) as (b)-(d); added new (e).

Amended by R.1989 d.99, effective February 21, 1989.

See: 20 N.J.R. 2640(a), 21 N.J.R. 458(a).

Added text to (d) "receipt of".

Correction: Reference to N.J.A.C. 19:25-7.1(a) in (a).

See: 21 N.J.R. 1021(b).

Amended by R.1989 d.341, effective June 5, 1989.

See: 21 N.J.R. 1109(a), 21 N.J.R. 1837(a).

Reference to "continuing political committee" added and increased contribution limit from \$800.00 to \$1,500.

Amended by R.1993 d.207, effective May 17, 1993.

See: 25 N.J.R. 910(a), 25 N.J.R. 1994(a).

Revised (b) and (c).

#### **19:25-15.15 Contributions eligible for match; checks and instruments, contributions by children**

(a) In the case of a check drawn on a joint checking account, the contributor shall be deemed to be the owner whose signature appears on the check. The check will not be attributed equally or otherwise to other joint owners of the account, unless the check or other accompanying written instrument contains the signature of each contributing owner and information identifying the amount of contribution of each such owner. In the absence of specific instructions to the contrary, the contribution will be allocated equally among all owners whose signatures appear on the instrument. Contributions from a joint checking account by one owner of the account may not be attributed to other owners of the account.

(b) In the case of a check drawn on an escrow or trust account, the contribution will be that of the person who is the beneficial owner of the account, and the check or other accompanying written instrument must bear the signature of such beneficial owner.

(c) In the case of a check drawn on a partnership account or on the account of an unincorporated association or business, the check will be deemed to be the contribution of the individual whose signature appears on the check unless specific identification as to the contribution by other partners or members is contained on the check or other accompanying written instrument and the check is signed by each partner or member who is a contributor.

(d) Contributions by children under the age of 18 shall be attributed to the parent who is responsible for the contribution and not to the child unless:

1. The child is 14 years of age or older and a signed statement from the child and the child's parent or guardian is submitted to the commission that the decision to contribute was solely that of the child and the funds used to make the contribution were legally and beneficially controlled by the child and are not the proceeds of a gift made for the purpose of the contribution; or

2. The child is 11 years old or older and, in addition to the signed statements set forth in (d)1 above, evidence is submitted satisfactory to the commission that the child acted independently and with full knowledge of the contribution.

As amended, R.1984 d.561, effective December 17, 1984.

See: 16 N.J.R. 2765(a), 16 N.J.R. 3485(b).

(d): Deleted text "unless the decision ... contribution" and substituted "and not to the child unless" and added (d)1 and 2.

**19:25-15.16 Limitation on contributions eligible for match**

(a) Any contributions in the form of the purchase price paid for an item with significant intrinsic and enduring value (such as a watch) shall be eligible for match only to the extent the purchase price exceeds the fair market value of the item or benefit conferred on the contributor, and only the excess will be included in calculating the \$1,800 contribution limit.

(b) A contribution in the form of the purchase price paid for admission to a testimonial affair as defined in N.J.A.C. 19:25-1.7 shall be a contribution eligible for match and for purposes of the \$1,800 limitation.

(c) The purchase price paid to a candidate for a fund raising event, lottery, raffle, or admission to any activity that primarily confers private benefits to the contributor in the form of entertainment (such as a concert, motion picture or theatrical performance) shall be deemed the amount of the contribution made to such candidate. The tickets for such an event or lottery and the promotional materials shall state that the purchase price represents a political contribution to the candidate.

Amended by R.1989 d.43, effective January 17, 1989.

See: 20 N.J.R. 2642(a), 21 N.J.R. 173(d).

Added (c).

Amended by R.1989 d.341, effective June 5, 1989.

See: 21 N.J.R. 1109(a), 21 N.J.R. 1837(a).

Increased contribution limit from \$800.00 to \$1,500.

Amended by R.1993 d.207, effective May 17, 1993.

See: 25 N.J.R. 910(a), 25 N.J.R. 1994(a).

Revised (a) and (b).

**19:25-15.17 Matching of funds**

(a) Any candidate seeking to qualify for receipt of public matching funds shall not later than September 1 preceding a general election in which the office of Governor is to be filled file with the Commission:

1. A statement of agreement in a form prescribed by the Commission to participate in the series of two interactive gubernatorial general election debates; and

2. Either of the following:

- i. A certified application for receipt of public matching funds pursuant to this section; or

- ii. A statement of qualification to participate in public financing pursuant to N.J.A.C. 19:25-15.48.

(b) The campaign treasurer or deputy campaign treasurer of the candidate shall open a matching fund account in a national or a State bank pursuant to N.J.S.A. 19:44A-32 which shall be designated Matching Fund Account of (name of candidate) and in which only contributions eligible for match may be deposited. The campaign treasurer or deputy campaign treasurer of such candidate shall deposit in such matching fund account, funds to be matched in aid of the candidacy of or in behalf of such candidate. Such deposit shall be made within 10 days of receipt and shall include only moneys received in accordance with this subchapter and N.J.S.A. 19:44A-29 and N.J.S.A. 19:44a-11 and 12.

(c) A candidate seeking to become eligible to receive matching funds shall certify to the Commission in a written statement signed by the candidate that he or she is a candidate for Governor in a general election and that he or she has received and deposited into his or her matching fund account contributions eligible for match of at least \$177,000 from persons, political committees, or continuing political committees each of whose contributions in the aggregate does not exceed \$1,800 and that at least \$177,000 of such contributions have been expended. "Expended" for this purpose shall mean disbursed or irrevocably committed by a legally binding commitment for expenditure in the campaign and ultimately disbursed.

(d) The statement referred to in (c) above shall include an original and two photocopies of a typed or printed list of contributors showing each contributor's full name and full mailing address (number, street, city, state, zip code), the date of receipt of each contribution by the candidate and of the deposit into the matching fund account, the dollar amount of each contribution submitted for match, the type of contributor of each contribution from a list of contributor types to be provided by the Commission, and the total amount of all contributions submitted for match. The list of contributors shall be segregated by deposit. The statement shall also include an original and two photocopies of a typed or printed list of contributors of contributions not eligible or submitted for match and any other receipt (for example, in-kind contributions, contributions intended to be repaid, or interest on invested funds), showing each contributor's full name and full mailing address (number, street, city, state, zip code), the date of receipt of each such contribution by the candidate, the dollar amount of each such contribution, and the type of contributor of each contribution from a list of contributor types to be provided by the Commission. The statement shall also include an original and two photocopies of a list of repayment by the candidate of any contribution, including any loan described under N.J.A.C. 19:25-15.30.

(e) The statement shall include a certification by the candidate and his or her campaign treasurer that:

1. The submission includes only contributions eligible for match and does not include any contribution which must be or is intended by the contributor or the recipient to be refunded or repaid at any time; and

2. The receipt by the candidate from the fund for general election campaign expenses of an amount equal to twice the amount of lawful contributions deposited to be matched will not result in the candidate's exceeding the expenditure limitations of N.J.S.A. 19:44A-7.

(f) The certification shall include three photocopies of the face of each check or other written instrument as described in N.J.A.C. 19:25-15.14 for each contribution which the candidate submits to receive matching funds. Where a check is endorsed by some person other than the principal campaign committee, the face and back must be photocopied. The photocopies shall be segregated by deposit, sorted in the order in which the contributors are listed pursuant to (d) above and accompanied by copies of the relevant receipted deposit slips.

(g) The initial certification shall include three photocopies of checks, receipted bills, contracts or the like, as proof of the expenditure of at least \$177,000.

(h) Once eligibility has been established, subsequent statements and certifications shall be submitted confirming the continued compliance of the candidate with (a), (b), and (c) above and such information as is required by (d), (e), and (f) above.

(i) Any statement or list submitted pursuant to this section cannot be handwritten.

(j) Each submission for public matching fund payments following the date on which a candidate is determined to be a qualified candidate shall contain no less than \$12,500 of contributions eligible for match. Upon determination by the Commission that each submission contains no less than \$12,500 of contributions eligible for match, public matching funds will be awarded based upon the total amount of contributions determined to be eligible for match.

(k) Each submission for public matching fund payments shall include an original and two photocopies of a cumulative list of all contributions received by a candidate from the beginning of his or her candidacy which list shall contain for each contribution the full name and full mailing address (number, street, city, state, zip code) of the contributor, the date or dates of receipt of contributions by the candidate, the aggregate total amount contributed by each contributor and the type of contributor from a list of contributor types to be provided by the Commission, and which list shall:

1. Be arranged alphabetically by contributor name and which shall contain written authorization by the candidate for public disclosure of all contributions to the candidate; or
2. Be separated into an alphabetical list of all contributors whose contributions in the aggregate exceed \$100.00 and an alphabetical list of all contributors whose contributions are in the aggregate \$100.00 or less and which shall contain authorization by the candidate for public disclosure only of contributors whose contributions in the aggregate exceed \$100.00.

(l) The lists of contributors submitted pursuant to this section shall also include for each contributor who is an individual and whose aggregate contributions to the candidate in the general election exceed \$200.00 the occupation of the individual and the name and mailing address of the individual's employer. Nothing in this subsection is intended to prevent the Commission from certifying a contribution for match with public funds where a candidate and campaign treasurer are unable to provide, after good faith efforts, information concerning the occupation of the individual contributor and the name and mailing address of the employer of the individual contributor whose aggregate contributions to the candidate in the general election exceed \$200.00.

As amended, R.1984 d.561, effective December 17, 1984.

See: 16 N.J.R. 2765(a), 16 N.J.R. 3485(b).

Substantially amended.

Amended by R.1989 d.43, effective January 17, 1989.

See: 20 N.J.R. 2642(a), 21 N.J.R. 173(d).

Added (i).

Amended by R.1989 d.341, effective June 5, 1989.

See: 21 N.J.R. 1109(a), 21 N.J.R. 1837(a).

Requirements for filing for public matching funds added at (a); at (g) proof of expenditure increased from \$50,000 to \$150,000 and new (j) added regarding each submission for match must contain no less than \$12,500 of contributions eligible for match.

Amended by R.1993 d.207, effective May 17, 1993.

See: 25 N.J.R. 910(a), 25 N.J.R. 1994(a).

Revised (b), (c), (d), (f), (g); added new (k).

Amended by R.1993 d.363, effective July 19, 1993.

See: 25 N.J.R. 1957(b), 25 N.J.R. 3240(a).

#### 19:25-15.18 Dates of submission

(a) Statements and certifications may be submitted to the commission by candidates on or before 12:00 noon of the first Monday following the date of the primary election in the year of a general election for the office of Governor of New Jersey, and every other Monday thereafter through August 31, and every Monday thereafter up to and including the Monday immediately preceding the general election being funded.

(b) Statements and certifications may be submitted to the commission by candidates on or before 12:00 noon of the first Monday following the general election and every other Monday thereafter up to the first Monday following the fifth month after the general election. No statements and certifications for the general election shall be considered by the commission thereafter.

(c) In the event that a date for submission shall fall on a holiday, then the submission may be on the next succeeding business day which is not a holiday. The commission shall promptly approve the certification submitted by the candidate or so much of it as the commission deems to be proper. In the event that all of the submission is not approved for match, the commission will promptly so notify the candidate.

(d) Nothing herein contained shall relieve any candidate or committee from the preelection or post-election reporting requirements contained in N.J.S.A. 19:44A-8 or 19:44A-16.

As amended, R.1984 d.561, effective December 17, 1984.

See: 16 N.J.R. 2765(a), 16 N.J.R. 3485(b).

#### 19:25-15.19 Matching of State committee contributions; submission dates

(a) The campaign treasurer or deputy campaign treasurer of any candidate seeking matching funds must, on the dates of submission provided in N.J.A.C. 19:25-15.18 deliver to the Commission any statement of contributors or expenditures and photocopies received from any State committee pursuant to N.J.A.C. 19:25-15.37 and must so certify to the Commission. In the event no contribution from a State committee has been received and therefore no deposit made of such State committee contributions in such candidate's matching fund account, the campaign treasurer or deputy campaign treasurer shall so certify to the Commission.

(b) No submission or application for public funds pursuant to N.J.A.C. 19:25-15.18 will be considered by the Commission unless accompanied by written certification in compliance with (a) above.

As amended, R.1984 d.561, effective December 17, 1984.

See: 16 N.J.R. 2765(a), 16 N.J.R. 3485(b).

Amended by R.1989 d.341, effective June 5, 1989.

See: 21 N.J.R. 1109(a), 21 N.J.R. 1837(a).

Commission capitalized and N.J.A.C. cite corrected.

#### **19:25-15.20 Special account for public funds**

(a) The Commission shall maintain for each qualified candidate a separate segregated public fund account for deposit of public funds. All public funds received by the Commission from the General Treasury of the State shall be promptly deposited by the Commission into such separate segregated public fund account. No funds other than such public funds shall be deposited in such separate segregated public fund account, and all expenditures from such account shall be separately identified in reports filed with the Commission.

(b) The campaign treasurer of a candidate on whose behalf a public fund account has been established shall file with the Commission on each date upon which a submission for public matching funds has been made pursuant to N.J.A.C. 19:25-15.17, Matching of funds, and N.J.A.C. 19:25-15.18, Date of submission, and for as long as said public fund account is open and such submissions are being made, a report identifying each disbursement made out of the public fund account since the last such submission for public matching funds. The initial report shall identify all such disbursements. The identification of each disbursement from the public fund account shall include the check number, date of payment, amount of payment, full name of payee, full payee mailing address and a complete statement of purpose of the expenditure indicating which of the permitted purposes set forth in N.J.A.C. 19:25-15.24, Use of public funds, is applicable. Failure to file any such report, failure to provide the identification information required in such report, or failure to expend public funds in compliance with N.J.A.C. 19:25-15.24 may result in immediate cessation of public fund deposits by the Commission.

(c) Any report filed pursuant to this section disclosing an expenditure in an aggregate sum exceeding \$5,000 for the purpose of purchase of media consultant services or other services shall be accompanied by a certification from the payee categorizing media advertising purchases or other services provided, incurred or contemplated, and certifying that such funds have been or will be expended in compliance with N.J.A.C. 19:25-15.24.

(d) The reports of disbursements made from the public fund account submitted pursuant to this section shall not be available for public inspection.

As amended, R.1984 d.561, effective December 17, 1984.

See: 16 N.J.R. 2765(a), 16 N.J.R. 3485(b).

Amended by R.1989 d.43, effective January 17, 1989.

See: 20 N.J.R. 2642(a), 21 N.J.R. 173(d).

Added (b)-(d).

#### **19:25-15.21 Receipt of public funds; generally**

The campaign treasurer or deputy campaign treasurer of any qualified candidate for election to the office of Governor in a general election shall promptly receive in behalf of such qualified candidate public moneys in an amount equal to twice the amount of each contribution eligible for match and deposited in such qualified candidate's matching fund account, described in N.J.S.A. 19:44A-32, except that no payment shall be made to any candidate from such fund for general election campaign purposes for the first \$59,000 deposited in such qualified candidate's matching fund account.

Amended by R.1993 d.207, effective May 17, 1993.

See: 25 N.J.R. 910(a), 25 N.J.R. 1994(a).

Revised text.

#### **19:25-15.22 Receipt of public funds; limitation**

(a) No public funds shall be deposited by the Commission in the public fund account of any qualified candidate on or before the date of the primary election for nomination for the office of Governor of New Jersey immediately preceding the general election for the same office.

(b) The maximum amount which any qualified candidate may receive from public funds shall not exceed \$3,900,000.

As amended, R.1984 d.561, effective December 17, 1984.

See: 16 N.J.R. 2765(a), 16 N.J.R. 3485(b).

Amended by R.1989 d.341, effective June 5, 1989.

See: 21 N.J.R. 1109(a), 21 N.J.R. 1837(a).

Maximum amount of public funding to candidate changed to \$3,300,000.

Amended by R.1993 d.207, effective May 17, 1993.

See: 25 N.J.R. 910(a), 25 N.J.R. 1994(a).

Revised (b).

#### **19:25-15.23 Receipt of public funds; procedure**

The Commission shall certify to the Treasurer of New Jersey the amount to be disbursed to the Commission for the public fund account of each candidate. The Treasurer shall then deliver such amount to the Commission.

As amended, R.1984 d.561, effective December 17, 1984.

See: 16 N.J.R. 2765(a), 16 N.J.R. 3485(b).

Amended by R.1989 d.341, effective June 5, 1989.

See: 21 N.J.R. 1109(a), 21 N.J.R. 1837(a).

Capitalized "Commission".

#### **19:25-15.24 Use of public funds**

(a) Public funds received on behalf of a qualified candidate from the fund for general election campaign expenses shall be deposited by the commission in the candidate's public fund account and the candidate's use of such funds shall be strictly limited to the following purposes:

1. Purchase of time on radio and television stations;



2. Purchase of rental space on outdoor signs or billboards;

3. Purchase of advertising space in newspapers and regularly published magazines and periodicals;

4. Payment of the cost of producing the material aired or displayed on radio, television, outdoor signs or billboards, and in newspapers, regularly published magazines and periodicals;

5. Payment of the cost of printing and mailing campaign literature and brochures distributed under the name of the candidate;

6. Payment of the cost of legal and accounting expenses incurred in complying with the public financing regulations of the commission and with the public financing provisions of the act;

7. Payment of the cost of telephone deposits, and installation charges and monthly billings in excess of deposits. Within six months after the general election, a candidate shall return to the commission the amount of any public funds used to pay such telephone deposits which are later returned.

(b) Expenditures made prior to the receipt of public funds, including expenditures made for pre-candidacy "testing the waters" activity, which fit within (a)1 through 7 above, shall be expenses properly payable out of public funds.

(c) Any disbursement made from a candidate's public fund account which results in the purchase of time on radio and television stations pursuant to (a) above shall be documented by signed media affidavits of the radio or television station, to be obtained by the candidate, his or her campaign treasurer, or deputy campaign treasurer within 14 days following the actual use of such media time. Such media affidavits shall be maintained pursuant to N.J.A.C. 19:25-15.42.

(d) Any disbursement made from a candidate's public fund account shall be identified on campaign reports and submissions for public matching funds to include the check number, date of payment, full name of payee, full payee mailing address, amount of payment, and a complete statement of the purpose of the disbursement which includes the applicable permitted use of public funds contained in (a) above.

(e) A reimbursement made to a depository or matching fund account of a candidate from the public fund account of that candidate for an expenditure or expenditures permitted under (a) above shall:

1. Be made by individual check from the public fund account in the exact amount of the expenditure or expenditures being reimbursed;

2. Be specifically identified as a reimbursement on the report required pursuant to N.J.A.C. 19:25-15.20(b) and on campaign reports required by the Act; and

3. Contain a list of the previously paid expenditure or expenditures permissible under (a) above for which the reimbursement is being made.

(f) Contributions, other than public funds, received by or in behalf of any candidate (including contributions eligible for match) shall not be subject to the limitations of (a) above, but may be expended for any lawful purpose in furtherance or aid of the candidacy of the candidate.

As amended, R.1983 d.287, effective July 18, 1983.

See: 15 N.J.R. 616(a), 15 N.J.R. 1182(e).

New (b) added and old (b) changed to (c).

As amended, R.1984 d.561, effective December 17, 1984.

See: 16 N.J.R. 2765(a), 16 N.J.R. 3485(b).

Amended by R.1993 d.207, effective May 17, 1993.

See: 25 N.J.R. 910(a), 25 N.J.R. 1994(a).

Added new (c) through (e); redesignated existing (c) to (f).

#### 19:25-15.25 Use of transferred funds

Notwithstanding the provisions of N.J.A.C. 19:25-7.3, any transfer of funds from the general election campaign of the gubernatorial candidate to any other candidate, political committee, political party committee or political club will be considered to be an expenditure on behalf of the gubernatorial candidate under N.J.S.A. 19:44A-7. No such transferee shall make any contribution to or on behalf of the gubernatorial candidate prior to or subsequent to such transfer.

#### 19:25-15.26 Expenses not subject to expenditure limits

(a) The following expenditures by a qualified candidate shall not be subject to the expenditure limit described in N.J.A.C. 19:25-15.11(a)3:

1. Reasonable and necessary compliance with the reporting and certification requirements imposed by the public finance provisions of the act shall not be deemed to be expenditures within the meaning of N.J.S.A. 19:44A-7. Such expenses shall be specifically identified as such in all reports required under these regulations.

2. Travel expenses of the candidate, as that term is defined in N.J.A.C. 19:25-15.27(a), or of any person other than the candidate if such traveling expenses are voluntarily paid by such person without any understanding or agreement with such candidate that they shall be, directly or indirectly, repaid to him or her by the candidate, shall not be deemed expenditures within the meaning of N.J.S.A. 19:44A-7.

3. The reasonable value of food and beverage to persons who attend a testimonial affair on behalf of or in aid of a candidate and for whom a contribution in excess of the reasonable value of such food and beverages is reported as provided in N.J.A.C. 19:25-12.2(b).

4. Election night celebration or event expenses as defined in N.J.A.C. 19:25-15.47(c).

As amended, R.1984 d.561, effective December 17, 1984.

See: 16 N.J.R. 2765(a), 16 N.J.R. 3485(b).

Amended by R.1989 d.43, effective January 17, 1989.

See: 20 N.J.R. 2642(a), 21 N.J.R. 173(d).

Added (a)4.

Amended by R.1989 d.341, effective June 5, 1989.

See: 21 N.J.R. 1109(a), 21 N.J.R. 1837(a).

Correction to N.J.A.C. cite.

### 19:25-15.27 Travel expenses

(a) "The traveling expenses of the candidate" as used in N.J.A.C. 19:25-15.26, shall mean the reasonable and necessary expenses of transportation, food and lodging in connection with travel related to the candidacy of the candidate, and shall include expenses of the candidate and of members of the political campaign staff and immediate family of the candidate traveling with the candidate in the same or accompanying vehicles. The phrase does not include travel expenses of members of the candidate's staff when they are traveling not in the company of the candidate, nor does it include expenses of members of the media or others who are not members of the staff, whether or not those media members are accompanying the candidate.

(b) All of the expenditures, including those excluded from the expenditure limitation contained in N.J.S.A. 19:44A-7, must be disclosed in the preelection and post-election reports on behalf of the candidate.

1. Example 1: Candidate X, a candidate for the office of Governor in the general election who will receive public funding, travels to a city with five members of the candidate's staff in two automobiles for campaign purposes. The candidate's staff arranges for rooms at a hotel in that city. In the course of the stay, the candidate and staff hold numerous meetings and provide food and beverages for visitors in the course of the various meetings. Only the reasonable and necessary expenses of the use of automobiles and other means of transportation and the reasonable and necessary cost of meals and sleeping accommodations for the candidate and staff during the trip, are excludable for purposes of the expenditure limitation contained in N.J.S.A. 19:44A-7.

(c) If any individual, including a candidate, uses a government-owned or government-leased vehicle for transportation to aid or promote a campaign for nomination for election to the Office of Governor, such use shall:

1. Be reported as a travel expense pursuant to (b) above;

2. Be valued for purposes of reports required to be filed under the Act and for purposes of the expenditure limit contained in the Act (N.J.S.A. 19:44A-7) by the reasonable commercial value of the transportation services to the candidate pursuant to N.J.A.C. 19:25-15.31; and

3. Be reimbursed immediately from campaign funds to the appropriate government entity providing the conveyance or vehicle.

Amended by R.1984 d.561, effective December 17, 1984.

See: 16 N.J.R. 2765(a), 16 N.J.R. 3485(b).

Amended by R.1993 d.207, effective May 17, 1993.

See: 25 N.J.R. 910(a), 25 N.J.R. 1994(a).

Added new (c).

### 19:25-15.28 Independent expenditures

(a) Independent expenditures shall not be deemed to be expenditures within the meaning of N.J.S.A. 19:44A-7, but all such expenditures shall be subject to all the reporting and disclosure requirements of the act. Each person, political committee, or continuing political committee making independent expenditures who is required to file reports pursuant to N.J.A.C. 19:25-12.7 or 12.8 shall include in the reports required under the act a sworn statement on a form provided by the Commission that such independent expenditure was not made with the cooperation or prior consent of, or in consultation with or at the request or suggestion of, the candidate or any person or committee acting on behalf of the candidate.

(b) Any advertisement which is an independent expenditure shall include a clear and conspicuous statement that the advertisement is not authorized by any candidate and shall state the name and address of the person or organization making the expenditure.

Amended by R.1984 d.561, effective December 17, 1984.

See: 16 N.J.R. 2765(a), 16 N.J.R. 3485(b).

Administrative Correction to (a), internal N.J.A.C. cite.

See: 21 N.J.R. 3179(a).

Amended by R.1993 d.207, effective May 17, 1993.

See: 25 N.J.R. 910(a), 25 N.J.R. 1994(a).

Revised (a).

### Case Notes

Regulation charging candidate with noncandidate's expenditures exceeded Election Law Enforcement Commission's authority. *Friends of Governor Tom Kean v. New Jersey Election Law Enforcement Com'n*, 114 N.J. 33, 552 A.2d 612 (1985).

Election Law Enforcement Commission can allocate expenditures amongst candidates and noncandidates. *Friends of Governor Tom Kean v. New Jersey Election Law Enforcement Com'n*, 114 N.J. 33, 552 A.2d 612 (1985).

Standard for allocation of Assembly candidates expenditure for advertising that included reference to gubernatorial candidate. *Friends of Governor Tom Kean v. New Jersey Election Law Enforcement Commission*, 203 N.J.Super. 523, 497 A.2d 555 (App.Div.1985), affirmed 102 N.J. 319, 508 A.2d 200 (1985).

### 19:25-15.29 Coordinated expenditures

(a) A communication expenditure by any person or entity, other than a gubernatorial candidate or his or her principal campaign committee, as defined in N.J.A.C. 19:25-15.3, is a contribution by such person or entity subject to the limit on a contribution to a gubernatorial candidate in N.J.S.A. 19:44A-29 and is a coordinated expenditure of the gubernatorial candidate properly allocable against the expenditure limit of the gubernatorial candidate in N.J.S.A. 19:44A-7 if:

1. The communication makes an unambiguous reference to the gubernatorial candidate in an audio, visual or printed format; and

2. The gubernatorial candidate or his or her campaign committee has consented to, authorized, or exercised control over the production or circulation of the communication.

(b) A reference to a gubernatorial candidate appearing in materials paid for by non-gubernatorial candidates, as hereinafter defined, or political party committees, as defined in N.J.A.C. 19:25-1.7, will be deemed insubstantial and not subject to (a) above provided that:

1. The reference consists of the name or picture of the gubernatorial candidate in equal or less than equal prominence to the prominence given the names or pictures of non-gubernatorial candidates;

2. The names or pictures of the gubernatorial and non-gubernatorial candidates appear on printed campaign materials used in connection with volunteer activities on behalf of the named or pictured non-gubernatorial candidates, such as materials consisting of buttons, pins, bumper stickers, handbills, brochures, posters, yard signs or palm cards; and

3. The materials in (b)2 above are not used in connection with any broadcasting, newspaper, magazine, billboard, or similar type of general public communication or political advertising.

(c) A reference to a gubernatorial candidate appearing in campaign literature or material circulated to voters by direct mail and paid for by non-gubernatorial candidates, as hereinafter defined, or by political party committees, as defined in N.J.A.C. 19:25-1.7, shall be deemed insubstantial and not subject to (a) above provided that:

1. The reference consists of no more than a single use of the gubernatorial candidate's name in the text, and a single use of the gubernatorial candidate's name within a slate or listing of the names of gubernatorial and non-gubernatorial candidates, and a single photograph or depiction of the gubernatorial candidate provided that a photograph or depiction of each non-gubernatorial candidate larger or of equal size to the gubernatorial candidate's photograph or depiction is included; and

2. The size of the print used to reproduce the name of the gubernatorial candidate is the same or smaller than the size of the print used for the names of the non-gubernatorial candidates; and

3. The predominant theme of the text promotes the candidacy or candidacies of the non-gubernatorial candidate or candidates and not that of the gubernatorial candidate.

(d) A reference to a gubernatorial candidate made in a telephone communication to a voter shall be deemed insubstantial and not subject to (a) above provided that:

1. The telephone communication is part of a get-out-the-vote effort of the non-gubernatorial candidate, as hereinafter defined, or of a political party committee, as defined in N.J.A.C. 19:25-1.7, conducted seven or fewer days before the gubernatorial general election; and

2. The reference to the gubernatorial candidate is limited to stating the name of the gubernatorial candidate as part of a slate or together with the names of non-gubernatorial candidates.

(e) A gubernatorial candidate or campaign committee receiving a coordinated communication pursuant to (a) above must determine:

1. The cost of preparation and circulation of the communication; and

2. The reasonable value of the coordinated communication to the gubernatorial candidate.

(f) The reasonable value of a coordinated communication to a gubernatorial candidate may be determined at less than 100 percent of the total cost of preparation and circulation if the coordinated communication referred to one or more non-gubernatorial candidates in the same election, and the percentage of the cost to be allocated to the gubernatorial candidate shall be determined based upon the following:

1. The number of non-gubernatorial candidates identified or otherwise referred to; and

2. The relative prominence of the reference to the gubernatorial candidate in relation to references to non-gubernatorial candidates. For example, if a printed pamphlet is prepared and circulated at a cost of \$1,000 and features equally one page for a non-gubernatorial candidate and one page for a gubernatorial candidate, the reasonable value is 50 percent of the total cost of \$1,000 or \$500.00.

(g) A gubernatorial candidate determining the reasonable value to his or her candidacy of a coordinated communication pursuant to (f) above shall establish that value to the nearest five percent of the total cost of preparation and circulation. In no case shall the reasonable value be determined to be less than five percent of total cost.

(h) For the purposes of this section, the term "non-gubernatorial candidate" shall mean any candidate, other than a gubernatorial candidate, acting alone under a single campaign committee or jointly with other candidates under a multi-candidate joint campaign committee designated pursuant to N.J.S.A. 19:44A-16(h), but shall not mean any political committee, as defined in N.J.S.A. 19:44A-3(i), or shall not mean any continuing political committee, as defined in N.J.S.A. 19:44A-3(n)(2), which is not a political party committee, as defined in N.J.A.C. 19:25-1.7, or shall not mean any other corporation, partnership, incorporated or unincorporated association, or part thereof.

New rule, R.1989 d.382, effective June 23, 1989.

See: 21 N.J.R. 704(a), 21 N.J.R. 1286(a), 21 N.J.R. 2056(b).

N.J.A.C. 19:25-15.29 was formerly entitled Borrowing of Funds; repayment, and has been recodified as N.J.A.C. 19:25-15.30.

Emergency amendment, R.1989 d.456, effective August 3, 1989 (expires October 2, 1989).

See: 21 N.J.R. 2673(a).

(a) and (b) revised; new (c) and (d) added; existing (c)-(e) redesignated (e)-(g); (h) added.

Adopted concurrent proposal, R.1989 d.545, effective October 2, 1989.

See: 21 N.J.R. 2673(a), 21 N.J.R. 3477(b).

Provisions of emergency amendment R.1989 d.456 readopted without change.

Amended by R.1993 d.207, effective May 17, 1993.

See: 25 N.J.R. 910(a), 25 N.J.R. 1994(a).

Stylistic revision in (c)1.

### 19:25-15.30 Borrowing of funds; repayment

Any candidate, the candidate's campaign treasurer or deputy campaign treasurer may borrow funds from any national or State bank, provided that no person or political committee other than the candidate or the State committee may in any way endorse or guarantee such loan in the aggregate in excess of the \$1,800 contribution limit. Except for a nonparticipating candidate guaranteeing a loan to his or her campaign, the amount so borrowed shall not at any one time in the aggregate exceed \$50,000 and must be repaid in full by such candidate or his or her campaign treasurer or deputy campaign treasurer from moneys accepted or allocated pursuant to N.J.S.A. 19:44A-29 not later than 20 days prior to the general election. Certification of such repayment shall be made by the borrower to the Commission not later than 15 days prior to the date of the general election. In the event of the failure of the borrower to repay timely the full amount of the loan or to certify properly such repayment to the Commission, all payment of public funds to such candidate shall promptly cease and the Commission shall take action as directed by the act to prohibit the expenditure by the candidate of moneys received from the fund and any other moneys received by him or her in aid of his or her candidacy in such general election.

As amended, R.1984 d.561, effective December 17, 1984.

See: 16 N.J.R. 2765(a), 16 N.J.R. 3485(b).

Amended by R.1989 d.341, effective June 5, 1989.

See: 21 N.J.R. 1109(a), 21 N.J.R. 1837(a).

Recodified from N.J.A.C. 19:25-15.29 and increased contribution limit from \$800.00 to \$1,500.

Amended by R.1993 d.207, effective May 17, 1993.

See: 25 N.J.R. 910(a), 25 N.J.R. 1994(a).

Revised text.

### 19:25-15.31 Computation of value of goods and services

(a) Goods and services shall, for purposes of the reports required to be filed under the act and for purposes of the expenditure limitation contained in section 7 of the act (N.J.S.A. 19:44A-7) where applicable, be valued by the reasonable commercial value of such goods and services to the candidate, whether or not the cost or value of such goods or services to the contributor or other provider of those services is higher or lower than such reasonable commercial value.

1. Example 1: Candidate Y, a candidate for the office of Governor who has chosen to accept public funding, obtains the use of a helicopter for travel of the candidate for campaign purposes. By agreement with the owner of the helicopter, the campaign committee for the candidate will pay \$200.00 per hour which represents the cost to the owner of the maintenance and operation of the helicopter. The reasonable commercial value of the use of the helicopter is \$400.00 per hour. In this example, the amount of \$200.00 per hour paid by the campaign committee of the candidate to the owner for use of the helicopter is not includable as an expenditure for purposes of the expenditure limitations contained in section 7 of the act (N.J.S.A. 19:44A-7). The difference between the \$200.00 per hour actually paid for use of the helicopter and the reasonable commercial value normally charged by the owner for the use of the helicopter, represents a contribution from the owner of the helicopter to the candidate in the amount of \$200.00 per hour. The candidate would obtain the use of the helicopter under this arrangement from a lawful contributor for campaign purposes for not more than nine hours. If the candidate obtained the use of the helicopter for 10 hours under this arrangement, the owner of the helicopter would have made an unlawful contribution to the candidacy of the candidate, since the aggregate of the contributions (\$2,000) from that contributor in this instance would have exceeded \$1,800.

2. Example 2: Candidate Y in example 1, wishes to obtain the use of the helicopter from the owner for 15 hours, and the campaign committee for the candidate pays to the owner the reasonable commercial value of \$400.00 for each hour, or a total of \$6,000. The amount paid to the owner is not an expenditure within the expenditure limitation contained in section 7 of the act (N.J.S.A. 19:44A-7). On these facts the owner has made no contribution to the candidate.

3. In example 1 and example 2, the total amounts of expenditures, including expenditures not subject to the expenditure limitation of section 7 of the act (N.J.S.A. 19:44A-7), must be reported in the preelection and post-election reports filed on behalf of the candidate.

(b) The costs of a political communication as defined in N.J.A.C. 19:25-11.10 which aids or promotes a candidate for Governor, and is undertaken, made or circulated with the cooperation or consent of the candidate, shall be reported by the candidate in the same manner as the receipt of any goods and services, and shall be valued for the purposes of the contribution limit in N.J.A.C. 19:25-15.6 and the expenditure limit in N.J.A.C. 19:25-15.11(a)3 in the same manner as any other contributed goods or services.

Amended by R.1984 d.561, effective December 17, 1984.

See: 16 N.J.R. 2765(a), 16 N.J.R. 3485(b).

Amended by R.1989 d.341, effective June 5, 1989.

See: 21 N.J.R. 1109(a), 21 N.J.R. 1837(a).

Recodified from N.J.A.C. 19:25-15.30 and increased dollar amounts in examples 1 and 2 and added new (b).

Amended by R.1993 d.207, effective May 17, 1993.  
See: 25 N.J.R. 910(a), 25 N.J.R. 1994(a).  
Revised (a)1 and 2.

**19:25-15.32 Establishment of State committee account; contribution limit**

(a) A State committee may establish a State committee account in a national or State bank, authorized to do business in the State of New Jersey, in behalf of any candidate for election to the office of Governor in a general election.

(b) Upon or after establishment of a State committee account by a State committee, such State committee may allocate and deposit certain contributions received by it in such account. Only a contribution of up to \$1,800, or up to \$1,800 of a contribution in excess of \$1,800 may be so deposited, and only if such deposit does not result in the contributor exceeding a contribution of \$1,800 in the aggregate to such or on behalf of such candidate.

(c) Notwithstanding any provision of this section, any contribution allocated and deposited in a State committee account must be of moneys or other things of value pledged to or received by such State committee in a calendar year in which the gubernatorial election being funded is held.

(d) Any deposit in a State committee account must be from contributions eligible for match, except that proceeds of a loan to the State committee made pursuant to N.J.S.A. 19:44A-44 may be deposited.

Amended by R.1989 d.341, effective June 5, 1989.  
See: 21 N.J.R. 1109(a), 21 N.J.R. 1837(a).

Recodified from N.J.A.C. 19:25-15.31 and increased contribution limit from \$800.00 to \$1,500.

Amended by R.1993 d.207, effective May 17, 1993.  
See: 25 N.J.R. 910(a), 25 N.J.R. 1994(a).

Revised (b).

**19:25-15.33 State committee expenditures; ineligible for match; expenditure limit**

(a) Any expenditure by a State committee on behalf of a candidate for election to the office of Governor shall be made only from the State committee account as defined in this subchapter of such State committee.

(b) Any contribution deposited in a State committee account and expended, and thereby unavailable for transfer and deposit in a matching fund account of a candidate, shall not be eligible for match.

(c) Any expenditure by a State committee in aid of the candidacy of a candidate shall be included in determining total expenditures of such candidate subject to the expenditure limit contained in N.J.A.C. 19:25-15.11(a)3.

Recodified by R.1989 d.341, effective June 5, 1989.

See: 21 N.J.R. 1109(a), 21 N.J.R. 1837(a).

Recodified from N.J.A.C. 19:25-15.32.

**19:25-15.34 State committee treasurer**

The campaign treasurer or deputy campaign treasurer of any State committee, designated by such State committee pursuant to N.J.S.A. 19:44A-10, shall be the campaign treasurer or deputy campaign treasurer of any State committee account established by said State committee.

Recodified by R.1989 d.341, effective June 5, 1989.

See: 21 N.J.R. 1109(a), 21 N.J.R. 1837(a).

Recodified from N.J.A.C. 19:25-15.33.

**19:25-15.35 Notice by State committee to contributor**

(a) The campaign treasurer or deputy campaign treasurer of any State committee depositing any contribution in a State committee account of such State committee must give written notice of such deposit to the contributor within 48 hours of such deposit, and such notice shall contain the following information:

1. The State committee has allocated part or all, as the case may be, of a contribution made by the contributor to a candidate for the office of Governor;
2. The allocated contribution counts toward the \$1,800 the contributor may contribute to a candidate for the office of Governor;
3. The name and address of the contributor;
4. The amount and date of the contribution to the State committee;
5. The amount of the contribution deposited on behalf of the candidate.

Amended by R.1989 d.341, effective June 5, 1989.

See: 21 N.J.R. 1109(a), 21 N.J.R. 1837(a).

Recodified from N.J.A.C. 19:25-15.34 and increased contribution limit from \$800 to \$1,500.

Amended by R.1993 d.207, effective May 17, 1993.

See: 25 N.J.R. 910(a), 25 N.J.R. 1994(a).

Revised (a)2.

**19:25-15.36 State committee statements**

(a) The campaign treasurer or deputy campaign treasurer of a State committee that has established a State committee account shall prepare and maintain a statement of contributors whose contributions have, in whole or part, been deposited in said State committee account. Such statement of contributors shall conform in content and form to that described in N.J.A.C. 19:25-15.17(d).

(b) The campaign treasurer or deputy campaign treasurer of a State committee shall prepare and maintain a statement of expenditures from a State committee account of such State committee. Such statement of expenditures shall contain for each expenditure a check number, date, name and address of payee, amount and brief description of purpose.



(c) The statement of contributors described in (a) above shall include a photocopy of the face of each check or other written instrument as described in N.J.A.C. 19:25-15.14 for each contribution reported on the statement of contributors. Where a check is endorsed by some person other than the campaign treasurer or deputy campaign treasurer of the State committee, the face and back must be photocopied. The photocopies shall be segregated by deposit, sorted in the order in which the contributors are listed pursuant to N.J.A.C. 19:25-15.17(d) and accompanied by copies of the relevant receipted deposit slips.

As amended, R.1984 d.561, effective December 17, 1984.

See: 16 N.J.R. 2765(a), 16 N.J.R. 3485(b).

(c) added: "sorted in the order . . . N.J.A.C. 19:25-15.17(d)".

Recodified by R.1989 d.341, effective June 5, 1989.

See: 21 N.J.R. 1109(a), 21 N.J.R. 1837(a).

Recodified from N.J.A.C. 19:25-15.35.

#### Case Notes

Former regulation regarding post-primary payment of primary expenses invalid; non-profit association standing. *Common Cause v. New Jersey Election Law Enforcement Commission*, 151 N.J.Super. 265 (App.Div.1977), aff'd 74 N.J. 231 (1977).

#### 19:25-15.37 Certification and delivery of statements

(a) The campaign treasurer or deputy campaign treasurer of a State committee that has established a State committee account on behalf of a candidate shall certify to the campaign treasurer or deputy campaign treasurer of such candidate, and to the Commission, the correctness of the statements and photocopies prepared pursuant to N.J.A.C. 19:25-15.36.

(b) The statements and photocopies certified pursuant to (a) above shall be delivered by the campaign treasurer or deputy campaign treasurer of such State committee to the campaign treasurer or deputy campaign treasurer of the candidate on whose behalf the statements and photocopies have been prepared and to the commission no later than the Thursday preceding the dates of submission for matching fund applications of candidates set forth in N.J.A.C. 19:25-15.18.

(c) The statements and photocopies to be delivered pursuant to (b) above shall include all contributions and expenditures during the periods of time as follows:

1. The statement of contributors prepared pursuant to N.J.A.C. 19:25-15.36(a) shall include contributions deposited in the State committee account from the date of the most previous statement of contributors delivered to the candidate or, if no previous statement has been delivered, from the date the State committee account was established, until the date preceding the transfer to the candidate;

2. The statement of expenditures prepared pursuant to N.J.A.C. 19:25-15.36(b) shall include all expenditures from the date of the most previous statement of expenditures delivered to the candidate or, if no previous state-

ment has been delivered, from the date the State committee account was established, until the date preceding the transfer to the candidate;

3. Photocopies of checks prepared pursuant to N.J.A.C. 19:25-15.36(c) shall pertain to contributions listed in the statement of contributors.

As amended, R.1984 d.561, effective December 17, 1984.

See: 16 N.J.R. 2765(a), 16 N.J.R. 3485(b).

Amended by R.1989 d.341, effective June 5, 1989.

See: 21 N.J.R. 1109(a), 21 N.J.R. 1837(a).

Recodified from N.J.A.C. 19:25-15.36 and changed internal N.J.A.C. cite.

#### 19:25-15.38 Transfer of deposits; certification

(a) A State committee may transfer deposits made on behalf of a candidate in its State committee account to the matching fund account of such candidate, provided certified statements and photocopies relating to such deposits have been delivered to the treasurer or deputy campaign treasurer of such candidate as provided in N.J.A.C. 19:25-15.37.

(b) At the time of making a transfer pursuant to (a) above, the campaign treasurer or deputy campaign treasurer of the State committee shall certify in writing to the campaign treasurer or deputy campaign treasurer of the candidate in whose matching fund account a transfer is to be made, and certify to the Commission, that the deposit includes only contributions eligible for match and does not include any contribution which must be or is intended by the contributor or recipient to be refunded or repaid at any time and that no contribution by any county or municipal committee is included.

As amended, R.1984 d.561, effective December 17, 1984.

See: 16 N.J.R. 2765(a), 16 N.J.R. 3485(b).

Amended by R.1989 d.341, effective June 5, 1989.

See: 21 N.J.R. 1109(a), 21 N.J.R. 1837(a).

Recodified from N.J.A.C. 19:25-15.37 and updated internal N.J.A.C. cite.

#### 19:25-15.39 County and municipal committee expenditures; reports

(a) The county committee of a political party in a county and the municipal committees of that political party in the same county may make an expenditure or expenditures in the aggregate of \$10,000 in aid of the candidacy of or in behalf of the candidate for election to the office of Governor in a general election.

(b) A candidate or his or her campaign treasurer or deputy campaign treasurer shall determine the exact amount that individual county committees or municipal committees may contribute in aid of the candidacy of or in behalf of such candidate, and shall file a report of such determination with the commission no later than the eleventh day prior to the general election being funded.

(c) Any expenditures in aid of the candidacy of a candidate by the county committee of a political party and the

municipal committees of that political party in the same county shall be included in determining the total expenditures of such candidate subject to the expenditure limit contained in N.J.A.C. 19:25-15.11(a)3.

As amended, R.1984 d.561, effective December 17, 1984.

See: 16 N.J.R. 2765(a), 16 N.J.R. 3485(b).

Amended by R.1989 d.341, effective June 5, 1989.

See: 21 N.J.R. 1109(a), 21 N.J.R. 1837(a).

Recodified from N.J.A.C. 19:25-15.38 and amended to implement the statutory changes in the amounts county and municipal political party committees are permitted to spend in a general election on behalf of a gubernatorial candidate (see Section 5 of P.L. 1989, c.4, amending N.J.S.A. 19:44A-29). Also, subsection (c) has been added to specify that such expenditures must be allocated and counted in determining a gubernatorial candidate's compliance with the expenditure limit (see N.J.S.A. 19:44A-7, amended by Section 2, P.L. 1989, c.4).

#### **19:25-15.40 County and municipal committee reports**

Any county or municipal committee making any expenditure on behalf of any candidate for the office of Governor in a general election shall file quarterly reports pursuant to N.J.S.A. 19:44A-8 and shall provide written notice to the candidate pursuant to N.J.A.C. 19:25-10.4 (Expenditures on behalf of candidates).

As amended, R.1984 d.561, effective December 17, 1984.

See: 16 N.J.R. 2765(a), 16 N.J.R. 3485(b).

Added "and shall provide . . . of candidates."

Amended by R.1989 d.341, effective June 5, 1989.

See: 21 N.J.R. 1109(a), 21 N.J.R. 1837(a).

Recodified from N.J.A.C. 19:25-15.39.

#### **19:25-15.41 County and municipal committees; prohibition on transfers**

No county committee or municipal committee may transfer or contribute any funds to any candidate or to any candidate's campaign treasurer or deputy campaign treasurer, or to any political committee supporting any candidate.

Amended by R.1989 d.341, effective June 5, 1989.

See: 21 N.J.R. 1109(a), 21 N.J.R. 1837(a).

Recodified from N.J.A.C. 19:25-15.40.

#### **19:25-15.42 Maintenance of records; audit**

(a) The campaign treasurer or deputy treasurer of each candidate and each State committee shall retain all written instruments, checks, bank statements and all other records of contributions and expenditures, including originals or photocopies of all documents and instruments submitted to the Commission relating to the general election for a period of not less than four years after submission of the final report for the general election.

(b) Each candidate, campaign treasurer or deputy campaign treasurer, or State committee campaign treasurer or deputy campaign treasurer, shall furnish to the Commission any books and records, including bank records for all accounts and supporting documentation for matching fund submissions as may be requested by the Commission for purposes of an audit or other Commission examination.

Amended by R.1984 d.561, effective December 17, 1984.

See: 16 N.J.R. 2765(a), 16 N.J.R. 3485(b).

Added: "submission of the final report for general election."

Amended by R.1989 d.341, effective June 5, 1989.

See: 21 N.J.R. 1109(a), 21 N.J.R. 1837(a).

Recodified from N.J.A.C. 19:25-15.41.

#### **19:25-15.43 Disclosure of information**

The statements and certifications submitted by a candidate in accordance with N.J.A.C. 19:25-15.17 shall not be public records and shall not be available for public inspection; provided, however, the Commission shall from time to time publish a listing which shall contain the information included in the statements and certifications for each contribution, except that it shall not include the name, address or amount of contribution of any contributor whose contributions in the aggregate are \$100.00 or less unless the candidate authorizes such disclosure in writing.

Amended by R.1984 d.561, effective December 17, 1984.

See: 16 N.J.R. 2765(a), 16 N.J.R. 3485(b).

Added "unless the candidate authorizes such disclosure in writing."

Amended by R.1989 d.341, effective June 5, 1989.

See: 21 N.J.R. 1109(a), 21 N.J.R. 1837(a).

Recodified from N.J.A.C. 19:25-15.42.

Amended by R.1993 d.207, effective May 17, 1993.

See: 25 N.J.R. 910(a), 25 N.J.R. 1994(a).

Deleted text in section.

#### **19:25-15.44 Prepared statement on behalf of candidate**

(a) Each candidate shall be entitled to have a statement in English and in Spanish submitted by the candidate to the Commission, printed and mailed by each county clerk with the sample ballot to each registered voter in the county, together with a short explanation from the Commission that such statements are provided pursuant to the act and this subchapter to assist the voters in making a determination among the candidates for the office of Governor.

(b) Each candidate who wishes such a statement mailed on his or her behalf shall submit to the Commission, on forms to be provided by the Commission, his or her proposed statement in English and in Spanish which shall not exceed 500 words in length. The statement shall be submitted to the Commission on or before the 80th day prior to the date on which the general election is to be held.

(c) On or before the 45th day prior to the date on which the general election is to be held, the Commission shall supply each county clerk with the text of the statement received from each candidate for election to the office of Governor.

(d) On or before the 45th day prior to the date on which the general election is to be held, the Commission shall determine the portion of the cost of printing and mailing of such ballot statements which it will reimburse to all counties and shall notify all county clerks of the amount of the reimbursement. Such reimbursements shall not be made if adequate funds are not appropriated by the Governor and the Legislature to reimburse all counties fully.

As amended, R.1984 d.561, effective December 17, 1984.

See: 16 N.J.R. 2765(a), 16 N.J.R. 3485(b).

Substituted "80th" day for "60th" day.

Amended by R.1989 d.341, effective June 5, 1989.

See: 21 N.J.R. 1109(a), 21 N.J.R. 1837(a).

Recodified from N.J.A.C. 19:25-15.43 and new (d) added.

#### **19:25-15.45 Post-election contribution; post-election payment of expenses**

(a) Any person, political committee, or continuing political committee otherwise eligible to make political contributions to a candidate or a State committee may make a contribution in aid of the candidacy of a candidate after the date of such general election provided such person or political committee does not exceed \$1,800 in the aggregate for such general election.

(b) Contributions received by a candidate or a State committee, or a campaign treasurer or deputy campaign treasurer of a candidate or State committee pursuant to (a) above shall be expended in order to liquidate all obligations and to pay expenses incurred during the general election campaign.

(c) Every payment of expenditures for general election obligations made by the candidate or State committee, or campaign treasurer or deputy campaign treasurer of a candidate or State committee after the date of the general election (except as otherwise specifically provided by the act or this subchapter, for example, compliance costs) shall be deemed to be expenditures for such general election within the meaning of N.J.S.A. 19:44A-7.

(d) Contributions received by a candidate or State committee, or campaign treasurer or deputy campaign treasurer of a candidate or State committee after the date of the general election for that election shall be eligible for matching of funds and shall be matched provided they are submitted pursuant to N.J.A.C. 19:25-15.17 and 19:25-15.18 up to the first Monday following the fifth month after the general election.

Amended by R.1984 d.561, effective December 17, 1984.

See: 16 N.J.R. 2765(a), 16 N.J.R. 3485(b).

Amended by R.1989 d.341, effective June 5, 1989.

See: 21 N.J.R. 1109(a), 21 N.J.R. 1837(a).

Recodified from N.J.A.C. 19:25-15.44; reference to continuing political committee added and increased contribution limit from \$800.00 to \$1,500.

Amended by R.1993 d.207, effective May 17, 1993.

See: 25 N.J.R. 910(a), 25 N.J.R. 1994(a).

Revised text.

#### **19:25-15.46 Funds or materials remaining from general election campaign**

Public moneys received by a qualified candidate may be retained by such qualified candidate for a period not exceeding six months after the general election for which such moneys were received in order to liquidate all obligations and to pay expenses for the purposes permitted by N.J.A.C.

19:25-15.24 which expenses were incurred during the general election campaign.

Recodified by R.1989 d.341, effective June 5, 1989.

See: 21 N.J.R. 1109(a), 21 N.J.R. 1837(a).

Recodified from N.J.A.C. 19:25-15.45.

#### **19:25-15.47 Repayment of public or other funds**

(a) All public moneys received by a qualified candidate remaining after liquidation of all lawful obligations with respect to that election shall be repaid to the Commission (for return to the Treasurer of the State of New Jersey) not later than six months after the date of such general election. All moneys other than public moneys, remaining available to any qualified candidate after the liquidation of all obligations, shall also be repaid to the Commission (for return to the Treasurer of the State of New Jersey) not later than six months after the date of such general election; provided, however, that nothing herein contained shall require any candidate to pay to the State Treasurer, a total amount of moneys in excess of the total amount of public moneys received by such qualified candidate from the public fund.

(b) No candidate who has received public funds 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.

(c) An election night celebration or event conducted by a candidate who has received public funds will be deemed a reasonable and necessary cost of closing the campaign provided that it is conducted on the date of the general election.

Correction: In (a), ... with respect to ("their" deleted) "that" added.

See: 21 N.J.R. 1021(b).

Recodified by R.1989 d.341, effective June 5, 1989.

See: 21 N.J.R. 1109(a), 21 N.J.R. 1837(a).

Recodified from N.J.A.C. 19:25-15.46.

#### **19:25-15.48 Candidate statement of qualification before participation in public financing**

(a) A candidate who intends to apply to the Commission for public matching funds on a date later than September 1 preceding a general election for the office of Governor must on or before September 1 preceding the general election for Governor file:

1. A certified statement of qualification containing evidence that \$177,000 has been deposited and expended pursuant to N.J.S.A. 19:44A-32 for gubernatorial general election campaign expenses. Evidence that \$177,000 has been deposited and expended shall be filed with the Commission on September 1 preceding a general election

for the office of Governor and in a form to be prescribed by the Commission.

2. Each contribution submitted in the report required by (a)1 above as evidence that \$177,000 in contributions has been deposited must be accompanied by a written statement which shall identify the individual making the contribution by full name and full mailing address (number, street, city, state, zip code), the name of the candidate, the amount and date of receipt of the contribution, and shall bear the signature of the contributor. The requirement of such written statement shall be deemed to be satisfied in the case where a contribution is made by means of a check, money order or other negotiable instrument payable on demand and to the order for, or specially endorsed without qualification to, the candidate or to his campaign committee, if such check, money order or instrument contains all of the foregoing information.

3. Each disbursement submitted in the report required by (a)1 above as evidence that \$177,000 has been expended for general election expenses shall include two photocopies of checks, receipted bills, contracts, or similar documents as evidence of the expenditure of at least \$177,000.

4. For each contribution from an individual whose aggregate contributions to the candidate in the general election exceed \$200.00 which is submitted in the report required by (a) above, the certified statement of qualification shall include the occupation of the individual and the name and mailing address of the individual's employer. Nothing in this paragraph is intended to prevent the Commission from certifying a contribution for match with public funds where a candidate and campaign treasurer are unable to provide, after good faith efforts, information concerning the occupation of the individual contributor and the name and mailing address of the employer of the individual contributor whose aggregate contributions to the candidate in the general election exceed \$200.00.

(b) The reports filed pursuant to (a) above to establish qualification shall not be available for public inspection.

(c) Any report required to be filed pursuant to (a) above cannot be handwritten.

New Rule, R.1989 d.341, effective June 5, 1989.

See: 21 N.J.R. 1109(a), 21 N.J.R. 1837(a).

Rule formerly at this cite was recodified to N.J.A.C. 19:25-15.60. Administrative correction to (a)3.

See: 21 N.J.R. 2530(a).

Amended by R.1993 d.207, effective May 17, 1993.

See: 25 N.J.R. 910(a), 25 N.J.R. 1994(a).

Revised (a).

Amended by R.1993 d.363, effective July 19, 1993.

See: 25 N.J.R. 1957(b), 25 N.J.R. 3240(a).

#### **19:25-15.49 Statement of candidates electing to participate in debates**

(a) A candidate who has not by September 1 preceding a general election applied to the Commission for public matching funds may elect to participate in the series of interactive gubernatorial general election debates by:

1. Notifying the Commission in writing no later than September 1 preceding the general election for the office of Governor of his or her intent to participate in the series of gubernatorial general election debates; and

2. Filing a statement of qualification containing evidence that \$177,000 has been deposited and expended pursuant to N.J.S.A. 19:44A-32 for gubernatorial general election expenses. The statement of qualification shall contain the same information as that required at N.J.A.C. 19:25-15.48(a).

(b) The reports filed pursuant to (a) above to establish qualification for participation in gubernatorial general election debates shall not be available for public inspection.

(c) Any report required to be filed pursuant to (a) above cannot be handwritten.

New Rule, R.1989 d.341, effective June 5, 1989.

See: 21 N.J.R. 1109(a), 21 N.J.R. 1837(a).

Rule formerly at this cite was recodified to N.J.A.C. 19:25-15.61.

Amended by R.1993 d.207, effective May 17, 1993.

See: 25 N.J.R. 910(a), 25 N.J.R. 1994(a).

Revised (a)2.

#### **19:25-15.50 Application to sponsor debates**

(a) To be eligible for selection by the Commission to sponsor one or both of the interactive gubernatorial general election debates, an organization:

1. Must be unaffiliated with any political party or with any holder of or candidate for public office;

2. Must not have endorsed any candidate in the pending general election for the office of Governor and must agree not to make any such endorsement until the completion of any debate sponsored by the organization; and

3. Must have previously sponsored one or more televised debates among candidates for Statewide office in New Jersey since 1976.

(b) Any association of two or more separately owned news publications or broadcasting outlets, including newspapers, radio stations or networks, and television stations or networks, having between or among them a substantial readership or audience in this State, and any association of print or broadcast news or press service correspondents having among them a substantial readership or audience in this State, shall be eligible to sponsor any such gubernatorial general election debate, without regard to whether that association or any of its members shall previously have sponsored any debate among candidates for Statewide office.

(c) Written applications by organizations to sponsor one or both of the gubernatorial general election debates shall be submitted to the Commission on a form provided by the Commission not later than July 1 of any year in which a general election is held for the office of Governor. The written application shall set forth plans of the applicant for television and media coverage.

New Rule, R.1989 d.341, effective June 5, 1989.

See: 21 N.J.R. 1109(a), 21 N.J.R. 1837(a).

Rule formerly at this cite was recodified to N.J.A.C. 19:25-15.62.

Amended by R.1993 d.207, effective May 17, 1993.

See: 25 N.J.R. 910(a), 25 N.J.R. 1994(a).

Revised (a) and (a)3; added new (b); redesignated existing (b) to (c).

#### **19:25-15.51 Selection of debate sponsor**

(a) Based upon the criteria in N.J.A.C. 19:25-15.50(a) above, the Commission shall select the private organization or organizations to sponsor the gubernatorial general election debates within 30 calendar days of the July 1 deadline for receipt of sponsor applications and shall provide written notification to the organization or organizations so selected.

(b) The Commission shall provide each debate sponsor it has selected with a list of candidates who are required to participate in the gubernatorial general election debates or who have elected to participate.

New Rule, R.1989 d.341, effective June 5, 1989.

See: 21 N.J.R. 1109(a), 21 N.J.R. 1837(a).

Rule formerly at this cite was recodified to N.J.A.C. 19:25-15.63.

#### **19:25-15.52 Dates, times, and location of debates**

(a) Not later than five calendar days after receipt of notification from the Commission that an organization has been selected to sponsor one or both of the gubernatorial general election debates, each sponsoring organization shall:

1. Submit a written calendar to the Commission and to all candidates who are required to or have elected to participate in the debates containing the date, time, location, and plans for television and other media coverage of the debate or debates assigned to the sponsor; and
2. Submit to the Commission a description of the physical facilities available at the debate site or sites for use by television, broadcast and other media personnel.

(b) The debate date or dates selected by each sponsoring organization in the written calendar required in (a) above shall be no earlier than the third Tuesday following the first Monday in September of the year in which a general election is held for the office of Governor and no later than the 11th day prior to the pending general election.

(c) Upon the vote of a majority of the candidates participating in the second general election debate that an emergency condition exists requiring postponement of that debate, the debate sponsor shall:

1. Reschedule the second debate to occur no later than the second calendar day preceding the general election; and
2. Take whatever actions are necessary to notify all participating candidates and the Commission of the date, time, and location of the rescheduled debate.
  - i. Actions to notify the participating candidates and the Commission of the rescheduled debate shall in-

clude, but not be limited to, telephone contact and first class mail, return receipt requested.

(d) The Commission shall review and approve the debate calendars submitted by the debate sponsoring organizations pursuant to (a) above prior to the occurrence of any general election debate and shall create a master debate calendar which ensures compliance with the date requirements of (b) above and ensures that the two debates are scheduled for different dates.

(e) In the event that the Commission determines in its review pursuant to (d) above that a conflict exists in the two scheduled debates, the Commission shall direct the debate sponsors to submit a revised debate schedule or schedules within two calendar days containing new debate dates and times which eliminate the conflict.

New Rule, R.1989 d.341, effective June 5, 1989.

See: 21 N.J.R. 1109(a), 21 N.J.R. 1837(a).

#### **19:25-15.53 Rules for conduct of debates**

(a) Each debate between or among candidates for the office of Governor shall be of at least one hour's duration.

(b) Promulgation of the rules for the conduct of each debate shall be the responsibility of the private organization selected by the Commission as the sponsor of each debate and such rules shall not be made final without consultation with a representative designated by each of the participating candidates.

(c) Immediately upon notification of its selection as a sponsor and no later than five calendar days before each debate is to occur, the sponsor shall forward the written rules for conduct of the interactive general election debate to the representatives of the participating candidates, to the Commission, and to the relevant candidates who are required to or have elected to participate in the debate.

(d) The candidates participating in the debate and the Commission shall be notified by the sponsor in writing of any modifications or changes to the rules for conduct of a debate no later than two calendar days before the debate is scheduled to occur.

New Rule, R.1989 d.341, effective June 5, 1989.

See: 21 N.J.R. 1109(a), 21 N.J.R. 1837(a).

#### **19:25-15.54 Complaint alleging failure to participate in debate**

(a) Any complaint filed with the Commission alleging failure of a general election candidate to participate in a required debate shall:

1. Be in writing and be verified; and
2. 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.

New Rule, R.1989 d.341, effective June 5, 1989.  
See: 21 N.J.R. 1109(a), 21 N.J.R. 1837(a).  
Amended by R.1993 d.207, effective May 17, 1993.  
See: 25 N.J.R. 910(a), 25 N.J.R. 1994(a).  
Revised (b).

#### **19:25-15.55 Temporary cessation of distribution of public funds**

(a) Upon receipt by the Commission of a verified complaint alleging failure to participate in a debate, 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 and certification of any public fund amounts which have been requested by the respondent candidate from the Commission and which have not previously been approved; and

2. Schedule a hearing before it 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.

New Rule, R.1989 d.341, effective June 5, 1989.  
See: 21 N.J.R. 1109(a), 21 N.J.R. 1837(a).

#### **19:25-15.56 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.

3. Justification and excuse shall be deemed to be affirmative defenses for the purposes of this subsection.

(b) 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.

New Rule, R.1989 d.341, effective June 5, 1989.  
See: 21 N.J.R. 1109(a), 21 N.J.R. 1837(a).

#### **19:25-15.57 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 Uniform Administrative Procedure Rules, N.J.A.C. 1:1.

(c) The complainant shall have the burden of proving non-participation 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 Uniform Administrative 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.

New Rule R.1989 d.341, effective June 5, 1989.  
See: 21 N.J.R. 1109(a), 21 N.J.R. 1837(a).

#### **19:25-15.58 Final decision of non-participation**

(a) At the conclusion of a hearing, the Commission shall determine by majority vote:

1. Whether a candidate required to participate in a general election debate has failed to do so;

2. 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 it is determined by the Commission that the respondent candidate failed to participate in a general election debate without reasonable justification or excuse, the Commission shall:

1. Calculate the total amount of public moneys distributed by the Commission pursuant to N.J.S.A. 19:44A-33 to the respondent candidate for campaign expenses;

2. Notify the respondent candidate and campaign treasurer in writing of the total dollar amount of the liability of the campaign for repayment and of the interest due upon the amount at the rate of one percent for each month or fractional part of a month during which the liability remains unpaid; and

3. Cease certification of any further public fund amounts to the candidate.

(d) Within 10 calendar days of receipt of notification of the amount of repayment required to the Commission, the respondent candidate and his or her campaign shall submit to the Commission a written schedule for repayment of public funds which specifies dates and amount of repayment installments.

New Rule, R.1989 d.341, effective June 5, 1989.  
See: 21 N.J.R. 1109(a), 21 N.J.R. 1837(a).

#### **19:25-15.59 Inaugural event contribution limit; reporting**

(a) No person, candidate, political committee, or continuing political committee otherwise eligible to make political contributions, shall make any contribution or contributions for the purpose of any gubernatorial inaugural fund raising event or events in the aggregate in excess of \$500.00. A contributor to a gubernatorial inaugural fund raising event may make a contribution not to exceed \$500.00 in the aggregate notwithstanding any contribution by such contributor to a candidate for election to the office of Governor.

(b) No person or committee sponsoring a gubernatorial inaugural fund raising event shall accept for deposit in any bank account maintained for the purposes of such event any contribution or contributions from a contributor in the aggregate in excess of \$500.00.

(c) Any person or committee sponsoring a gubernatorial inaugural fund raising event shall appoint a treasurer and designate a bank account no later than the 10th day after receiving any contribution or expending any money for the gubernatorial inaugural fund raising event, and shall file with the commission the name and mailing address of the appointed treasurer and the bank name, mailing address and number of the designated bank account no later than the tenth day after receiving any contribution or expending any money for the gubernatorial inaugural fund raising event.

(d) Any person or committee sponsoring a gubernatorial inaugural fund raising event shall make a full report to the commission of all contributions and expenditures with respect to the event within 45 days following the event in accordance with the provisions of the act, and the designated treasurer shall certify the correctness of such report and shall file reports and certify their correctness every 60 days thereafter until all obligations are liquidated and the account closed.

As amended, R.1984 d.561, effective December 17, 1984.  
See: 16 N.J.R. 2765(a), 16 N.J.R. 3485(b).

(c) and (d) substantially amended.  
Amended by R.1989 d.341, effective June 5, 1989.  
See: 21 N.J.R. 1109(a), 21 N.J.R. 1837(a).

Recodified from N.J.A.C. 19:25-15.47 and inaugural event contribution limit increased from \$250.00 to \$500.00.

#### **19:25-15.60 Inaugural event contributions from joint checking account**

(a) A contribution to a gubernatorial fund raising event by check drawn on a joint checking account shall be deemed to be made by the joint checking account owner whose signature appears on the check.

(b) If a check drawn on a joint checking account bears the signatures of more than one contributing owner, the contribution will be deemed to have been made equally by all contributing owners whose signatures appear on the check.

(c) If a check drawn on a joint checking account is accompanied by a written statement signed by each contributing owner and containing information identifying the amount of contribution of each contributing owner, the amount of the contribution made by each contributing owner shall be determined as specified in the signed written statement.

New Rule R.1986 d.225, effective June 16, 1986.  
See: 18 N.J.R. 631(a), 18 N.J.R. 1311(b).  
Recodified by R.1989 d.341, effective June 5, 1989.  
See: 21 N.J.R. 1109(a), 21 N.J.R. 1837(a).  
Recodified from N.J.A.C. 19:25-15.48.

#### **19:25-15.61 Inaugural event contributions from affiliated corporations or unions**

A corporation, association or labor organization or any subsidiary, affiliate, branch, division, department or local unit of any such corporation, association or labor organization shall not make any contribution to a gubernatorial fund raising event which, when added to any other contribution by any related or affiliated corporation, association or labor organization, exceeds \$500.00 in the aggregate. 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 contributions and the degree to which the decisions whether or not to contribute, to what candidate and in what amount are independent decisions.

New Rule R.1986 d.225, effective June 16, 1986.

See: 18 N.J.R. 631(a), 18 N.J.R. 1311(b).

Amended by R.1989 d.341, effective June 5, 1989.

See: 21 N.J.R. 1109(a), 21 N.J.R. 1837(a).

Recodified from N.J.A.C. 19:25-15.49 and increased inaugural event contribution limit from \$250.00 to \$500.00.

#### **19:25-15.62 Inaugural event contributions from partnerships or unincorporated associations**

A contribution to a gubernatorial fund raising event by check drawn on a partnership account, or on an account of an unincorporated association or business, shall be deemed to be made by the individual whose signature appears on the check unless specific identification as to the contribution by other partners or members is contained on the check or on an accompanying written statement and the check is signed by each partner or member who is a contributor.

New Rule R.1986 d.225, effective June 16, 1986.

See: 18 N.J.R. 631(a), 18 N.J.R. 1311(b).

Recodified by R.1989 d.341, effective June 5, 1989.

See: 21 N.J.R. 1109(a), 21 N.J.R. 1837(a).

Recodified from N.J.A.C. 19:25-15.50.

#### **19:25-15.63 Inaugural event contributions from children or trusts**

(a) A contribution to a gubernatorial fund raising event by a child under the age of 18 shall be deemed made by the parent who is responsible for the contribution unless:

1. The child is 14 years of age or older and a signed statement from the child and the child's parent or guardian is submitted to the commission that the decision to contribute was solely that of the child and the funds used to make the contribution were legally and beneficially controlled by the child and were not the proceeds of a gift made for the purpose of the contribution; or

2. The child is 11 years old or older and, in addition to the signed statements set forth in (a)1 above, evidence is submitted satisfactory to the commission that the child acted independently and with full knowledge of the contribution.

(b) A contribution to a gubernatorial fund raising event by a check drawn on an escrow or trust account shall be deemed to be made by the person who is the beneficial owner of the account, and the check or an accompanying written instrument must bear the signature of such beneficial owner.

New Rule R.1986 d.225, effective June 16, 1986.

See: 18 N.J.R. 631(a), 18 N.J.R. 1311(b).

Recodified by R.1989 d.341, effective June 5, 1989.

See: 21 N.J.R. 1109(a), 21 N.J.R. 1837(a).

Recodified from N.J.A.C. 19:25-15.51.

#### **19:25-15.64 Contributions and loans prior to candidacy**

(a) Each candidate for the office of Governor who did not participate in the preceding primary election, whether or not intending to participate in public funding of the general election for Governor, shall certify to the Commission in writing within 10 days after the date of commencement of his or her candidacy that:

1. The candidate did not have a "testing the waters" account; or

2. The candidate did have a "testing the waters" account. In that event, the candidate shall notify the Commission whether the "testing the waters" account is to be designated as the matching fund account and whether contributions from the "testing the waters" account are to be deposited into the matching fund account.

3. No contributions in excess of \$1,800 in the aggregate from a person, political committee, or continuing political committee had theretofore been received for pre-candidacy "testing the waters" activity; or contributions in excess of \$1,800 in the aggregate have been received for that purpose, and the amount of each contribution in excess of \$1,800 in the aggregate has been returned to the contributor. The certification shall include:

i. A list of all contributors who contributed more than \$1,800 and the dates and amounts of all such contributions; and

ii. Written evidence such as photocopy of check, showing that such excess amounts have been returned to the contributor.

(b) In addition to any other penalty provided by law, a candidate failing to make the certification in (a)2 above with respect to excess contributions will not be eligible to receive matching funds.

(c) Each candidate who receives contributions for pre-candidacy "testing the waters" activity and intends to qualify such contributions for matching funds must designate the "testing the waters" account as the matching fund account, or deposit such contributions in the matching fund account, within 10 days after the date of commencement of the candidacy. Each such candidate must also comply with the other provisions of N.J.A.C. 19:25-15.17, Matching of funds. Except as otherwise provided in (d) below, contributions for pre-candidacy "testing the waters" activity not so deposited will not be eligible for match.

(d) Contributions spent for pre-candidacy "testing the waters" activity will be eligible to be matched with public funds if the candidate submits the information required by N.J.A.C. 19:25-15.17, Matching of funds, and, at the same time, in lieu of evidence of deposit of such contributions in a matching fund account pursuant to N.J.A.C. 19:25-15.17(b), submits evidence of deposit in a "testing the waters" account established pursuant to N.J.A.C. 19:25-15.5. Contributions expended which have not been deposited in the matching fund account established pursuant to N.J.A.C. 19:25-15.17, Matching of funds, will not be eligible to be matched with public funds.

(e) Any candidate who contributed or expended for pre-candidacy "testing the waters" activity an amount in excess of \$25,000 from his or her own funds shall reimburse his or her campaign account within 10 days after the date of commencement of the candidacy, such amount in excess of \$25,000 so contributed and expended, and shall certify to the Commission that such reimbursement has been made.

(f) Any candidate who borrowed an amount in the aggregate in excess of \$50,000 shall repay within 10 days after the date of commencement of the candidacy such amount in excess of \$50,000 so borrowed, and shall certify to the Commission that such excess amount has been repaid.

New Rule, R.1989 d.341, effective June 5, 1989.

See: 21 N.J.R. 1109(a), 21 N.J.R. 1837(a).

Amended by R.1993 d.207, effective May 17, 1993.

See: 25 N.J.R. 910(a), 25 N.J.R. 1994(a).

Revised (a)3.

### **19:25-15.65 Complaints alleging violation of general election expenditure limit**

(a) Any complaint filed with the Commission alleging violation by a general election candidate receiving public matching funds of the general election expenditure limit in N.J.A.C. 19:25-15.11(a)3 shall:

1. Be in writing and be verified; and
2. Contain a detailed statement alleging with specificity all facts known to the complainant pertinent to the alleged violation of the general election expenditure limit.

(b) Service of a complaint alleging violation of the general election expenditure limit shall be made by the complainant by personal service or by certified mail, return receipt requested, upon the respondent candidate, the Commission, and any person named in the complaint.

New Rule, R.1993 d.207, effective May 17, 1993.

See: 25 N.J.R. 910(a), 25 N.J.R. 1994(a).

## **SUBCHAPTER 16. PUBLIC FINANCING OF PRIMARY ELECTION FOR GOVERNOR**

### **19:25-16.1 Scope of subchapter**

The provisions of this subchapter shall be applicable to the primary election campaign for nomination for election to the office of Governor of New Jersey in June 1981 and every such primary gubernatorial campaign held thereafter, except that the provisions shall not apply to any primary election campaign for nomination for the office of Governor for which the Legislature fails to make an appropriation for public funding.

### **19:25-16.2 Definitions; generally**

The words and terms used in this subchapter are used as defined in this subchapter or in N.J.A.C. 19:25-1.7.

### **19:25-16.3 Definitions for this subchapter**

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

"Candidate" means anyone who has filed a nominating petition, or has filed a form D-1 with the commission, or has solicited contributions or made or incurred expenditures on behalf of his or her candidacy, or has allowed others to solicit contributions or make or incur expenditures on behalf of his or her candidacy for nomination for election to the office of Governor of New Jersey in any primary election for which the Legislature makes an appropriation for public funding.

"Contribution" is used as defined in N.J.A.C. 19:25-1.7 and includes loans, except that a loan in the ordinary course of business by a bank pursuant to section 15 of P.L. 1980, c.74 (N.J.S.A. 19:44A-44) is not a contribution by that bank.

"Contribution eligible for match" means contributions from one contributor to be matched from public funds on a two-for-one basis. No contribution which must be or is intended by the contributor or the recipient to be refunded or repaid at any time, no loan obtained pursuant to section 15 of P.L. 1980, c.74 (N.J.S.A. 19:44A-44), no amount of the candidate's own funds in the aggregate in excess of \$1,800, no in-kind contribution and no other moneys received by the candidate, his or her campaign treasurer, or deputy campaign treasurer, except those contributions described in subsection (a) of section 5 of P.L. 1980, c.74 (N.J.S.A. 19:44A-29(a)), shall be deemed contributions eligible for match. Funds received by an individual who is testing the waters may be matched when the individual becomes a candidate, if such contributions meet all the requirements of the regulation.

"Debate sponsor" means the private organization or organizations to which the Commission has delegated the responsibility for conducting one or more of the televised interactive primary election debates.

"Depository bank account" means the campaign bank account designated by a candidate pursuant to N.J.S.A. 19:44A-9 for the deposit pursuant to N.J.S.A. 19:44A-12 of funds received by the campaign treasurer.

"Independent expenditure" is an expenditure in aid of a candidate which is not made with the cooperation or prior consent of, or in consultation with or at the request or suggestion of, the candidate or any person or committee acting on behalf of the candidate.

"Interactive primary election debate" means the moderated reciprocal discussion of issues among the candidates of a political party which involves responses by the candidates to questions posed by the representative or representatives of the sponsor organization.

"Matching fund account" means the campaign bank account opened pursuant to N.J.S.A. 19:44A-32 by a campaign treasurer of a candidate, or deputy campaign treasurer, in which only contributions eligible for match may be deposited.

"Non-participating candidate" means any candidate who does not make application for public funding in a primary election pursuant to N.J.A.C. 19:25-16.18 (Matching of funds), or who is not a "qualified candidate" as that term is defined by N.J.A.C. 19:25-16.3. In no case shall a candidate who qualifies for and receives any public funding for a primary election be subsequently deemed a non-participating candidate for that election.

"Own funds" means funds to which the candidate is legally and beneficially entitled, but shall not include funds as to which he or she is a trustee or funds given or otherwise transferred to the candidate by any person other than the spouse of the candidate for use in aid of his or her candidacy.

"Person" includes corporations, associations and labor unions. For purposes of this subchapter, person does not include a political committee. A spouse of any person is deemed to be a separate person.

"Political committee" means any two or more persons acting jointly, or any corporation, partnership or any other incorporated or unincorporated association which is organized to, or does aid or promote the nomination, election, or defeat of a candidate for nomination for the office of Governor, but shall not mean a duly constituted State, county or municipal committee of a political party. When used in this subchapter, "political committee" shall include "continuing political committee" as defined in N.J.S.A. 19:44A-3(n)(2).

"Principal campaign committee" means the political committee designated by the candidate to receive contributions and make expenditures on behalf of his or her candidacy.

"Public fund account" means the campaign bank account maintained by the commission pursuant to N.J.A.C. 19:25-16.20 on behalf of a qualified candidate and for the deposit of public matching funds.

"Qualified candidate" means:

1. Any candidate for nomination for election to the office of Governor whose name appears on the primary election ballot and who has deposited and expended \$177,000 pursuant to N.J.S.A. 19:44A-32; and who, not later than the last day for filing petitions to nominate candidates to be voted upon in a primary election for a general election in which the office of Governor is to be filled, notifies the Election Law Enforcement Commission in writing that the candidate intends that application will be made on the candidate's behalf for monies for primary election campaign expenses pursuant to N.J.S.A. 19:44A-33, and signs a statement of agreement, in a form to be prescribed by the Commission, to participate in two interactive gubernatorial primary election debates; or

2. Any candidate for nomination for election to the office of Governor whose name does not appear on the primary election ballot, but who has deposited and expended \$177,000 pursuant to N.J.S.A. 19:44A-32 and who, not later than the last day for filing petitions to nominate candidates to be voted upon in a primary election for a general election in which the office of Governor is to be filled, notifies the Election Law Enforcement Commission in writing that the candidate intends that application will be made on the candidate's behalf for monies for primary election campaign expenses pursuant to N.J.S.A. 19:44A-33, and signs a statement of agreement, in a form to be prescribed by the Commission, to participate in two interactive gubernatorial primary election debates.

"Statement of agreement" means a written declaration, by a candidate for nomination for election to the office of Governor who intends that application will be made on that candidate's behalf to receive monies for primary election campaign expenses pursuant to N.J.S.A. 19:44A-33, that the candidate undertakes to abide by the terms of any rules established by any private organization sponsoring a gubernatorial primary election debate in which the candidate is to participate. The statement of agreement shall include an acknowledgment of notice to the candidate who signs it that failure on that candidate's part to participate in any of the gubernatorial primary election debates may be cause for termination of the payment of such monies on the candidate's behalf and for the imposition of liability for the return to the Commission of such monies as may previously have been so paid.

Amended by, R.1983 d.287, effective July 18, 1983.

See: 15 N.J.R. 616(a), 15 N.J.R. 1182(e).

New language added to definition "contribution eligible for match": "Funds received of the regulations."

"contributed" changed to "deposited", in "matching fund account". Amended by R.1984 d.561, effective December 17, 1984.

See: 16 N.J.R. 2765(a), 16 N.J.R. 3485(b).

Amended by R.1985 d.239, effective May 20, 1985.

See: 17 N.J.R. 684(a), 17 N.J.R. 1335(b).

Added definition "Political committee".

Emergency amendment, R.1989 d.181, effective March 6, 1989 (expires May 5, 1989).

See: 21 N.J.R. 788(b).

Adopted concurrent proposal, R.1989 d.263, effective April 24, 1989.

See: 21 N.J.R. 788(b), 21 N.J.R. 1380(a).

Provisions of emergency amendment R.1989 d.181 readopted without change. Contribution limit increased from \$800.00; candidate threshold increased from \$50,000.00; added definitions for "debate sponsor", "interactive primary election debate" and "statement of agreement". Amended by R.1992 d.458, effective November 16, 1992.

See: 24 N.J.R. 3026(a), 24 N.J.R. 4274(a).

Added definition "principal campaign committee".

Amended by R.1992 d.516, effective December 21, 1992.

See: 24 N.J.R. 3690(b), 24 N.J.R. 4561(a).

Revised definitions "Contribution eligible for match" and "Qualified candidate".

#### 19:25-16.4 Appointment of treasurers and depositories

(a) Each candidate in a primary election, whether or not publicly declared and whether or not intending to participate in public funding, shall:



1. Designate the name and address of his or her principal campaign committee for the primary election;
2. Appoint a campaign treasurer;
3. Designate a depository bank account; and
4. Notify the commission pursuant to N.J.A.C. 19:25-5.2 (Appointment by candidates) of such appointment and designation no later than the 10th day after receipt of any contribution or after incurring or making any expenditure, whichever comes first.

As amended, R.1983 d.287, effective July 18, 1983.  
See: 15 N.J.R. 616(a), 15 N.J.R. 1182(e).

(a): substantially amended.

(b) and (c): deleted.

As amended, R.1984 d.561, effective December 17, 1984.

See: 16 N.J.R. 2765(a), 16 N.J.R. 3485(b).

New rule, R.1988 d.447, effective September 19, 1988.

See: 20 N.J.R. 1339(a), 20 N.J.R. 2395(a).

Repealed "Designation of principal campaign committee".

### 19:25-16.5 Pre-candidacy activity

(a) All funds or other benefits received and payments made pursuant to N.J.A.C. 19:25-3.1 by an individual, or a committee in his or her behalf, solely for the purpose of determining whether that individual should become a candidate (for example, "testing the waters") are not contributions or expenditures. All funds so received shall be deposited in a separate depository established solely for that purpose. The individual or committee shall keep written records of all such funds received and payments made for a period of not less than four years after the transaction to which they relate occurred or four years after the date of the election to which they are relevant, whichever is longer.

(b) An individual, or a committee on that individual's behalf, shall file with the Commission a notice containing the name, address and account number of the depository established pursuant to (a) above not later than 10 days after the receipt of funds for the purpose of determining whether that individual should become a candidate.

(c) In the event the individual on whose behalf funds are received and payments made solely for the purpose of determining whether the individual should become a candidate does in fact become a candidate, the funds received and payments made are contributions subject to the contribution limit contained in N.J.A.C. 19:25-16.10 and expenditures subject to the expenditure limit contained in N.J.A.C. 19:25-16.9(a)3 and shall be reported with the first report filed by the candidate or the campaign committee of the candidate, regardless of the date the funds were received or the payments made. This exemption does not apply to funds received or payments made for general public political advertising; nor does this exemption apply to funds received or payments made for activities designed to amass campaign funds that would be spent after the individual becomes a candidate. In no instance shall permissible activities conducted solely for the purpose of determining whether an

individual will become a candidate be confined or limited on the basis of total funds received or payments made for such purpose.

(d) The separate depository established pursuant to (a) above may be designated by that individual as the matching fund account under N.J.A.C. 19:25-16.18(b), provided that the account and all the contributions deposited in it meet all of the requirements of N.J.A.C. 19:25-16.18(b).

Amended by R.1983 d.287, effective July 18, 1983.

See: 15 N.J.R. 616(a), 15 N.J.R. 1182(e).

(b) and (c) added.

Amended by R.1984 d.561, effective December 17, 1984.

See: 16 N.J.R. 2765(a), 16 N.J.R. 3485(b).

(a) substantially amended.

Amended by R.1988 d.447, effective September 19, 1988.

See: 20 N.J.R. 1339(a), 20 N.J.R. 2395(a).

Substantially amended.

### 19:25-16.6 Contribution limits; applicability

(a) Each candidate, whether or not intending to participate in public funding, and each campaign treasurer or deputy campaign treasurer of such candidate shall not knowingly accept from any person, candidate or political committee any contribution in aid of the candidacy of or in behalf of such candidate in the aggregate in excess of \$1,800 in any primary election.

(b) Contributions from a joint account by one owner of the account may not be attributed to other owners of the account.

(c) Contributions by children under the age of 18 shall be attributed to the parent who is responsible for the contribution and not to the child unless:

1. The child is 14 years of age or older and a signed statement from the child and the child's parent or guardian is submitted to the commission that the decision to contribute was solely that of the child and the funds used to make the contribution were legally and beneficially controlled by the child and are not the proceeds of a gift made for the purpose of contribution; or

2. The child is 11 years old or older and, in addition to the signed statement set forth in paragraph (c)1 above, evidence is submitted satisfactory to the commission that the child acted independently and with full knowledge of the contribution.

Amended by R.1984 d.561, effective December 17, 1984.

See: 16 N.J.R. 2765(a), 16 N.J.R. 3485(b).

Added (c)1 and 2.

Emergency amendment, R.1989 d.181, effective March 6, 1989 (expires May 5, 1989).

See: 21 N.J.R. 788(b).

Adopted concurrent proposal, R.1989 d.263, effective April 24, 1989.

See: 21 N.J.R. 788(b), 21 N.J.R. 1380(a).

Provisions of emergency amendment R.1989 d.181 readopted without change. Limit increased from \$800.00 to \$1,500.00.

Amended by R.1992 d.516, effective December 21, 1992.

See: 24 N.J.R. 3690(b), 24 N.J.R. 4561(a).

Revised (a).

### 19:25-16.7 Candidates deemed non-participating; effect

Any candidate who does not by the last day for filing petitions to nominate candidates to be voted upon in a primary election for governor make application for public funding in a primary election pursuant to N.J.A.C. 19:25-16.18 (Matching of funds) shall be deemed non-participating in public funding of that primary election and shall not receive public funds on behalf of his or her campaign.

Amended by R.1984 d.561, effective December 17, 1984.

See: 16 N.J.R. 2765(a), 16 N.J.R. 3485(b).

Emergency amendment, R.1989 d.181, effective March 6, 1989 (expires May 5, 1989).

See: 21 N.J.R. 788(b).

Adopted concurrent proposal, R.1989 d.263, effective April 24, 1989.

See: 21 N.J.R. 788(b), 21 N.J.R. 1380(a).

Provisions of emergency amendment R.1989 d.181 readopted without change. Language added regarding deadline for application as being "last day for filing petitions . . ."; (b) deleted. Language incorporated in first paragraph.

### 19:25-16.8 Non-participating candidates; generally

(a) A non-participating candidate is subject to the \$1,800 limitation on contributions from a person or political committee, pursuant to section 5 of P.L. 1980, c.74 (N.J.S.A. 19:44A-29).

(b) A non-participating candidate is subject to the \$1,800 limit on guarantors of bank loans, except if the guarantor is the non-participating candidate himself or herself.

(c) A non-participating candidate is not subject to the overall campaign expenditure limit contained in section 2 of P.L. 1980, c.74 (N.J.S.A. 19:44A-7); is not subject to the \$25,000 limit on own funds contained in section 5 of P.L. 1980, c.74 (N.J.S.A. 19:44A-29); is not subject to the \$50,000 limit on bank loans contained in section 8 of P.L. 1980, c.74 (N.J.S.A. 19:44A-33); and is not subject to any limits on the amount of bank loans to be guaranteed by the candidate personally.

Amended by R.1984 d.561, effective December 17, 1984.

See: 16 N.J.R. 2765(a), 16 N.J.R. 3485(b).

Emergency amendment, R.1989 d.181, effective March 6, 1989 (expires May 5, 1989).

See: 21 N.J.R. 788(b).

Adopted concurrent proposal, R.1989 d.263, effective April 24, 1989.

See: 21 N.J.R. 788(b), 21 N.J.R. 1380(a).

Provisions of emergency amendment R.1989 d.181 readopted without change. Limit on contributions increased from \$800.00 to \$1,500.00.

Amended by R.1992 d.516, effective December 21, 1992.

See: 24 N.J.R. 3690(b), 24 N.J.R. 4561(a).

Revised (a) and (b).

### 19:25-16.9 Limitations on participating candidates

(a) Each candidate intending to participate in public funding, in addition to any other requirement imposed by the act (N.J.S.A. 19:44A-1 et seq.) or these regulations, is subject to the following limitations:

1. No candidate receiving public funds may make expenditures from his or her own funds, including any contributions from his or her own funds, in aid of his or her candidacy in excess of \$25,000. Any loan guaranteed with such candidate's own funds must be included in calculating the aggregate contribution of the candidate in aid of his or her candidacy until such time as the loan is no longer outstanding.

2. No candidate, or his or her campaign treasurer or deputy campaign treasurer, shall borrow an amount that at any one time exceeds \$50,000 in the aggregate, and such loan must be repaid in full not later than 20 days prior to the primary election for which the loan was made from moneys accepted or allocated pursuant to section 5 of P.L. 1980, c.74 (N.J.S.A. 19:44A-29). Certification of such repayment shall be made by the borrower to the commission in accordance with N.J.A.C. 19:25-16.30 (Borrowing of funds, repayment).

3. The amount which any qualified candidate may spend in aid of his or her candidacy shall not exceed \$2,600,000, which amount shall include all expenditures for testing the waters activity prior to candidacy. Such amount shall not include expenditures listed in N.J.A.C. 19:25-16.27.

4. Contributions by any candidate in excess of \$1,800 from his or her own funds in aid of his or her candidacy shall not be deposited in a matching fund account and shall not be calculated in determining if such candidate is a qualified candidate eligible for public matching funds.

Amended by R.1983 d.287, effective July 18, 1983.

See: 15 N.J.R. 616(a), 15 N.J.R. 1182(e).

(a)3: "except that such" deleted and "which amount . . . candidacy. Such" added.

Amended by R.1984 d.561, effective December 17, 1984.

See: 16 N.J.R. 2765(a), 16 N.J.R. 3485(b).

Emergency amendment, R.1989 d.181, effective March 6, 1989 (expires May 5, 1989).

See: 21 N.J.R. 788(b).

Adopted concurrent proposal, R.1989 d.263, effective April 24, 1989.

See: 21 N.J.R. 788(b), 21 N.J.R. 1380(a).

Provisions of emergency amendment R.1989 d.181 readopted without change. Candidate spending formula deleted and replaced with flat amount of \$2,200,000.00 and contribution limit increased from \$800.00 to \$1,500.00.

Amended by R.1992 d.516, effective December 21, 1992.

See: 24 N.J.R. 3690(b), 24 N.J.R. 4561(a).

Revised (a)3 and 4.

**19:25-16.10 Who may or may not contribute; generally**

(a) No person or political committee, other than a candidate contributing his or her own funds to his or her campaign, shall make any contribution to any candidate, the candidate's campaign treasurer or deputy campaign treasurer, or to any other person or committee, in aid of the candidacy of or in behalf of a candidate, whether or not participating in public funding, for nomination for election to the office of Governor in a primary election, in the aggregate in excess of \$1,800. Any such contribution in excess of \$1,800 must be promptly returned to the contributor, and evidence of the repayment shall be submitted to the Commission. Notwithstanding the provision of N.J.S.A. 19:44A-3(i) and N.J.A.C. 19:25-1.7 excluding "continuing political committees" from the meaning of "political committees", the term "political committee" as it appears in N.J.S.A. 19:44A-29(a) and this subsection shall include "continuing political committees" as defined in N.J.S.A. 19:44A-3(n)(2).

(b) Subject to the limitations contained in this subchapter and the act, any person may contribute to more than one candidate.

(c) A corporation, association or labor organization 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 which, when added to any other contribution by any related or affiliated corporation, association or labor organization, exceeds \$1,800 in the aggregate. 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.

Amended by R.1984 d.561, effective December 17, 1984.

See: 16 N.J.R. 2765(a), 16 N.J.R. 3485(b).

Amended by R.1985 d.239, effective May 20, 1985.

See: 17 N.J.R. 684(a), 17 N.J.R. 1335(b).

Added text to (a) "Notwithstanding the provision ... in N.J.S.A. 19:44A-3(n)(2)."

Emergency amendment, R.1989 d.181, effective March 6, 1989 (expires May 5, 1989).

See: 21 N.J.R. 788(b).

Adopted concurrent proposal, R.1989 d.263, effective April 24, 1989.

See: 21 N.J.R. 788(b), 21 N.J.R. 1380(a).

Provisions of emergency amendment R.1989 d.181 readopted without change. Contribution limit increased from \$800.00 to \$1,500.00.

Amended by R.1992 d.516, effective December 21, 1992.

See: 24 N.J.R. 3690(b), 24 N.J.R. 4561(a).

Revised (a) and (c).

**19:25-16.11 Contributions eligible for match; generally**

(a) To be eligible for matching with public funds for a gubernatorial primary election, a contribution must have

been received by a candidate at a time when that candidate was seeking or had sought nomination for election for the office of Governor, except that a contribution received and deposited pursuant to N.J.A.C. 19:25-16.5 (Pre-candidacy activity) for the purpose of determining whether an individual should become a candidate for nomination for election for the office of Governor shall be eligible. Any funds received prior to the inception of such a candidacy, or prior to the inception of fund raising activity to determine whether an individual should become a candidate for nomination for election for the office of Governor and not deposited pursuant to N.J.A.C. 19:25-16.5 shall not be eligible for match.

(b) Only contributions in cash or by check, money order or negotiable instruments shall be contributions eligible for match. Loans shall not be eligible for match. In-kind contributions shall not be eligible for match, but will count toward the individual contribution limit of \$1,800 and the overall expenditure limit contained in section 2 of P.L. 1980, c.74 (N.J.S.A. 19:44A-7) except for expenses not subject to expenditure limits pursuant to N.J.A.C. 19:25-16.27. The total of all contributions eligible for match from any person or political committee shall not exceed \$1,800 in the aggregate.

(c) A maximum of \$1,800 in the aggregate of a candidate's own funds may be deposited in the matching fund account.

(d) Every contribution eligible for match must be accompanied by a written statement which shall identify the individual making the contribution by full name and full mailing address (number, street, city, state, zip code), the name of the candidate, the amount and date of receipt of the contribution, and shall bear the signature of the contributor. The requirement of such written statement will be deemed to be satisfied in the case where a contribution is made by means of a check, money order or other negotiable instrument payable on demand and to the order of, or specially endorsed without qualification to, the candidate or to his or her campaign committee, if such check, money order or instrument contains all of the foregoing information.

(e) A contribution received from a contributing member of a political committee which has made a prior contribution to the candidate shall be eligible for matching funds, provided that the political committee is a bona fide political entity with at least 15 contributing members and was not created to circumvent the contribution limit contained in the act.

Amended by R.1984 d.561, effective December 17, 1984.

See: 16 N.J.R. 2765(a), 16 N.J.R. 3485(b).

Amended by R.1988 d.447, effective September 19, 1988.

See: 20 N.J.R. 1339(a), 20 N.J.R. 2395(a).

Substantially amended.

Amended by R.1989 d.99, effective February 21, 1989.

See: 20 N.J.R. 2640(a), 21 N.J.R. 458(a).

Added text to (d) "receipt of".

Emergency amendment, R.1989 d.181, effective March 6, 1989 (expires May 5, 1989).

See: 21 N.J.R. 788(b).

Adopted concurrent proposal, R.1989 d.263, effective April 24, 1989.

See: 21 N.J.R. 788(b), 21 N.J.R. 1380(a).

Provisions of emergency amendment R.1989 d.181 readopted without change. Contribution limit increased from \$800.00 to \$1,500.00.

Amended by R.1992 d.516, effective December 21, 1992.

See: 24 N.J.R. 3690(b), 24 N.J.R. 4561(a).

Revised (b) and (c).

### 19:25-16.12 Contributions and loans prior to candidacy

(a) Each candidate, whether or not intending to participate in public funding, shall certify to the Commission in writing within 10 days after the date of commencement of his or her candidacy that:

1. The candidate did not have a "testing the waters" account; or

2. The candidate did have a "testing the waters" account. In that event, the candidate shall notify the Commission whether the "testing the waters" account is to be designated as the matching fund account and whether contributions from the "testing the waters" account are to be deposited into the matching fund account.

3. No contribution in excess of \$1,800 in the aggregate from a person or political committee had theretofore been received for pre-candidacy "testing the waters" activity; or contributions in excess of \$1,800 in the aggregate have been received for that purpose, and the amount of each contribution in excess of \$1,800 in the aggregate has been returned to the contributor. The certification shall include:

i. A list of all contributors who contributed more than \$1,800 and the dates and amounts of all such contributions; and

ii. Written evidence such as photocopy of check, showing that such excess amounts have been returned to the contributor.

(b) In addition to any other penalty provided by law, a candidate failing to make the certification in (a)2 above with respect to excess contributions will not be eligible to receive matching funds.

(c) Each candidate who receives contributions for pre-candidacy "testing the waters" activity and intends to qualify such contributions for matching public funds must designate the "testing the waters" account as the matching fund account, or deposit such contributions in the matching fund account, within 10 days after the date of commencement of the candidacy. Each such candidate must also comply with the other provisions of N.J.A.C. 19:25-16.18 (Matching of funds). Except as otherwise provided in (d) below, contributions for pre-candidacy "testing the waters" activity not so deposited will not be eligible for match.

(d) Contributions spent for pre-candidacy "testing the waters" activity will be eligible to be matched with public funds if the candidate submits the information required by N.J.A.C. 19:25-16.18 (Matching of funds), and, at the same time, in lieu of evidence of deposit of such contributions in a matching fund account pursuant to N.J.A.C. 19:25-16.18(b), submits evidence of deposit in a "testing the waters" account established pursuant to N.J.A.C. 19:25-16.5(b). Contributions expended which have not been deposited in the matching fund account established pursuant to N.J.A.C. 19:25-16.18 (Matching of funds) will not be eligible to be matched with public funds.

(e) Any candidate who contributed or expended for pre-candidacy "testing of waters" activity an amount in excess of \$25,000 from his or her own funds shall reimburse his campaign account within 10 days after the date of commencement of the candidacy, such amount in excess of \$25,000 so contributed and expended, and shall certify to the commission that such reimbursement has been made.

(f) Any candidate who borrowed an amount in the aggregate in excess of \$50,000 shall repay within 10 days after the date of commencement of the candidacy such amount in excess of \$50,000 so borrowed, and shall certify to the commission that such excess amount has been repaid.

Amended by R.1983 d.287, effective July 18, 1983.

See: 15 N.J.R. 616(a), 15 N.J.R. 1182(e).

Section substantially amended.

Amended by R.1984 d.561, effective December 17, 1984.

See: 16 N.J.R. 2765(a), 16 N.J.R. 3485(b).

Emergency amendment, R.1989 d.181, effective March 6, 1989 (expires May 5, 1989).

See: 21 N.J.R. 788(b).

Adopted concurrent proposal, R.1989 d.263, effective April 24, 1989.

See: 21 N.J.R. 788(b), 21 N.J.R. 1380(a).

Provisions of emergency amendment R.1989 d.181 readopted without change. Contribution limit increased from \$800.00 to \$1,500.00.

Amended by R.1992 d.516, effective December 21, 1992.

See: 24 N.J.R. 3690(b), 24 N.J.R. 4561(a).

Revised (a).

### 19:25-16.13 Contributions eligible for match; checks and instruments

(a) In the case of a check drawn on a joint checking account, the contributor shall be deemed to be the owner whose signature appears on the check. The check will not be attributed equally or otherwise to other joint owners of the account, unless the check or other accompanying written instrument contains the signature of each contributing owner and information identifying the amount of contribution of each such owner. In the absence of specific instructions to the contrary, the contribution will be allocated equally among all owners whose signatures appear on the instrument.

(b) In the case of a check drawn on an escrow or trust account, the contribution will be that of the person who is the beneficial owner of the account, and the check or other accompanying written instrument must bear the signature of such beneficial owner.

(c) In the case of a check drawn on a partnership account or on the account of an unincorporated association or business, the check will be deemed to be the contribution of the individual whose signature appears on the check unless specific identification as to the contribution by other partners or members is contained on the check or other accompanying written instrument and the check or other accompanying written instrument is signed by each partner or member who is a contributor.

As amended, R.1984 d.561, effective December 17, 1984.

See: 16 N.J.R. 2765(a), 16 N.J.R. 3485(b).

Added text "or other accompanying written instrument".

#### 19:25-16.14 Limitation on contributions eligible for match

(a) Any contribution in the form of the purchase price paid for an item with significant intrinsic and enduring value (such as a watch) shall be eligible for match only to the extent the purchase price exceeds the fair market value of the item or benefit conferred on the contributor, and only the excess will be included in calculating the \$1,800 contribution limit.

(b) A contribution in the form of the purchase price paid for admission to a dinner or testimonial affair as defined in N.J.A.C. 19:25-1.7 shall be a contribution eligible for match and for purposes of the \$1,800 limitation.

(c) The purchase price paid to a candidate for a fund raising event, lottery, raffle or admission to any activity that primarily confers private benefits to the contributor in the form of entertainment (such as a concert, motion picture or theatrical performance) shall be deemed the amount of the contribution made to such candidate. The tickets for such an event or lottery and the promotional materials shall state that the purchase price represents a political contribution to the candidate.

Amended by R.1988 d.447, effective September 19, 1988.

See: 20 N.J.R. 1339(a), 20 N.J.R. 2395(a).

Split subsection to (a) and (b) and added (c).

Emergency amendment, R.1989 d.181, effective March 6, 1989 (expires May 5, 1989).

See: 21 N.J.R. 788(b).

Adopted concurrent proposal, R.1989 d.263, effective April 24, 1989.

See: 21 N.J.R. 788(b), 21 N.J.R. 1380(a).

Provisions of emergency amendment R.1989 d.181 readopted without change. Contribution limit increased from \$800.00 to \$1,500.00.

Amended by R.1992 d.516, effective December 21, 1992.

See: 24 N.J.R. 3690(b), 24 N.J.R. 4561(a).

Revised (a) and (b).

#### 19:25-16.15 Contributions; primary and general elections

(a) No moneys deposited in a candidate's campaign bank accounts for the primary election may be expended for any candidate's general election expenses.

(b) Any candidate may establish and designate a bank account pursuant to N.J.S.A. 19:44A-12 for the ensuing general election and may deposit contributions for said general election before the date of the primary election. However, no moneys deposited in such candidate's general

election account may be transferred or expended until the day following the primary election and may not be expended at any time for primary election expenses.

(c) Contributions made in aid of the anticipated general election candidacy of a candidate in a primary election shall be returned to the contributors in the event such primary candidate fails to be nominated.

(d) The primary election campaign bank accounts of each candidate shall be separate from the general election campaign bank accounts of such candidate and shall be separately designated in reports required to be filed under the act. Funds in primary election campaign accounts shall not be commingled with funds in general election campaign accounts.

#### 19:25-16.16 (Reserved)

Repealed by R.1992 d.458, effective November 16, 1992.

See: 24 N.J.R. 3026(a), 24 N.J.R. 4274(a).

Section was "Political party committee contributions prohibited".

#### 19:25-16.17 Funds or materials remaining from primary campaign

(a) Moneys received by a qualified candidate from the fund for primary election expenses may be retained by such qualified candidate for a period not exceeding six months after the primary election for which such moneys were received in order to liquidate all obligations and to pay expenses for the purposes permitted by N.J.A.C. 19:25-16.25 (Use of public funds) which expenses were incurred during the primary campaign.

(b) Materials such as campaign literature, buttons and office supplies and equipment remaining from the primary campaign of a candidate may not be transferred to the general election campaign of such candidate if nominated or to any other election campaign of such candidate or of any other candidate or political committee but may be purchased by the general election campaign for cost or other reasonable value.

As amended, R.1984 d.561, effective December 17, 1984.

See: 16 N.J.R. 2765(a), 16 N.J.R. 3485(b).

Added text "or to any other ... political committee".

#### 19:25-16.18 Matching of funds

(a) Any candidate seeking to qualify for receipt of public matching funds shall not later than the last day for filing petitions to nominate candidates to be voted upon in a primary election for Governor file with the Commission:

1. A statement of agreement in a form prescribed by the Commission to participate in the series of two interactive gubernatorial primary election debates; and

2. Either of the following:

i. A certified application for receipt of public matching funds pursuant to this section; or



ii. A statement of qualification to participate in public financing pursuant to N.J.A.C. 19:25-16.37.

(b) The campaign treasurer or deputy campaign treasurer of the candidate shall open a matching fund account in a national or a State bank pursuant to N.J.S.A. 19:44A-32 which shall be designated "Matching Fund Account of (name of candidate)" and in which only contributions eligible for match may be deposited. The campaign treasurer or deputy campaign treasurer of such candidate shall deposit in such matching fund account, funds to be matched in aid of the candidacy of or in behalf of such candidate. Such deposit shall be made within 10 days of receipt and shall include only moneys received in accordance with this subchapter and section 5 of P.L. 1980, c.74 (N.J.S.A. 19:44A-29) and sections 11 and 12 of the act (N.J.S.A. 19:44A-11; 19:44A-12).

(c) A candidate seeking to become eligible to receive matching funds shall certify to the Commission in a written statement signed by the candidate that he or she is a candidate for Governor in a primary election and that he or she has received and deposited into his or her matching fund account contributions eligible for match of at least \$177,000 from persons or political committees each of whose contributions in the aggregate do not exceed \$1,800, and that at least \$177,000 of such contributions has been expended. "Expended" for this purpose shall mean disbursed or irrevocably committed by a legally binding commitment for expenditure in the campaign and ultimately disbursed.

(d) The statement referred to in (c) above shall include an original and two photocopies of a typed or printed list of contributors showing each contributor's full name and full mailing address (number, street, city, state, zip code), the date of receipt of each contribution by the candidate and of the deposit into the matching fund account, the dollar amount of each contribution submitted for match, the type of contributor of each contribution from a list of contributor types to be provided by the Commission, and the total amount of all contributions submitted for match. The list of contributors shall be segregated by deposit. The statement shall also include an original and two photocopies of a typed or printed list of contributors of contributions not eligible or submitted for match and any other receipt (for example, in-kind contributions, contributions intended to be repaid, or interest on invested funds), showing each contributor's full name and full mailing address (number, street, city, state, zip code), the date of receipt of each such contribution by the candidate, the dollar amount of each such contribution, and the type of contributor of each contribution from a list of contributor types to be provided by the Commission. The statement shall also include an original and two photocopies of a list of repayment by the candidate of any contribution, including any loan described under N.J.A.C. 19:25-16.31 (Borrowing of funds; repayment).

(e) The statement shall include a certification by the candidate and his or her campaign treasurer that:

1. The submission includes only contributions eligible for match and does not include any contribution which must be or is intended by the contributor or the recipient to be refunded or repaid at any time; and

2. The receipt by the candidate from the fund for primary election campaign expenses of an amount equal to twice the amount of lawful contributions deposited to be matched will not result in the candidate's exceeding the expenditure limitations of section 7 of the act (N.J.S.A. 19:44A-7).

(f) The certification shall include three photocopies of the face of each check or other written instrument as described in N.J.A.C. 19:25-16.11 (Contributions eligible for match; generally) for each contribution which the candidate submits to receive matching funds. Where a check is endorsed by some person other than the principal campaign committee, the face and back must be photocopied. The photocopies shall be segregated by deposit, sorted in the order in which the contributors are listed pursuant to (d) above and accompanied by copies of the relevant receipted deposit slips.

(g) The initial certification shall include three photocopies of checks, receipted bills, contracts or the like, as proof of the expenditure of at least \$177,000.

(h) Once eligibility has been established, subsequent statements and certifications shall be submitted confirming the continued compliance of the candidate with subsections (a), (b) and (c) above and such information as is required by (d), (e) and (f) above.

(i) Any statement or list submitted pursuant to this section shall not be handwritten.

(j) Each submission for public matching fund payments following the date on which a candidate is determined to be a qualified candidate shall contain no less than \$12,500 of contributions eligible for match. Upon determination by the Commission that each submission contains no less than \$12,500 of contributions eligible for match, public matching funds will be awarded based upon the total amount of contributions determined to be eligible for match.

(k) Each submission for public matching fund payments shall include an original and two photocopies of a cumulative list of all contributions received by a candidate from the beginning of his or her candidacy which list shall contain for each contribution the full name and full mailing address (number, street, city, state, zip code) of the contributor, the date or dates of receipt of contributions by the candidate, the aggregate total amount contributed by each contributor, and the type of contributor from a list of contributor types to be provided by the Commission, and which list shall:

1. Be arranged alphabetically by contributor name and which shall contain written authorization by the candidate for public disclosure of all contributions to the candidate; or

2. Be separated into an alphabetical list of all contributors whose contributions in the aggregate exceed \$100.00 and an alphabetical list of all contributors whose contributions are in the aggregate \$100.00 or less and which shall contain authorization by the candidate for public disclosure only of contributors whose contributions in the aggregate exceed \$100.00.

Amended by R.1984 d.561, effective December 17, 1984.

See: 16 N.J.R. 2765(a), 16 N.J.R. 3485(b).

Amended by R.1988 d.447, effective September 19, 1988.

See: 20 N.J.R. 1339(a), 20 N.J.R. 2395(a).

Added (i).

Emergency amendment, R.1989 d.181, effective March 6, 1989 (expires May 5, 1989).

See: 21 N.J.R. 788(b).

Adopted concurrent proposal, R.1989 d.263, effective April 24, 1989.

See: 21 N.J.R. 788(b), 21 N.J.R. 1380(a).

Provisions of emergency amendment R.1989 d.181 readopted without change. Established deadline for application for public matching funds as last day for filing petition to nominate; established requirement that candidate agree to two debates and that filing of application or certification for matching funds is necessary; established increased limits on contributions as well as amounts available as public match funds and added (j).

Amended by R.1992 d.458, effective November 16, 1992.

See: 24 N.J.R. 3026(a), 24 N.J.R. 4274(a).

Revised (b), (d) and (f); added (k).

Amended by R.1992 d.516, effective December 21, 1992.

See: 24 N.J.R. 3690(b), 24 N.J.R. 4561(a).

Revised (c) and (g).

#### 19:25-16.19 Dates of submission

(a) Statements and certifications may be submitted by candidates on or before 12:00 noon of the first Monday following January 1 of the year of a primary election for nomination for the office of Governor of New Jersey, and the fourth Monday following January 1, and every other Monday thereafter through March 31, and every Monday thereafter up to and including the Monday immediately preceding the primary election being funded.

(b) Statements and certification may be submitted by candidates on or before 12:00 noon of the first Monday following the primary election and every other Monday thereafter up to the first Monday following the fifth month after the primary election. No statements and certifications for the primary election shall be considered by the commission thereafter.

(c) In the event that a date for submission shall fall on a holiday, then the submission may be on the next succeeding business day which is not a holiday. The commission shall promptly approve the certification submitted by the candidate or so much of it as the commission deems to be proper. In the event that all of the submission is not approved for match, the commission will promptly so notify the candidate.

(d) Nothing herein contained shall relieve any candidate or committee from the preelection or post-election reporting requirements contained in sections 8 or 16 of the act (N.J.S.A. 19:44A-8 or 19:44A-16).

As amended, R.1984 d.561, effective December 17, 1984.

See: 16 N.J.R. 2765(a), 16 N.J.R. 3485(b).

Emergency amendment, R.1989 d.59, effective December 30, 1988 (expires February 28, 1989).

See: 21 N.J.R. 209(a).

Added text in (a) "Notwithstanding the candidates . . ."

Emergency amendment, R.1989 d.59 expired on February 28, 1989.

Section reverted to text in effect prior to January 17, 1989.

#### 19:25-16.20 Special account for public funds

(a) The Commission shall maintain for each qualified candidate a separate segregated public fund account for deposit of public funds. All public funds received by the Commission from the General Treasury of the State shall be promptly deposited by the Commission into such separate segregated public fund account. No funds other than such public funds shall be deposited in such separate segregated public fund account, and all expenditures from such account shall be separately identified in reports filed with the Commission.

(b) The campaign treasurer of a candidate on whose behalf a public fund account has been established shall file with the Commission on each date upon which a submission for public matching funds has been made pursuant to N.J.A.C. 19:25-16.18 (Matching of funds) and N.J.A.C. 19:25-16.19 (Dates of submission) and for as long as said public fund account is open and such submissions are being made, a report identifying each disbursement made out of the public fund account since the last such submission for public matching funds. The initial report shall identify all such disbursements. The identification of each disbursement from the public fund account shall include the check number, date of payment, full name of payee, full payee mailing address and a complete statement of purpose of the expenditure indicating which of the permitted purposes set forth in N.J.A.C. 19:25-16.25 (Use of public funds) is applicable. Failure to file any such report, failure to provide the identification information required in such report, or failure to expend public funds in compliance with N.J.A.C. 19:25-16.25, may result in immediate cessation of public fund deposits by the Commission.

(c) Any report filed pursuant to this section disclosing an expenditure in an aggregate sum exceeding \$5,000 for the purpose of media consultant services or other services shall be accompanied by a certification from the payee categorizing media advertising purchases or other services provided, incurred or contemplated, and certifying that such funds have been or will be expended in compliance with N.J.A.C. 19:25-16.25.

(d) The reports of disbursements made from the public fund account submitted pursuant to this section shall not be available for public inspection.

As amended, R.1984 d.561, effective December 17, 1984.  
 See: 16 N.J.R. 2765(a), 16 N.J.R. 3485(b).  
 Amended by R.1988 d.447, effective September 19, 1988.  
 See: 20 N.J.R. 1339(a), 20 N.J.R. 2395(a).  
 Added (b)-(d).

#### 19:25-16.21 Receipt of public funds; generally

The campaign treasurer or deputy campaign treasurer of any qualified candidate for election to the office of Governor in a primary election shall promptly receive in behalf of such qualified candidate from the funds for primary election campaign expenses moneys in an amount equal to twice the amount of each contribution eligible for match and deposited in such qualified candidate's matching fund account, described in N.J.S.A. 19:44A-32 except that no payment shall be made to any candidate from such fund for primary election campaign purposes for the first \$59,000 deposited in such qualified candidate's matching fund account.

Amended by R.1992 d.516, effective December 21, 1992.  
 See: 24 N.J.R. 3690(b), 24 N.J.R. 4561(a).  
 Revised text.

#### 19:25-16.22 Receipt of public funds; limitation

(a) No public funds shall be deposited by the commission in the public fund account of any qualified candidate on or before January 1 of the year of the primary election for nomination for the office of governor of New Jersey.

(b) The maximum amount which any qualified candidate may receive from public funds shall not exceed \$1,600,000.

Emergency amendment, R.1989 d.181, effective March 6, 1989 (expires May 5, 1989).

See: 21 N.J.R. 788(b).

Adopted concurrent proposal, R.1989 d.263, effective April 24, 1989.  
 See: 21 N.J.R. 788(b), 21 N.J.R. 1380(a).

Provisions of emergency amendment R.1989 d.181 readopted without change. Deleted formula for maximum receipt of public funds and established amount at \$1,350,000.

Amended by R.1992 d.516, effective December 21, 1992.

See: 24 N.J.R. 3690(b), 24 N.J.R. 4561(a).

Revised (b).

#### 19:25-16.23 Receipt of public funds; procedure

The commission shall certify to the Treasurer of New Jersey the amount to be disbursed to the commission for the public fund account of each candidate. The Treasurer shall then deliver such amount to the commission, out of the General Treasury of the State from the fund for campaign expenses for the primary election to the office of Governor.

#### 19:25-16.24 Disclosure of information

The statements and certifications submitted by a candidate in accordance with N.J.A.C. 19:25-16.18 (Matching of funds) shall not be public records and shall not be available for public inspection; provided, however, the Commission shall from time to time publish a listing which shall contain the information included in the statements and certifications for each contribution, except that it shall not include the name, address or amount of contribution of any contributor whose contributions in the aggregate are \$100.00 or less unless the candidate authorizes such disclosure in writing.

Amended by R.1984 d.561, effective December 17, 1984.

See: 16 N.J.R. 2765(a), 16 N.J.R. 3485(b).

Added text "unless the candidate authorizes such disclosure in writing".

Amended by R.1992 d.458, effective November 16, 1992.

See: 24 N.J.R. 3026(a), 24 N.J.R. 4274(a).

Stylistic revision.

Administrative Correction.

See: 25 N.J.R. 711(d).

#### 19:25-16.25 Use of public funds

(a) Public funds received on behalf of a qualified candidate from the fund for primary election campaign expenses shall be deposited by the commission in the candidate's public fund account and the candidate's use of such funds shall be strictly limited to the following purposes:

1. Purchase of time on radio and television stations;
2. Purchase of rental space on outdoor signs or billboards;
3. Purchase of advertising space in newspapers and regularly published magazines and periodicals;
4. Payment of the cost of producing the material aired or displayed on radio, television, outdoor signs or billboards, and in newspapers, regularly published magazines and periodicals;
5. Payment of the cost of printing and mailing campaign literature and brochures distributed under the name of the candidate;
6. Payment of the cost of legal and accounting expenses incurred in complying with the public financing regulations of the commission and with the public financing provisions of the act;
7. Payment of the cost of telephone deposits, and installation charges and monthly billings in excess of deposits. Within six months after the primary election, a candidate shall return to the commission the amount of any public funds used to pay telephone deposits which are later returned.

(b) Expenditures made prior to the receipt of public funds, including expenditures made for pre-candidacy "testing the waters" activity, which fit within (a)1 through 7 above, shall be expenses properly payable out of public funds.

(c) Any disbursement made from a candidate's public fund account which results in the purchase of time on radio and television stations pursuant to (a) above shall be documented by signed media affidavits of the radio or television station, to be obtained by the candidate, his or her campaign treasurer, or deputy campaign treasurer within fourteen days following the actual use of such media time. Such media affidavits shall be maintained pursuant to N.J.A.C. 19:25-16.32.

(d) Any disbursement made from a candidate's public fund account shall be identified on campaign reports and submissions for public matching funds to include the check number, date of payment, full name of payee, full payee mailing address, amount of payment, and a complete statement of the purpose of the disbursement which includes the applicable permitted use of public funds contained in (a) above.

(e) A reimbursement made to the depository or matching fund account of a candidate from the public fund account of that candidate for an expenditure or expenditures permitted under (a) above shall:

1. Be made by individual check from the public fund account in the exact amount of the expenditure or expenditures being reimbursed;
2. Be specifically identified as a reimbursement on the report required pursuant to N.J.A.C. 19:25-16.20(b) and on campaign reports required by the Act; and
3. Contain a list of the previously paid expenditure or expenditures permissible under (a) above for which the reimbursement is being made.

(f) Contributions, other than public funds, received by or in behalf of any candidate (including contributions eligible for match) shall not be subject to the limitations of (a) above, but may be expended for any lawful purpose in furtherance or aid of the candidacy of the candidate.

As amended, R.1983 d.287, effective July 18, 1983.

See: 15 N.J.R. 616(a), 15 N.J.R. 1182(e).

New (b) added. Old (b) changed to (c).

As amended, R.1984 d.561, effective December 17, 1984.

See: 16 N.J.R. 2765(a), 16 N.J.R. 3485(b).

Amended by R.1992 d.458, effective November 16, 1992.

See: 24 N.J.R. 3026(a), 24 N.J.R. 4274(a).

Added (c)-(e); redesignated existing (c) as (f).

#### 19:25-16.26 Use of transferred funds

Notwithstanding the provisions of N.J.A.C. 19:25-7.3, any transfer of funds from the primary campaign of the gubernatorial candidate to any other candidate, political committee, political party committee or political club will be considered to be an expenditure on behalf of the gubernatorial candidate under section 7 of the act (N.J.S.A. 19:44A-7). No such transferee shall make any contribution to or on behalf of the gubernatorial candidate prior to or subsequent to such transfer.

As amended, R.1984 d.561, effective December 17, 1984.

See: 16 N.J.R. 2765(a), 16 N.J.R. 3485(b).

#### 19:25-16.27 Expenses not subject to expenditure limits

(a) The following expenditures by a qualified candidate shall not be subject to the expenditure limit described in N.J.A.C. 19:25-16.9(a)3 (Limitations on participating candidates):

1. Reasonable and necessary compliance with the reporting and certification requirements imposed by the public finance provisions of the act shall not be deemed to be expenditures within the meaning of N.J.S.A. 19:44A-7. Such expenses shall be specifically identified as such in all reports required under these regulations.

2. Travel expenses of the candidate, as that term is defined in N.J.A.C. 19:25-16.28(a) (Travel expenses), or of any person other than the candidate if such traveling expenses are voluntarily paid by such person without any understanding or agreement with such candidate that they shall be, directly or indirectly, repaid to him or her by the candidate, shall not be deemed expenditures within the meaning of N.J.S.A. 19:44A-7.

3. The reasonable value of food and beverage to persons who attend a testimonial affair on behalf of or in aid of a candidate and for whom a contribution in excess of the reasonable value of such food and beverages is reported as provided in N.J.A.C. 19:25-12.2(b).

4. Election night celebration or event expenses incurred pursuant to N.J.A.C. 19:25-16.34(c).

As amended, R.1984 d.561, effective December 17, 1984.

See: 16 N.J.R. 2765(a), 16 N.J.R. 3485(b).

Amended by R.1988 d.447, effective September 19, 1988.

See: 20 N.J.R. 1339(a), 20 N.J.R. 2395(a).

Added (a)4.

Amended by R.1992 d.458, effective November 16, 1992.

See: 24 N.J.R. 3026(a), 24 N.J.R. 4274(a).

Revised (a) and (a)4.

#### 19:25-16.28 Travel expenses

(a) "The traveling expenses of the candidate" as used in N.J.A.C. 19:25-16.27 (Expenses not subject to expenditure limits), shall mean the reasonable and necessary expenses of transportation, food and lodging in connection with travel related to the candidacy of the candidate, and shall include expenses of the candidate and of members of the political campaign staff and immediate family of the candidate traveling with the candidate in the same or accompanying vehicles. The phrase does not include travel expenses of members of the candidate's staff when they are traveling not in the company of the candidate, nor does it include expenses of members of the media or others who are not members of the staff, whether or not those media members are accompanying the candidate.

(b) All of the expenditures, including those excluded from the expenditure limitation contained in section 7 of the act (N.J.S.A. 19:44A-7), must be disclosed in the preelection and post-election reports on behalf of the candidate.

1. Example 1: Candidate X, a candidate for the office of Governor in the primary election who will receive public funding, travels to a city with five members of the candidate's staff in two automobiles for campaign purposes. The candidate's staff arranges for rooms at a hotel in that city. In the course of the stay, the candidate and staff hold numerous meetings and provide food and

beverages for visitors in the course of the various meetings. Only the reasonable and necessary expenses of the use of automobiles and other means of transportation and the reasonable and necessary cost of meals and sleeping accommodations for the candidate and staff during the trip, are excludable for purposes of the expenditure limitation contained in section 7 of the act (N.J.S.A. 19:44A-7).

(c) If any individual, including a candidate, uses a government-owned or government-leased vehicle for transportation to aid or promote a campaign for nomination for election to the office of Governor, such use shall:

1. Be reported as a travel expense pursuant to (b) above;
2. Be valued for purposes of reports required to be filed under the Act and for purposes of the expenditure limit contained in the Act (N.J.S.A. 19:44A-7) by the reasonable commercial value of the transportation services to the candidate pursuant to N.J.A.C. 19:25-16.35; and
3. Be reimbursed immediately from campaign funds to the appropriate government entity providing the conveyance or vehicle.

Amended by R.1984 d.561, effective December 17, 1984.

See: 16 N.J.R. 2765(a), 16 N.J.R. 3485(b).

Amended by R.1992 d.458, effective November 16, 1992.

See: 24 N.J.R. 3026(a), 24 N.J.R. 4274(a).

Added (c).

#### 19:25-16.29 Independent expenditures

(a) Independent expenditures shall not be deemed to be expenditures within the meaning of section 7 of the act (N.J.S.A. 19:44A-7), but all such expenditures shall be subject to all of the reporting and disclosure requirements of the act. Each person, political committee, or continuing political committee making independent expenditures who is required to file reports pursuant to N.J.A.C. 19:25-12.7 or 12.8 shall include in the reports required under the act a sworn statement on a form provided by the Commission that such independent expenditure was not made with the cooperation or prior consent of, or in consultation with or at the request or suggestion of, the candidate or any person or committee acting on behalf of the candidate.

(b) Any advertisement which is an independent expenditure shall include a clear and conspicuous statement that the advertisement is not authorized by any candidate and shall state the name and address of the person or organization making the expenditure.

Amended by R.1984 d.561, effective December 17, 1984.

See: 16 N.J.R. 2765(a), 16 N.J.R. 3485(b).

Amended by R.1992 d.458, effective November 16, 1992.

See: 24 N.J.R. 3026(a), 24 N.J.R. 4274(a).

Revised (a).

#### 19:25-16.30 Coordinated expenditures

(a) A communication expenditure by any person or entity, other than a gubernatorial candidate or his or her principal campaign committee, as defined in N.J.A.C. 19:25-16.3, is a contribution by such person or entity subject to the limit on a contribution to a gubernatorial candidate in N.J.S.A. 19:44A-29 and is a coordinated expenditure of the gubernatorial candidate properly allocable against the expenditure limit of the gubernatorial candidate in N.J.S.A. 19:44A-7 if:

1. The communication makes an unambiguous reference to the gubernatorial candidate in an audio, visual or printed format; and
2. The gubernatorial candidate or his or her campaign committee has consented to, authorized, or exercised control over the production or circulation of the communication.

(b) A reference to a gubernatorial candidate appearing in materials paid for by non-gubernatorial candidates, as hereinafter defined, or political party committees, as defined in N.J.A.C. 19:25-1.7, will be deemed insubstantial and not subject to (a) above provided that:

1. The reference consists of the name or picture of the gubernatorial candidate in equal or less than equal prominence to the prominence given the names or pictures of non-gubernatorial candidates;

2. The names or pictures of the gubernatorial and non-gubernatorial candidates appear on printed campaign materials used in connection with volunteer activities on behalf of the named or pictured non-gubernatorial candidates, such as materials consisting of buttons, pins, bumper stickers, handbills, brochures, posters, yard signs or palm cards; and

3. The materials in (b)2 above are not used in connection with any broadcasting, newspaper, magazine, billboard, or similar type of general public communication or political advertising.

(c) A reference to a gubernatorial candidate appearing in campaign literature or material circulated to voters by direct mail and paid for by non-gubernatorial candidates, as hereinafter defined, or by political party committees, as defined in N.J.A.C. 19:25-1.7, shall be deemed insubstantial and not subject to (a) above provided that:

1. The reference consists of no more than a single use of the gubernatorial candidate's name in the text, and a single use of the gubernatorial candidate's name within a slate or listing of the names of gubernatorial and non-gubernatorial candidates, and a single photograph or depiction of the gubernatorial candidate, provided that a photograph or depiction of each non-gubernatorial candidate larger or of equal size to the gubernatorial candidate's photograph or depiction is included;



2. The size of the print used to reproduce the name of the gubernatorial candidate is the same or smaller than the size of the print used for the names of the non-gubernatorial candidates; and

3. The predominant theme of the text promotes the candidacy or candidacies of the non-gubernatorial candidate or candidates and not that of the gubernatorial candidate.

(d) A reference to a gubernatorial candidate made in a telephone communication to a voter shall be deemed insubstantial and not subject to (a) above provided that:

1. The telephone communication is part of a get-out-the-vote effort of the non-gubernatorial candidate, as hereinafter defined, or of a political party committee, as defined in N.J.A.C. 19:25-1.7, conducted seven or fewer days before the gubernatorial general election; and

2. The reference to the gubernatorial candidate is limited to stating the name of the gubernatorial candidate as part of a slate or together with the names of non-gubernatorial candidates.

(e) A gubernatorial candidate or campaign committee receiving a coordinated communication pursuant to (a) above must determine:

1. The cost of preparation and circulation of the communication; and

2. The reasonable value of the coordinated communication to the gubernatorial candidate.

(f) The reasonable value of a coordinated communication to a gubernatorial candidate may be determined at less than 100 percent of the total cost of preparation and circulation if the coordinated communication referred to one or more non-gubernatorial candidates in the same election, and the percentage of the cost to be allocated to the gubernatorial candidate shall be determined based upon the following:

1. The number of non-gubernatorial candidates identified or otherwise referred to; and

2. The relative prominence of the reference to the gubernatorial candidate in relation to references to non-gubernatorial candidates. For example, if a printed pamphlet is prepared and circulated at a cost of \$1,000 and features equally one page for a non-gubernatorial candidate and one page for a gubernatorial candidate, the reasonable value is 50 percent of the total cost of \$1,000 or \$500.00.

(g) A gubernatorial candidate determining the reasonable value to his or her candidacy of a coordinated communication pursuant to (f) above shall establish that value to the nearest five percent of the total cost of preparation and circulation. In no case shall the reasonable value be determined to be less than five percent of the total cost.

(h) For the purposes of this section, the term "non-gubernatorial candidate" shall mean any candidate, other than a gubernatorial candidate, acting alone under a single campaign committee or jointly with other candidates under a multi-candidate joint campaign committee designated pursuant to N.J.S.A. 19:44A-16(h), but shall not mean any political committee, as defined in N.J.S.A. 19:44A-3(i), or shall not mean any continuing political committee, as defined in N.J.S.A. 19:44A-3(n)(2), which is not a political party committee, as defined in N.J.A.C. 19:25-1.7, or shall not mean any other corporation, partnership, incorporated or unincorporated association or part thereof.

Emergency amendment, R.1989 d.181, effective March 6, 1989 (expires May 5, 1989).

See: 21 N.J.R. 788(b).

Adopted concurrent proposal, R.1989 d.263, effective April 24, 1989. See: 21 N.J.R. 788(b), 21 N.J.R. 1380(a).

Provisions of emergency amendment R.1989 d.181 readopted without change. N.J.A.C. 19:25-16.30 was recodified to N.J.A.C. 19:25-16.31. New Rule, R.1989 d.382, effective June 23, 1989.

See: 21 N.J.R. 1286(a), 21 N.J.R. 2056(b).

Repeal and New Rule, R.1992 d.458, effective November 16, 1992. See: 24 N.J.R. 3026(a), 24 N.J.R. 4274(a).

### 19:25-16.31 Borrowing of funds; repayment

Any candidate, his or her campaign treasurer or deputy campaign treasurer may borrow funds from any national or State bank, provided that no person or political committee other than the candidate may in any way endorse or guarantee such loan in the aggregate in excess of the \$1,800 contribution limit. Except for a non-participating candidate guaranteeing a loan to his or her campaign, the amount so borrowed shall not at any one time in the aggregate exceed \$50,000 and must be repaid in full by such candidate or his or her campaign treasurer or deputy campaign treasurer from moneys accepted or allocated pursuant to section 5 of P.L. 1980, c.74 (N.J.S.A. 19:44A-29) not later than 20 days prior to the primary election. Certification of such repayment shall be made by the borrower to the Commission not later than 15 days prior to the date of primary election. In the event of the failure of the borrower to repay timely the full amount of the loan or to certify properly such repayment to the Commission, all payment of public funds to such candidate shall promptly cease and the Commission shall take action as directed by the act to prohibit the expenditure by the candidate of moneys received from the fund and any other moneys received by him or her in aid of his or her candidacy in such primary election.

Amended by R.1984 d.561, effective December 17, 1984.

See: 16 N.J.R. 2765(a), 16 N.J.R. 3485(b).

Emergency amendment, R.1989 d.181, effective March 6, 1989 (expires May 5, 1989).

See: 21 N.J.R. 788(b).

Adopted concurrent proposal, R.1989 d.263, effective April 24, 1989. See: 21 N.J.R. 788(b), 21 N.J.R. 1380(a).

Provisions of emergency amendment R.1989 d.181 readopted without change. Recodified from N.J.A.C. 19:25-16.30 and increased loan limit from \$800.00 to \$1,500.00.

Amended by R.1992 d.516, effective December 21, 1992.

See: 24 N.J.R. 3690(b), 24 N.J.R. 4561(a).

Revised text.

**19:25-16.32 Maintenance of records; audit**

(a) The campaign treasurer or deputy campaign treasurer of each candidate shall retain all written instruments, checks, bank statements and all other records of contributions and expenditures, including originals or photocopies of all documents and instruments submitted to the commission relating to the primary for a period not less than four years after submission of the final report for the primary election.

(b) Each candidate, campaign treasurer or deputy campaign treasurer shall furnish to the commission any books and records, including bank records for all accounts and supporting documentation for matching fund submissions as may be requested by the commission for purposes of an audit or other commission examination.

Amended by R.1984 d.561, effective December 17, 1984.

See: 16 N.J.R. 2765(a), 16 N.J.R. 3485(b).

Emergency amendment, R.1989 d.181, effective March 6, 1989 (expires May 5, 1989).

See: 21 N.J.R. 788(b).

Adopted concurrent proposal, R.1989 d.263, effective April 24, 1989.

See: 21 N.J.R. 788(b), 21 N.J.R. 1380(a).

Provisions of emergency amendment R.1989 d.181 readopted without change. Recodified from N.J.A.C. 19:25-16.31.

**19:25-16.33 Post-election contributions; post-election payment of expenses**

(a) Any person or political committee otherwise eligible to make political contributions to a candidate may make a contribution in aid of the candidacy of such candidate after the date of such primary provided such person or political committee does not exceed \$1,800 in the aggregate for such primary.

(b) Contributions received by a candidate, campaign treasurer or deputy campaign treasurer pursuant to (a) above shall be expended in order to liquidate all obligations and to pay expenses incurred during the primary campaign, but shall not be transferred to the general election campaign of each candidate.

(c) Every payment of expenditures for primary election obligations made by the candidate, campaign treasurer or deputy campaign treasurer, after the date of the primary election (except as otherwise specifically provided by the act or these regulations, for example, compliance costs) shall be deemed to be expenditures for such primary election within the meaning of section 7 of the act (N.J.S.A. 19:44A-7).

(d) Contributions received by a candidate, campaign treasurer or deputy campaign treasurer after the date of the primary election for that election shall be eligible for matching of funds and shall be matched provided they are submitted pursuant to N.J.A.C. 19:25-16.18 and 19:25-16.19 up to the first Monday following the fifth month after the primary election.

Amended by R.1984 d.561, effective December 17, 1984.

See: 16 N.J.R. 2765(a), 16 N.J.R. 3485(b).

Amended by R.1988 d.447, effective September 19, 1988.

See: 20 N.J.R. 1339(a), 20 N.J.R. 2395(a).

(b) and (c) added.

Emergency amendment, R.1989 d.181, effective March 6, 1989 (expires May 5, 1989).

See: 21 N.J.R. 788(b).

Adopted concurrent proposal, R.1989 d.263, effective April 24, 1989.

See: 21 N.J.R. 788(b), 21 N.J.R. 1380(a).

Provisions of emergency amendment R.1989 d.181 readopted without change. Recodified from N.J.A.C. 19:25-16.32, increased limit from \$800.00 to \$1,500.00.

Amended by R.1992 d.516, effective December 21, 1992.

See: 24 N.J.R. 3690(b), 24 N.J.R. 4561(a).

Revised (a).

**19:25-16.34 Repayment of public or other funds**

(a) All moneys received by a qualified candidate from the public fund for primary election campaign expenses remaining after the liquidation of all lawful obligations with respect to that election shall be repaid to the Commission (for return to the Treasurer of the State of New Jersey) not later than six months after the date of such primary election. All moneys, other than moneys received from the public fund, remaining available to any qualified candidate after the liquidation of all obligations, shall also be repaid to the Commission (for return to the Treasurer of the State of New Jersey) not later than six months after the date of such primary election provided however, that nothing herein contained shall require any candidate to pay into the public fund a total amount of moneys in excess of the total amount of moneys received by such qualified candidate from the public fund.

(b) No candidate who has received public funds 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.

(c) An election night celebration or event conducted by a candidate who has received public funds will be deemed a reasonable and necessary cost of closing the campaign provided that it is conducted on the date of the primary election.

Amended by R.1984 d.561, effective December 17, 1984.

See: 16 N.J.R. 2765(a), 16 N.J.R. 3485(b).

Amended by R.1988 d.447, effective September 19, 1988.

See: 20 N.J.R. 1339(a), 20 N.J.R. 2395(a).

(b) and (c) added.

Amended by R.1988 d.447, effective September 19, 1988.

See: 20 N.J.R. 1339(c), 20 N.J.R. 2395(a).

Added (b) and (c).

Emergency amendment, R.1989 d.181, effective March 6, 1989 (expires May 5, 1989).

See: 21 N.J.R. 788(b).

Adopted concurrent proposal, R.1989 d.263, effective April 24, 1989.

See: 21 N.J.R. 788(b), 21 N.J.R. 1380(a).

Provisions of emergency amendment R.1989 d.181 readopted without change. Recodified from N.J.A.C. 19:25-16.33.

**19:25-16.35 Computation of value of goods and services**

(a) Goods and services shall, for purposes of the reports required to be filed under the act and for purposes of the expenditure limitation contained in section 7 of the act (N.J.S.A. 19:44A-7) where applicable, be valued by the reasonable commercial value of such goods and services to the candidate, whether or not the cost or value of such goods or services to the contributor or other provider of those services is higher or lower than such reasonable commercial value.

1. Example 1. Candidate Y, a candidate for the office of Governor who has chosen to accept public funding, obtains the use of a helicopter for travel of the candidate for campaign purposes. By agreement with the owner of the helicopter, the campaign committee for the candidate will pay \$200.00 per hour, which represents the cost to the owner of the maintenance and operation of the helicopter. The reasonable commercial value of the use of the helicopter is \$400.00 per hour. In this example, the amount of \$200.00 per hour paid by the campaign committee of the candidate to the owner for use of the helicopter is not includable as an expenditure for purposes of the expenditure limitations contained in section 7 of the act (N.J.S.A. 19:44A-7). The difference between the \$200.00 per hour actually paid for use of the helicopter and the reasonable commercial value normally charged by the owner for the use of the helicopter, represents a contribution from the owner of the helicopter to the candidate in the amount of \$200.00 per hour. The candidate could obtain the use of the helicopter under this arrangement from a lawful contributor for campaign purposes for not more than nine hours. If the candidate obtained the use of the helicopter for 10 hours under this arrangement, the owner of the helicopter would have made an unlawful contribution to the candidacy of the candidate, since the aggregate of the contributions (\$2,000) from that contributor in this instance would have exceeded \$1,800.

2. Example 2. Candidate Y in example 1, wishes to obtain the use of the helicopter from the owner for 15 hours, and the campaign committee for the candidate pays to the owner the reasonable commercial value of \$400.00 for each hour, or a total of \$6,000. The amount paid to the owner is not an expenditure within the expenditure limitation contained in section 7 of the act (N.J.S.A. 19:44A-7). On these facts the owner has made no contribution to the candidate.

3. In example 1 and example 2, the total amounts of expenditures, including expenditures not subject to the expenditure limitation of section 7 of the act (N.J.S.A. 19:44A-7), must be reported in the preelection and post-election report filed on behalf of the candidate.

(b) The costs of a political communication as defined in N.J.A.C. 19:25-11.10 which aids or promotes a candidate for Governor, and is undertaken, made or circulated with the

cooperation or consent of the candidate, shall be reported by the candidate in the same manner as the receipt of any goods and services, and shall be valued for the purposes of the contribution limit in N.J.A.C. 19:25-16.6 and the expenditure limit in N.J.A.C. 19:25-16.9(a)3 in the same manner as any other contributed goods or services.

Amended by R.1984 d.561, eff. December 17, 1984.

See: 16 N.J.R. 2765(a), 16 N.J.R. 3485(b).

Emergency amendment, R.1989 d.181, effective March 6, 1989 (expires May 5, 1989).

See: 21 N.J.R. 788(b).

Amended by R.1989 d.262, effective April 24, 1989.

See: 21 N.J.R. 703(b), 21 N.J.R. 1379(a).

Added (b) necessitating the computation of the costs of political communications.

Adopted concurrent proposal, R.1989 d.263, effective April 24, 1989.

See: 21 N.J.R. 788(b), 21 N.J.R. 1380(a).

Provisions of emergency amendment R.1989 d.181 readopted without change. Recodified from N.J.A.C. 19:25-16.34, increased dollar amounts and number of days in examples.

Amended by R.1992 d.516, effective December 21, 1992.

See: 24 N.J.R. 2690(b), 24 N.J.R. 4561(a).

Revised (a) and (a)1.-2.

**19:25-16.36 Corporate or labor organization communications**

Communications on any subject by a corporation to its stockholders and their families, or by a labor organization to its members and their families, and non-partisan registration and get-out-the-vote campaigns by a corporation aimed at its stockholders and their families, or by a labor organization aimed at its members and their families, shall not be construed to be in aid of the candidacy of or in behalf of a candidate for election to the office of Governor in any primary election.

R.1984 d.561, eff. December 17, 1984.

See: 16 N.J.R. 2765(a), 16 N.J.R. 3485(b).

New rule.

Emergency amendment, R.1989 d.181, effective March 6, 1989 (expires May 5, 1989).

See: 21 N.J.R. 788(b).

Adopted concurrent proposal, R.1989 d.263, effective April 24, 1989.

See: 21 N.J.R. 788(b), 21 N.J.R. 1380(a).

Provisions of emergency amendment R.1989 d.181 readopted without change. Recodified from N.J.A.C. 19:25-16.35.

**19:25-16.37 Candidate statement of qualification before participation in public financing**

(a) A candidate who intends to apply to the Commission for public matching funds on a date later than the last day for filing petitions to nominate candidates to be voted upon in a primary election for the office of Governor must on or before the last day for filing petitions to nominate candidates in a primary election for Governor file:

1. A certified statement of qualification containing evidence that \$177,000 has been deposited and expended pursuant to N.J.S.A. 19:44A-32 for gubernatorial primary election campaign expenses. Evidence that \$177,000 has been deposited and expended shall be filed with the Commission on the last day for filing petitions in the primary election to nominate candidates for the office of

Governor and in a form to be prescribed by the Commission.

2. Each contribution submitted in the report required by (a)1 above as evidence that \$177,000 in contributions has been deposited must be accompanied by a written statement which shall identify the individual making the contribution by full name and full mailing address (number, street, city, state, zip code), the name of the candidate, the amount and date of receipt of the contribution, and shall bear the signature of the contributor. The requirement of such written statement will be deemed to be satisfied in the case where a contribution is made by means of a check, money order or other negotiable instrument payable on demand and to the order for, or specially endorsed without qualification to, the candidate or to his or her campaign committee, if such check, money order or instrument contains all of the foregoing information.

3. Each disbursement submitted in the report required by (a)1 above as evidence that \$177,000 has been expended for primary election expenses shall include two photocopies of checks, receipted bills, contracts, or similar documents as evidence of the expenditure of at least \$177,000.

(b) The reports filed pursuant to (a) above to establish qualification shall not be available for public inspection.

(c) Any report required to be filed pursuant to (a) above cannot be handwritten.

Emergency new rule, R.1989 d.181, effective March 6, 1989 (expires May 5, 1989).

See: 21 N.J.R. 788(b).

Adopted concurrent proposal, R.1989 d.263, effective April 24, 1989. See: 21 N.J.R. 788(b), 21 N.J.R. 1380(a).

Provisions of emergency new rule R.1989 d.181 readopted without change.

Amended by R.1992 d.516, effective December 21, 1992.

See: 24 N.J.R. 2690(b), 24 N.J.R. 4561(a).

Revised (a).

#### **19:25-16.38 Statement of candidates electing to participate in debates**

(a) A candidate who has not by the last day for filing petitions to nominate candidates to be voted upon in a primary election applied to the Commission for public matching funds may elect to participate in the series of interactive gubernatorial primary election debates by:

1. Notifying the Commission in writing no later than the last day for filing petitions in the primary election to nominate candidates for the office of Governor of his or her intent to participate in the series of gubernatorial primary election debates; and

2. Filing a statement of qualification containing evidence that \$177,000 has been deposited and expended pursuant to N.J.S.A. 19:44-32 for gubernatorial primary election expenses. The statement of qualification shall contain the same information as that required at N.J.A.C. 19:25-16:37(a).

(b) The reports filed pursuant to (a) above to establish qualifications for participation in gubernatorial primary election debates shall not be available for public inspection.

(c) Any report required to be filed pursuant to (a) above cannot be handwritten.

Emergency new rule, R.1989 d.181, effective March 6, 1989 (expires May 5, 1989).

See: 21 N.J.R. 788(b).

Adopted concurrent proposal, R.1989 d.263, effective April 24, 1989. See: 21 N.J.R. 788(b), 21 N.J.R. 1380(a).

Provisions of emergency new rule R.1989 d.181 readopted without change.

Amended by R.1992 d.516, effective December 21, 1992.

See: 24 N.J.R. 3690(b), 24 N.J.R. 4561(a).

Revised (a)2.

#### **19:25-16.39 Application to sponsor debates**

(a) To be eligible for selection by the Commission to sponsor one or more of the interactive gubernatorial primary election debates, an organization:

1. Must be unaffiliated with any political party or with any holder of or candidate for public office;

2. Must not have endorsed any candidate in the pending primary election for the office of Governor and must agree not to make any such endorsement until the completion of any debate sponsored by the organization; and

3. Must have previously sponsored one or more televised debates for Statewide office in New Jersey since 1976.

(b) Any association of two or more separately owned news publications or broadcasting outlets, including newspapers, radio stations or networks, and television stations or networks, having between or among them a substantial readership or audience in this State, and any association of print or broadcast news or press service correspondents having among them a substantial readership or audience in this State, shall be eligible to sponsor any such gubernatorial primary election debate, without regard to whether that association or any of its members shall previously have sponsored any debate among candidates for Statewide office.

(c) Written applications by organizations to sponsor a gubernatorial primary election debate or debates shall be submitted to the Commission on a form provided by the Commission not later than March 15 of any year in which a primary election is held to nominate candidates for the office of Governor. The written application shall set forth plans of the applicant for television and media coverage.

Emergency new rule, R.1989 d.181, effective March 6, 1989 (expires May 5, 1989).

See: 21 N.J.R. 788(b).

Adopted concurrent proposal, R.1989 d.263, effective April 24, 1989. See: 21 N.J.R. 788(b), 21 N.J.R. 1380(a).

Provisions of emergency new rule R.1989 d.181 readopted without change.

Amended by R.1992 d.458, effective November 16, 1992.



See: 24 N.J.R. 3026(a), 24 N.J.R. 4274(a).

Revised (a)2; added (b); redesignated existing (b) as (c).

Administrative Correction to (a).

See: 25 N.J.R. 711(d).

#### 19:25-16.40 Selection of debate sponsor

(a) Based upon the criteria in N.J.A.C. 19:25-16.39(a), the Commission shall select the private organization or organizations to sponsor the gubernatorial primary election debates within 30 calendar days of the March 15 deadline for receipt of sponsor applications and shall provide written notification to the organization or organizations so selected.

(b) The Commission shall determine the number of primary election debates for which each debate sponsor organization is responsible and the party affiliation of the candidates in each debate. The Commission shall provide each debate sponsor it has selected with a list of candidates who are required to participate in the gubernatorial primary election debates or who have elected to participate.

Emergency new rule, R.1989 d.181, effective March 6, 1989 (expires May 5, 1989).

See: 21 N.J.R. 788(b).

Adopted concurrent proposal, R.1989 d.263, effective April 24, 1989.

See: 21 N.J.R. 788(b), 21 N.J.R. 1380(a).

Provisions of emergency new rule R.1989 d.181 readopted without change.

#### 19:25-16.41 Dates, times, and location of debates

(a) Not later than five calendar days after receipt of notification from the Commission that an organization has been selected to sponsor one or more of the gubernatorial primary election debates, each sponsoring organization shall:

1. Submit a written calendar to the Commission and to all candidates who are required to or have elected to participate in the relevant debate or debates containing the date, time, location, and plans for television and other media coverage of the debate or debates assigned to the sponsor;

2. Submit to the Commission a description of the physical facilities available at the debate site or sites for use by television, broadcast and other media personnel; and

3. Submit a written statement to the Commission agreeing not to endorse any candidate for nomination in the pending primary election.

(b) The debate date or dates selected by each sponsoring organization in the written calendar required in (a) above shall be no earlier than the date upon which the ballot for the pending primary election is finally certified by the Secretary of State to the county clerks and no later than the 11th day prior to the pending primary election.

(c) Upon the vote of a majority of the candidates participating in the second in the series of primary election

debates that an emergency condition exists requiring postponement of that debate, the debate sponsor shall:

1. Reschedule the second debate to occur no later than the second calendar day preceding the primary election; and

2. Take whatever actions are necessary to notify all participating candidates and the Commission of the date, time, and location of the rescheduled debate.

- i. Actions to notify the participating candidates and the Commission of the rescheduled debate shall include, but not be limited to, telephone contact and first class mail, return receipt requested.

(d) The Commission shall review and approve the debate calendars submitted by the debate sponsoring organizations pursuant to (a) above prior to the occurrence of any primary election debate and shall create a master debate calendar which ensures compliance with the date requirements of (b) above and ensures that no two or more debates are scheduled for the same date.

(e) In the event that the Commission determines in its review pursuant to (d) above that a conflict exists in two or more scheduled debates, the Commission shall direct a debate sponsor or sponsors to submit a revised debate schedule or schedules within two calendar days containing new debate dates and times which eliminate the conflict.

Emergency new rule, R.1989 d.181, effective March 6, 1989 (expires May 5, 1989).

See: 21 N.J.R. 788(b).

Adopted concurrent proposal, R.1989 d.263, effective April 24, 1989.

See: 21 N.J.R. 788(b), 21 N.J.R. 1380(a).

Provisions of emergency new rule R.1989 d.181 readopted without change.

#### 19:25-16.42 Rules for conduct of debates

(a) Each debate in the series of interactive debates between or among candidates for nomination for the office of Governor shall be of at least one hour's duration.

(b) Promulgation of the rules for the conduct of each debate shall be the responsibility of the private organization selected by the Commission as the sponsor of each debate and such rules shall not be made final without consultation with the chairpersons of the New Jersey Republican and Democratic State Committees.

(c) Immediately upon notification of its selection as a sponsor and no later than five calendar days before each date is to occur, the sponsor shall forward the written rules for conduct of the interactive primary election debate to the chairpersons of the New Jersey Republican State Committee and the New Jersey Democratic State Committee to the Commission, and to the relevant candidates who are required to or have elected to participate in the debate.

(d) The candidates participating in the debate and the Commission shall be notified by the sponsor in writing of



any modifications or changes to the rules for conduct of a debate no later than two calendar days before the debate is scheduled to occur.

Emergency new rule, R.1989 d.181, effective March 6, 1989 (expires May 5, 1989).

See: 21 N.J.R. 788(b).

Adopted concurrent proposal, R.1989 d.263, effective April 24, 1989.

See: 21 N.J.R. 788(b), 21 N.J.R. 1380(a).

Provisions of emergency new rule R.1989 d.181 readopted without change.

#### **19:25-16.43 Complaint alleging failure to participate in debate**

(a) Any complaint filed with the Commission alleging failure of a primary election candidate to participate in a required debate shall:

1. Be in writing and be verified; and
2. 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 primary election debate shall be made by the complainant by personal service or by certified mail, return receipt requested, upon the respondent candidate, the Commission, the debate sponsor, and any person named in the complaint.

Emergency new rule, R.1989 d.181, effective March 6, 1989 (expires May 5, 1989).

See: 21 N.J.R. 788(b).

Adopted concurrent proposal, R.1989 d.263, effective April 24, 1989.

See: 21 N.J.R. 788(b), 21 N.J.R. 1380(a).

Provisions of emergency new rule R.1989 d.181 readopted without change.

Amended by R.1992 d.458, effective November 16, 1992.

See: 24 N.J.R. 3026(a), 24 N.J.R. 4274(a).

Revised (b).

#### **19:25-16.44 Temporary cessation of distribution of public funds**

(a) Upon receipt by the Commission of a verified complaint alleging failure to participate in a debate, 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 primary 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 and certification of any public fund amounts which have been requested by the respondent candidate from the Commission and which have not previously been approved; and
2. Schedule a hearing before it 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.

Emergency new rule, R.1989 d.181, effective March 6, 1989 (expires May 5, 1989).

See: 21 N.J.R. 788(b).

Adopted concurrent proposal, R.1989 d.263, effective April 24, 1989.

See: 21 N.J.R. 788(b), 21 N.J.R. 1380(a).

Provisions of emergency new rule R.1989 d.181 readopted without change.

#### **19:25-16.45 Response to a 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.
3. Justification and excuse shall be deemed to be affirmative defenses for the purposes of this subsection.

(b) 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.

Emergency new rule, R.1989 d.181, effective March 6, 1989 (expires May 5, 1989).

See: 21 N.J.R. 788(b).

Adopted concurrent proposal, R.1989 d.263, effective April 24, 1989.

See: 21 N.J.R. 788(b), 21 N.J.R. 1380(a).

Provisions of emergency new rule R.1989 d.181 readopted without change.

#### **19:25-16.46 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 Uniform Administrative Procedure Rules, (N.J.A.C. 1:1).

(c) The complainant shall have the burden of proving non-participation 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 Uniform Administrative 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.

Emergency new rule, R.1989 d.181, effective March 6, 1989 (expires May 5, 1989).

See: 21 N.J.R. 788(b).

Adopted concurrent proposal, R.1989 d.263, effective April 24, 1989.

See: 21 N.J.R. 788(b), 21 N.J.R. 1380(a).

Provisions of emergency new rule R.1989 d.181 readopted without change.

#### 19:25-16.47 Final decision of non-participation

(a) At the conclusion of a hearing, the Commission shall determine by majority vote:

1. Whether a candidate required to participate in a primary election debate has failed to do so;
2. 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; and

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

(c) If it is determined by the Commission that the respondent candidate failed to participate in a primary election debate without reasonable justification or excuse, the Commission shall:

1. Calculate the total amount of public moneys distributed by the Commission pursuant to N.J.S.A. 19:44A-33 to the respondent candidate for campaign expenses;
2. Notify the respondent candidate and campaign treasurer in writing of the total dollar amount of the liability of the campaign for repayment and of the interest due upon the amount at the rate of one per cent for each month or fractional part of a month during which the liability remains unpaid; and
3. Cease certification of any further public fund amounts to the candidate.

(d) Within 10 calendar days of receipt of notification of the amount of repayment required to the Commission, the respondent candidate and his or her campaign shall submit to the Commission a written schedule for repayment of public funds which specifies dates and amount of repayment installments.

Emergency new rule, R.1989 d.181, effective March 6, 1989 (expires May 5, 1989).

See: 21 N.J.R. 788(b).

Adopted concurrent proposal, R.1989 d.263, effective April 24, 1989.

See: 21 N.J.R. 788(b), 21 N.J.R. 1380(a).

Provisions of emergency new rule R.1989 d.181 readopted without change.

#### 19:25-16.48 Complaint alleging violation of primary election expenditure limit

(a) Any complaint filed with the Commission alleging violation by a primary election candidate receiving public matching funds of the primary election expenditure limit in N.J.A.C. 19:25-16.9(a)3 shall:

1. Be in writing and be verified;
2. Specifically identify the name and address of the complainant and the name and address of the respondent; and
3. Contain a detailed statement alleging with specificity all facts known to the complainant pertinent to the alleged violation of the primary election expenditure limit.

(b) Service of a complaint alleging violation of the primary election expenditure limit shall be made by the complainant by personal service or by certified mail, return receipt requested, upon the respondent candidate, the Commission, and any person named in the complaint.

(c) Any hearing conducted by the Commission arising from a complaint filed pursuant to this subsection shall be governed by the New Jersey Uniform Administrative Procedure Rules, N.J.A.C. 1:1, and the New Jersey Administrative Procedure Act, N.J.S.A. 52:14B-1 et seq.

New Rule, R.1992 d.458, effective November 16, 1992.

See: 24 N.J.R. 3026(a), 24 N.J.R. 4274(a).

### SUBCHAPTER 17. COMPLAINTS AND OTHER PROCEEDINGS; VIOLATIONS

#### 19:25-17.1 Default for failure to answer complaint

In any penalty proceeding undertaken by the commission pursuant to N.J.S.A. 19:44A-22, 19:44A-41, 19:44B-8, or 52:13C-22.2 or other statutory authority the commission may enter a Final Decision, including penalty, against any respondent who fails to file with the commission a written responsive pleading or answer within 20 days after service on such respondent in conformity with the rules of the New Jersey Office of Administrative Law of a copy of a complaint alleging a specific violation of the law within the commission's jurisdiction to enforce.

#### 19:25-17.2 Violations

(a) The term "reporting transaction" means the receipt of a contribution, the making of an expenditure, or the occurrence of any other event which is subject to the reporting requirements of the act or this chapter.

(b) The term "record keeping transaction" means the receipt of a contribution, the making of an expenditure, or the occurrence of any other event which is subject to the record keeping requirements of the act or regulations.

(c) Each reporting transaction that is not reported in the manner or not filed on the date established for reporting or filing by the act or regulations shall constitute a violation of the act subject to the penalties provided in N.J.S.A. 19:44A-22.

(d) Each record keeping transaction which is not made or maintained in the manner prescribed by the act or regulations shall constitute a violation of the act subject to the penalties provided in N.J.S.A. 19:44A-22.

New Rule, R.1991 d.364, effective July 15, 1991.  
See: 23 N.J.R. 1299(a), 23 N.J.R. 2163(b).

## SUBCHAPTER 18. (RESERVED)

R.1984 d.324, eff. August 6, 1984.

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

### Historical Note

Rules in this subchapter were originally codified as N.J.A.C. 19:25-15.38 and 15.39 which were adopted as R.1977 d.350, effective September 19, 1977. See: 9 N.J.R. 395(a), 9 N.J.R. 496(b). Amendments were filed and became effective November 6, 1980 as R.1980 d.491. See: 12 N.J.R. 621(a), 12 N.J.R. 732(b). (This was a recodification of 9:25-17.33 from 19:25-16.) Further amendments were filed and became effective on February 13, 1981 as R.1981 d.54. See: 13 N.J.R. 49(a), 13 N.J.R. 248(b). See: 13 N.J.R. 49(a), 13 N.J.R. 248(b). This subchapter was repealed effective August 6, 1984 as R.1984 d.324. See: 16 N.J.R. 1044(a), 16 N.J.R. 2154(a).

## SUBCHAPTER 19. PERSONAL FINANCIAL DISCLOSURE STATEMENTS

### Authority

N.J.S.A. 19:44B-7.

### Source and Effective Date

R.1983 d.285, effective July 18, 1983.  
See: 15 N.J.R. 799(a), 15 N.J.R. 1183(a).

### Historical Note

This subchapter formerly contained rules concerning public financing of primary elections for governor which were effective September 25, 1980, as R.1980 d.411. See: 12 N.J.R. 555(a), 12 N.J.R. 681(b). The subchapter was repealed and recodified as N.J.A.C. 19:26-16 effective November 6, 1980, as R.1980 d.491. See: 12 N.J.R. 621(a), 12 N.J.R. 732(b).

### 19:25-19.1 Authority

The provisions of this subchapter, covering personal financial disclosure statements of candidates for the Office of Governor or for State legislative office are promulgated pursuant to the Act requiring the filing of financial disclosure statements by certain candidates, Laws 1981, c. 129 (N.J.S.A. 19:44B-1, and following the Personal Financial Disclosure Statement Act).

### 19:25-19.2 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.

"Gift" means any money or thing of value received other than as income, and for which a consideration of equal or greater value is not received, but does not include any political contribution reported as otherwise required by law, any loan made in the ordinary course of business, or any devise, bequest, intestate estate distribution or principal distribution of a trust or gift received from a member of a person(s) household or from a relative within the third degree of consanguinity of the person or his spouse, or from the spouse of that relative.

"Income" means any money or thing of value received, or to be received, as a claim on future services, whether in the form of a fee, expense, allowance, forbearance, forgiveness, interest, dividend, royalty, rent, capital gain, or any other form of recompense, or any combination thereof.

"Member of household" means the spouse of a candidate for the Office of Governor or of a candidate for the Senate or General Assembly residing in the same domicile and any dependent children.

"Relative" shall mean a son, daughter, grandson, granddaughter, father, mother, grandfather, grandmother, great-grandfather, great-grandmother, brother, sister, nephew, niece, uncle, or aunt. Relatives by adoption, half-blood, marriage, or re-marriage shall be treated as relatives of the whole kinship.

### 19:25-19.3 Reporting of earned income

(a) The Personal Financial Disclosure Statement shall include the name and address of the corporation, professional association, partnership or sole proprietorship which is the source of each of the following categories of earned income totalling more than \$1,000 for the preceding calendar year: salaries, bonuses, royalties, fees, commissions, and profit sharing.

(b) Each source within any category which exceeds \$1,000 must be identified by name, except that identification of name and address shall not be required as to any source which totals \$100.00 or less for the year; an indication whether the total receipts from all sources within the categories exceeds \$1,000 shall be included in the statement.

Example: Candidate A receives commissions each year in the amount of \$990.00 from BCD Corporation, and also receives commissions each year in the amount of \$50.00 from EFG Corporation. The Personal Financial Disclosure Statement filed by Candidate A must include the name and address of BCD Corporation but not of EFG Corporation, as a source; the statement will also indicate receipts in excess of \$1,000 in commissions.

(c) Income received from a public body, other than from the State of New Jersey, must be included under the category of Earned Income.

#### 19:25-19.4 Reporting of unearned income

(a) The statement shall include the name and address of the corporation, professional association, partnership or sole proprietorship which is the source of each of the following categories of unearned income totalling more than \$1,000 for the preceding calendar year: rents, dividends and other income received from named investments, trusts and estates; except that no address need be provided with respect to a source of dividends if the source of dividends is a listed security.

(b) Each source within any category which exceeds \$1,000 must be identified by name, except that identification of name and address shall not be required as to any source which totals \$100.00 or less for the year; an indication whether the total receipts from all sources within the category exceeds \$1,000 shall be included in the statement.

Example: Candidate A receives dividends each year in the amount of \$990.00 from BCD Corporation, and also receives dividends each year in the amount of \$50.00 from EFG Corporation. The Personal Financial Disclosure Statement filed by Candidate A must include the name and address of BCD Corporation but not of EFG Corporation as a source; the statement will also indicate receipts in excess of \$1,000 in dividends.

(c) Where such rents, dividends or other income are received by joint owners, one of whom is the candidate, the interest of the candidate shall be reportable if the proportionate share of such rents, dividends or other income exceeds \$1,000.

(d) In calculating whether rental income exceeds \$1,000, the rental used shall be gross rental, without deduction of any of the expenses of operating or maintaining the rented property.

#### 19:25-19.5 Advisory opinions

The Commission may issue advisory opinions as to the applicability of the Personal Financial Disclosure Act and this subchapter to a given set of facts and circumstances.

## SUBCHAPTER 20. LOBBYISTS AND LEGISLATIVE AGENTS

Authority  
N.J.S.A. 19:44A-6.

#### Source and Effective Date

R.1984 d.324, effective August 6, 1984.  
See: 16 N.J.R. 1044(a), 16 N.J.R. 2154(a).

#### Historical Note

The text of this subchapter "Financial disclosure by lobbyists and legislative agents" replaced in its entirety text concerning "Lobbying disclosure" which was filed and became effective on August 6, 1980 as R.1980 d.349. See: 12 N.J.R. 442(a), 12 N.J.R. 557(b). Amendments were filed and became effective December 7, 1981 as R.1981 d.471. See: 13 N.J.R. 695(a), 13 N.J.R. 895(d), 14 N.J.R. 392(a). This subchapter was recodified without change from subchapter 8 and was filed and became effective August 6, 1984 as R.1984 d.324. See: 16 N.J.R. 1044(a), 16 N.J.R. 2154(a). Amended by R.1991 d.32, effective January 21, 1992. See: 23 N.J.R. 3077(a), 24 N.J.R. 298(a). Revised heading. See chapter and section levels for further amendments.

#### 19:25-20.1 Authority

The provisions of this subchapter are promulgated pursuant to the Legislature Activities Disclosure Act (P.L. 1971, c.183), as amended, N.J.S.A. 52:13C-20, and following ("the Act").

Amended by R.1992 d.32, effective January 21, 1992.  
See: 23 N.J.R. 3077(a), 24 N.J.R. 298(a).  
Revised text.

#### Law Review and Journal Commentaries

New ELEC Regulations Compel More Disclosure. M. Paige Berry, 131 N.J.L.J. No. 19, 6 (1992).

#### 19:25-20.2 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" shall mean the Legislative Activities Disclosure Act, as amended, N.J.S.A. 52:13C et seq.

"Commission" means the New Jersey Election Law Enforcement Commission.

"Communication with a member of the Legislature", "with legislative staff", "with the Governor", "with the Governor's staff", or "with an officer or staff member of the Executive Branch" shall mean any communication, oral or in writing or any other medium, addressed, delivered, distributed or disseminated, respectively, to a member of the Legislature, to legislative staff, to the Governor, to the Governor's staff, or to an officer or staff member of the Executive Branch, as distinguished from communication to the general public, including, but not limited to, a member of the Legislature, legislative staff, the Governor, the Governor's staff, or an officer or staff member of the Executive Branch. If any person shall obtain, reproduce or excerpt any communication or part thereof which in its original form was not a communication under this definition and shall cause such excerpt or reproduction to be addressed, delivered, distributed or disseminated to a member of the Legislature, to legislative staff, to the Governor, to the



Governor's staff, or to an officer or staff member of the Executive Branch, such communication, reproduction or excerpt shall be deemed a communication with the member of the Legislature, with legislative staff, with the Governor, with the Governor's staff, or with an officer or staff member of the Executive Branch by such person.

"Compensation," for the purposes of this subchapter, shall be included within the definition of the term "receipt."

"Contribution," for the purposes of this subchapter, shall be included within the definition of the term "receipt."

"Expenditure" includes every loan, gift, fee, salary, contribution, subscription, advance or transfer of money or other thing of value, including any item of real or personal property, tangible or intangible, and paid personal services (but not including volunteer services provided without compensation) made or paid by any legislative agent or lobbyist, and any pledge or other commitment or assumption of liability to make such transfer. Any such commitment or assumption shall be deemed to have been an expenditure upon the date when such commitment is made or liability assumed.

"Expenditures providing a benefit" or "expenditures providing benefits" means any expenditures for entertainment, food and beverage, travel and lodging, honoraria, loans, gifts or any other thing of value, except for:

1. Any money or thing of value paid for past, present, or future services in regular employment, whether in the form of a fee, expense, allowance, forbearance, forgiveness, interest, dividend, royalty, rent, capital gain, or any other form of recompense, or any combination thereof; or
2. Any dividends or other income paid on investments, trusts, and estates.

"Governor" includes the Governor or the Acting Governor.

"Governor's staff" includes the members of the Governor's Cabinet, the Secretary to the Governor, the Counsel to the Governor and all professional employees in the office of the Counsel to the Governor, and all other employees of the Office of the Governor.

"Influence legislation" shall mean to make any attempt, whether successful or not, to secure or prevent the initiation of any legislation or to secure or prevent the passage, defeat, amendment or modification thereof by the Legislature, including efforts to influence the preparation, drafting, content, introduction and consideration of any bill, resolution, amendment, report or nomination or the approval, amendment or disapproval thereof by the Governor in accordance with his constitutional authority.

"Influence regulation" means to make any attempt, whether successful or not, to secure or prevent the proposal of any regulation or to secure or prevent the consideration, amendment, issuance, promulgation, adoption or rejection thereof by an officer or any authority, board, commission or other agency or instrumentality in or of a principal department of the Executive Branch of State Government empowered by law to issue, promulgate or adopt administrative rules and regulations.

"Legislation" includes all bills, resolutions, amendments, nominations and appointments, pending or proposed, in either House of the Legislature, and all bills and resolutions which, having passed both Houses, are pending approval by the Governor.

"Legislative agent" shall mean any person who receives or agrees to receive, directly or indirectly, compensation, in money or anything of value (including reimbursement of his or her expenses where such reimbursement exceeds \$100.00 in any three-month period), to influence legislation or to influence regulation, or both, by direct or indirect communication with or by making or authorizing, or causing to be made or authorized, any expenditures providing a benefit to, a member of the Legislature, legislative staff, the Governor, the Governor's staff, or any officer or staff member of the Executive Branch, or who holds himself or herself out as engaging in the business of influencing legislation or regulation by such means, or who incident to his or her regular employment engages in influencing legislation or regulation by such means. However, a person shall not be deemed a legislative agent who, in relation to the duties or interests of his or her employment or at the request or suggestion of his or her employer, communicates with a member of the Legislature, with legislative staff, with the Governor, with the Governor's staff, or with an officer or staff member of the Executive Branch concerning any legislation or regulation, if such communication is an isolated, exceptional or infrequent activity in relation to the usual duties of his or her employment. For the purposes of this definition, activities to influence legislation, or influence regulation, shall be deemed "isolated, exceptional or infrequent" if they constitute less than 20 hours of the time an employee spends working at his or her employment during a calendar year.

"Legislative staff" includes all staff, assistants and employees of the Legislature or any of its members in the member's official capacity, whether or not they receive compensation from the State of New Jersey.

"Legislature" includes the Senate and General Assembly of the State of New Jersey and all committees and commissions established by the Legislature or by either House thereof.

"Lobbyist" shall mean any person, partnership, committee, association, corporation, labor union, or any other organization that employs, retains, designates, engages or otherwise uses the services of any legislative agent to influence legislation or regulation.



"Member of the Legislature" includes any member or member-elect of, or any person who shall have been selected to fill a vacancy in, the Senate or General Assembly, and any other person who is a member or member-designate of any committee or commission established by the Legislature or by either House thereof.

"Officer or staff member of the Executive Branch" means any assistant or deputy head of a principal department in the Executive Branch of State Government, including all assistant and deputy commissioners; the members and chief executive officer of any authority, board, commission or other agency or instrumentality in or of such a principal department; and any officer of the Executive Branch of State Government other than the Governor who is not included among the foregoing or among the Governor's staff, but who is empowered by law to issue, promulgate or adopt administrative rules and regulations, and any person employed in the office of such an officer who is involved with the development, issuance, promulgation or adoption of such rules and regulations in the regular course of employment.

"Person" includes an individual, partnership, committee, association, corporation, and any other organization or group of persons.

"Receipt" includes every loan, gift, contribution, fee, subscription, salary, advance or transfer of money or other thing of value, including any item of real property or personal property, tangible or intangible, and paid personal services (but not including voluntary services provided without compensation) made to any legislative agent or lobbyist and any pledge or other commitment or assumption of liability to make such transfer. Any such commitment or assumption shall be deemed to have been a receipt upon the date when such commitment is made or liability assumed.

1. For the purposes of this subchapter, the term "receipt" shall include, but not be limited to, compensation by way of salary, fees, allowances, retainers, reimbursement of expenses, or other similar compensation, when received by a legislative agent. For purposes of this subchapter, the term "receipt" shall also include, but not be limited to, contributions by way of fees, dues, gifts or other similar contributions when received by a lobbyist.

"Regulation" includes any administrative rule or regulation affecting the rights, privileges, benefits, duties, obligations, or liabilities of any one or more persons subject by law to regulation as a class, but does not include an administrative action:

1. To issue, renew or deny, or, in an adjudicative action, to establish or make rates that have particular applicability on named or specified petitioners or parties, or to suspend or revoke, a license, order, permit or waiver under any law or administrative rule or regulation;

2. To impose a penalty; or

3. To effectuate an administrative reorganization with<sup>2</sup> in a single principal department of the Executive Branch of State Government.

Amended by R.1992 d.32, effective January 21, 1992.

See: 23 N.J.R. 3077(a), 24 N.J.R. 298(a).

Revised text.

### 19:25-20.3 Exemptions from the Act

(a) The provisions of the Act regarding attempts to influence legislation or attempts to influence regulation shall not apply to the following activities:

1. The acts of the government of the United States or of the State of New Jersey or of any other state or of any of the political subdivision or authorities or commissions of any of the foregoing, or any interstate authority or commission, or any official, employee, counsel or agent of any of the above when acting in his or her official capacity.

2. The publication or dissemination, the ordinary course of business, of news items, advertising, editorials or other comments by a newspaper, book publisher, regularly published periodical, or radio or television station or similar media, including an owner, editor or employee thereof, nor the acts of a recognized school or institution of higher education, public or private, in conducting, sponsoring or subsidizing any classes, seminars, forums, discussions or other events, in the normal course of its business in which political information or discussion thereof or comment thereon is an integral part.

3. The acts of bona fide religious groups acting solely for the purpose of protecting the public right to practice the doctrine of such religious group.

4. The acts of a duly organized national, state or local committee of a political party.

5. The acts of a person in testifying before a legislative committee or commission, at a public hearing duly called by the Governor on legislative proposals or on legislation passed and pending his or her approval, or before any officer or body empowered by law to issue, promulgate or adopt administrative rules and regulations in behalf of a nonprofit organization incorporated as such in this State, who receives no compensation therefor beyond the reimbursement of necessary and actual expenses, and who makes no other communication with a member of the Legislature, legislative staff, the Governor, the Governor's staff, or an officer or staff member of the Executive Branch in connection with the subject of his or her testimony.

6. The acts of a person in communicating with or providing benefits to a member of the Legislature, legislative staff, the Governor, the Governor's staff, or an officer or staff member of the Executive Branch if such communication or provision of benefits is undertaken by him or her by exclusive use of his or her personal funds as a personal expression and not incident to his or her employment, even if it is upon a matter relevant to the interests of a person by whom or which he or she is employed, and if he or she receives no additional compensation or reward, in money or otherwise, for or as a result of such communication or provision of benefits.

Amended by R.1992 d.32, effective January 21, 1992.

See: 23 N.J.R. 3077(a), 24 N.J.R. 298(a).

Revised text.

#### 19:25-20.4 Legislative agent notice of representation

(a) Each legislative agent shall file with the Commission a signed notice of representation on a form prescribed by the Commission, and containing the information required by N.J.S.A. 52:13C-21.

(b) The notice of representation shall be filed prior to making any communication with, or the making of any expenditures providing a benefit to, a member of the Legislature, with legislative staff, with the Governor, with the Governor's staff, or with an officer or staff member of the Executive Branch, or shall be filed within 30 days of employment, retainer or engagement as a legislative agent, whichever occurs earlier.

(c) Each legislative agent must notify the Commission in writing of any material change in the information supplied in the notice of representation within 15 days of the effective date of such change, or not later than the filing date of the subsequent quarterly report, whichever occurs earlier.

(d) If a legislative agent identifies a membership organization or corporation as the lobbyist or person from whom he or she receives compensation for acting as a legislative agent, and the name or occupation so identified does not, either explicitly or by virtue of the nature of the principal business in which the organization or its members, or the corporation or its shareholders, is commonly known to be engaged, clearly reveal the primary specific economic, social, political, or other interest which the organization or corporation may reasonably be understood to seek to advance or protect through its employment, retainer, or engagement of the legislative agent, a description of that primary economic, social, political, or other interest and a list of the persons having organizational or financial control of the organization or corporation, including the names, mailing addresses and occupations of those persons, shall be included in the notice of representation of the legislative agent.

New Rule, R.1992 d.32, effective January 21, 1992.

See: 23 N.J.R. 3077(a), 24 N.J.R. 298(a).

Section 20.3 "Reporting threshold" recodified to 19:25-20.9.

#### 19:25-20.5 Legislative agent quarterly report

(a) Each legislative agent shall file with the Commission a quarterly report containing the information required by N.J.S.A. 52:13C-22 and signed by the legislative agent.

(b) If there has been no activity in the calendar year quarter to influence legislation or influence regulation, the report shall so state.

(c) Such report shall be filed on a form prescribed by the Commission no later than the tenth day following the end of the calendar year quarter during which activities influencing legislation or influencing regulation occurred.

(d) Calendar year quarters end on March 31, June 30, September 30 and December 31.

Repeal and New Rule, R.1992 d.32, effective January 21, 1992.

See: 23 N.J.R. 3077(a), 24 N.J.R. 298(a).

Section was "Reporting calculation".

#### 19:25-20.6 Name tags

(a) Each legislative agent who is an individual shall wear visibly a name tag bearing the full name of the individual at all times when such individual is in the State House, the State House Annex, or any other State building or other location when and where an authorized meeting of a legislative committee is being held for the purpose of influencing legislation or influencing regulation.

(b) Effective August 1, 1992, and each August 1 thereafter, the Commission shall issue a name tag to a legislative agent who is an individual, which name tag shall be effective for a 12-month period commencing on August 1 and ending on July 31.

(c) Name tags will be issued by the Commission only to a legislative agent who has paid the annual fee provided for in N.J.A.C. 19:25-20.19, and has filed all required notices of representation and quarterly reports for the prior 12-month period.

(d) The Commission may terminate the active status of a legislative agent who fails to renew his or her name tag on or prior to the expiration date provided in (b) above.

New Rule, R.1992 d.32, effective January 21, 1992.

See: 23 N.J.R. 3077(a), 24 N.J.R. 298(a).

Section 19:25-20.6 "Calculation of receipts" recodified to 19:25-20.10.

#### 19:25-20.7 Notice of termination

(a) Each legislative agent shall file with the Commission a notice of termination within 30 days after his or her activities influencing legislation or influencing regulation cease.

(b) Any person who has engaged a legislative agent shall file a notice of termination after that agent ceases to represent such person.

(c) The notice of termination shall be filed on a form prescribed by the Commission. The completed form shall include:

1. The effective date of termination;
2. The name of the person from whom service was terminated;
3. The name and signature of the legislative agent; and
4. The date of the notice.

New Rule, R.1992 d.32, effective January 21, 1992.

See: 23 N.J.R. 3077(a), 24 N.J.R. 298(a).

Section 19:25-20.7 "Calculation of expenditures" recodified to 19:25-20.11.

#### 19:25-20.8 Voluntary statements

(a) Legislative agents filing pursuant to N.J.S.A. 52:13C-35 a voluntary notice of representation, a voluntary quarterly report, or a voluntary notice of termination shall utilize the forms prescribed by the Commission.

(b) Such statements shall be marked by the legislative agent as "voluntary filing."

(c) Voluntary filings pursuant to this section are exempt from the fees provided in N.J.A.C. 19:25-20.19.

New Rule, R.1992 d.32, effective January 21, 1992.

See: 23 N.J.R. 3077(a), 24 N.J.R. 298(a).

Section 19:25-20.8 "Valuation of contributions and expenditures" recodified to 19:25-20.12.

Amended by R.1992 d.251, effective June 15, 1992.

See: 24 N.J.R. 1245(a), 24 N.J.R. 1692(a), 24 N.J.R. 2294(a).

Revised (c).

#### 19:25-20.9 Annual report

(a) Any lobbyist or legislative agent who or which receives receipts of more than \$2,500 or makes expenditures of more than \$2,500 in any calendar year for the purpose of communication with or providing benefits to any member of the Legislature, legislative staff, the Governor, the Governor's staff, or an officer or staff member of the Executive Branch shall file with the Commission, not later than February 15th of each year, an annual report of receipts and expenditures for the previous calendar year pursuant to N.J.A.C. 19:25-20.13 on forms supplied by the Commission.

(b) A legislative agent retained by or representing more than one lobbyist shall, for purposes of determining aggregate threshold expenditure figures pursuant to this section, include receipts and expenditures made on behalf of all of the lobbyists by whom the legislative agent is employed.

Amended by R.1992 d.32, effective January 21, 1992.

See: 23 N.J.R. 3077(a), 24 N.J.R. 298(a).

Recodified from 19:25-20.4. Revised text. Prior text at section "Annual report" recodified to 19:25-20.13.

#### 19:25-20.10 Receipts

(a) The following receipts of a lobbyist or legislative agent which relate to communication with, or providing benefits to, any member of the Legislature, legislative staff, the Governor, the Governor's staff, or an officer or staff member of the Executive Branch shall be included in the annual report:

1. Fees, salary, allowance or other compensation paid to a legislative agent. Receipts required to be reported pursuant to this paragraph shall be detailed as to amount, from whom received and for what purpose. A law firm, advertising agency, from whom received and for what purpose. A law firm, advertising agency, public relations firm, accounting firm or similar organization which spends only a portion of its time in legislative or regulatory activity on behalf of a lobbyist shall be required to report only that portion of its fees as are related to influencing legislation or influencing regulation.

2. Contributions, loans (except for loans made in the ordinary course of business on substantially the same terms as those prevailing for comparable transactions with other persons) or membership fees or dues received by a lobbyist. Such contributions, loans, fees or dues received by a lobbyist are reportable if they are made to a lobbyist whose major purpose is to influence legislation, or influence regulation. For purposes of this paragraph, a lobbyist shall be deemed to be engaged in influencing legislation, or influencing regulation, as its major purpose for any calendar year in which expenditures related to such activity constitute more than 50 percent of its total expenditures for all purposes. If, under the above test, it is not the major purpose of the lobbyist to influence legislation, or influence regulation, the contributions, loans, fees and dues received by the lobbyist are not reportable by such organization, unless made to the lobbyist with the specific intent that the contributions, loans, fees or dues be employed to influence legislation, or influence regulation, (in which case they are reportable as outlined below). If the major purpose of the lobbyist is to engage in influencing legislation, or influencing regulation, the contributions, loans, membership fees or dues received by the lobbyist shall be reported hereunder in the aggregate in the same proportion as the activities of the lobbyist are related to influencing legislation, or influencing regulation, along with the name and address of the contributor(s) whose contribution(s), allocated as outlined above, aggregate more than \$100.00 during the calendar year.

Example: Trade Association XYZ engages in a wide range of activities including trade shows, public relations, newsletters to its members, etc., and influencing legislation. This activity is done through a paid contract legislative agent in Trenton as well as by communications by employees of the Trade Association. XYZ expends over \$2,500 during

the course of the calendar year on this lobbying activity, although this expense constitutes less than 50 percent of its total expenditures for all purposes for that year. Trade Association XYZ is a lobbyist required to file an annual report. However, it need not report its contributions.

Trade Association EFG has the same fact situation as above, except that Trade Association EFG's lobbying expenses constitute more than 50 percent (e.g., 80 percent) of its expenditures for all purposes for the year. EFG must file an annual report as a lobbyist, including therein an aggregate allocated figure for lobbying contributions made to it (80 percent of each contribution must be allocated to lobbying for reporting purposes; the aggregate is then reported). EFG must also report the name and address of all those contributors whose contributions, after being allocated to lobbying, exceed \$100.00.

Amended by R.1992 d.32, effective January 21, 1992.

See: 23 N.J.R. 3077(a), 24 N.J.R. 298(a).

Recodified from 19:25-20.6. Revised text. Prior text at section "Audit by commission: recordkeeping" recodified to 19:25-20.14.

### 19:25-20.11 Expenditures

(a) The following expenditures of a lobbyist or legislative agent which relate to communication with, or providing benefits to, any member of the Legislature, legislative staff, the Governor, the Governor's staff, or an officer or staff member of the Executive Branch shall be reported in the annual report, and shall be listed in the aggregate by category:

1. Fees, allowances, retainers, salary or other compensation paid by a lobbyist to a legislative agent. Compensation required to be reported pursuant to this subparagraph shall be detailed as to amount, to whom paid and for what purpose and shall include consulting, legal or other fees, for services performed or to be performed, as well as expenses incurred in rendering such services. In the case of a volunteer, the above calculation shall not include any calculation of the value of the time for such volunteer, but shall include only that amount reimbursed to the volunteer for expenditures related to activities to influence legislation, or influence regulation, on behalf of the lobbyist.

2. Pro rata share of salary or other compensation paid to an employee of any organization whose activities on behalf of that organization qualify him or her as a legislative agent.

Example: Jones engages in lobbying activity in New Jersey and Pennsylvania for ABC Corporation. He spends one-half of his time in lobbying activity in New Jersey. Jones' total salary, as reported in his W-2 form, is \$30,000 per year. Since more than 20 hours of his time is spent on lobbying in New Jersey, Jones is a legislative agent for ABC Corporation and one-half of his salary, \$15,000, is allocable to lobbying. ABC Corporation is a reporting lobbyist and must include this amount as an expense.

Smith, another ABC Corporation employee, has spent less than 20 hours of his time on direct lobbying on behalf of his employer and therefore none of his salary is reportable by ABC Corporation.

3. Contributions or membership fees or dues paid by the lobbyist, except that such contributions or fees shall not be deemed to be related to influencing legislation, or influencing regulation, for the purpose of reporting under the Act and this subchapter unless made to a legislative agent with the specific intent to influence legislation or influence regulation, or unless made to a lobbyist whose major purpose is to engage in influencing legislation, or influencing regulation. For the purpose of this paragraph, a lobbyist shall be deemed to be engaged in influencing legislation, or influencing regulation, as its major purpose for any calendar year in which expenditures related to such activity constitute more than 50 percent of its total expenditures for all purposes. Such contributions, fees and dues (other than those made with the specific intent to influence legislation, or influence regulation) made by a lobbyist to an organization, association or union, shall be reportable hereunder in the same proportion as the activities of the organization, association or union are related to influencing legislation, or influencing regulation. Contributions, fees or dues made with the specific intent of influence legislation, influence regulation, or both, shall be reported in full. Contributions, fees or dues required to be reported pursuant to this paragraph shall be reported in the aggregate, along with the name of any organization, association or union to whom the lobbyist made a contribution in excess of \$100.00 for the calendar year (when allocated as set forth above) as well as the date of each contribution, fee or dues.

4. Costs of preparation and distribution of material related to influencing legislation, or influencing regulation, and paid for by a lobbyist or legislative agent, including all disbursements for preparation and distribution of printed materials, correspondence, flyers, publications, films, slides, audio and video recordings and video tapes.

5. Travel and lodging related to influencing legislation, or influencing regulation for the legislative agent.

6. Allocated cost of support personnel for the lobbyist or legislative agent. The allocated cost of any support personnel for the lobbyist or legislative agent shall be included hereunder if, in relation to the usual duties of their employment, such personnel, individually, spend, over the course of the reporting year 450 hours in activity supporting the activity of the lobbyist or legislative agent in influencing legislation, or influencing regulation.

Example: Smith is in the government affairs department of ABC Corporation, a reporting lobbyist, and spends all of her time engaged in activity related to lobbying. Brown, her secretary, spends his time doing work supporting Smith's activities. Jones, an analyst in the financial department at ABC Corporation, spends 50 percent of his time analyzing legislation for Smith and preparing memoranda to be used in Smith's lobbying activity. King, an attorney in ABC's legal department, does some drafting of proposed legislation for Smith. Over the course of the year, however, this accounts for less than 450 hours of his time at work. ABC Corporation, in its annual report, must include Smith's full salary (under (a)2 above), as well as Brown's full salary and one-half of Jones' salary, as the cost of support personnel. None of King's salary will have to be included on ABC's report.

(b) The following expenditures of a lobbyist or legislative agent which relate to communication with, or providing benefits to, any member of the Legislature, legislative staff, the Governor, the Governor's staff, or an officer or staff member of the Executive Branch shall be reported in the Annual Report and shall be listed in the aggregate by category, except that if the aggregate expenditures on behalf of any member of the Legislature, legislative staff, the Governor, the Governor's staff, or an officer or staff member of the Executive Branch exceed \$25.00 per day, or exceed \$200.00 per calendar year, the expenditures, together with the name of the intended recipient of the benefit, shall be stated in detail and shall include the date and type of each expenditure, amount of each expenditure and the name of the person to whom it was paid.

1. Entertainment, including, but not limited to, disbursements for sporting, theatrical and musical events provided to any member of the Legislature, legislative staff, the Governor, the Governor's staff, or an officer or staff member of the Executive Branch, and paid for by a lobbyist or legislative agent.

2. Food and beverages provided to any member of the Legislature, legislative staff, the Governor, the Governor's staff, or an officer or staff member of the Executive Branch, paid for by a lobbyist or legislative agent. Also included are payments by lobbyists or legislative agents for food or beverages for any member of the Legislature, legislative staff, the Governor, the Governor's staff, or an officer or staff member of the Executive Branch at conferences, conventions, banquets or other similar functions.

3. Travel and lodging expenses paid for by a lobbyist or legislative agent on behalf of any member of the Legislature, legislative staff, the Governor, the Governor's staff, or an officer or staff member of the Executive Branch.

4. Honoraria paid to any member of the Legislature, legislative staff, the Governor, the Governor's staff, or an officer or staff member of the Executive Branch by a lobbyist or legislative agent.

5. Loans to any member of the Legislature, legislative staff, the Governor, the Governor's staff, or an officer or staff member of the Executive Branch from a lobbyist or legislative agent except for loans from financial institutions made in the ordinary course of business on substantially the same terms as those prevailing for comparable transactions with other persons.

6. Gifts to any member of the Legislature, legislative staff, the Governor, the Governor's staff, or an officer or staff member of the Executive Branch including, but not limited to, material goods or other things of value.

(c) For purposes of reporting under the Act or this subchapter, when an expenditure included in (b) above is made to a member of the immediate family of any member of the Legislature, legislative staff, the Governor, the Governor's staff, or an officer or staff member of the Executive Branch, such expenditure shall be deemed to be made on behalf of the member of the Legislature, legislative staff, the Governor, the Governor's staff, or the officer or staff member of the Executive Branch whose family member received it. A member of the immediate family shall mean a spouse residing in the same domicile, or any dependent children.

Amended by R.1992 d.32, effective January 21, 1992.

See: 23 N.J.R. 3077(a), 24 N.J.R. 298(a).

Recodified from 19:25-20.7. Revised text. Prior text at section "Responsibilities for filing annual reports: certification" recodified to 19:25-20.15.

Amended by R.1992 d.459, effective November 16, 1992.

See: 24 N.J.R. 3031(a), 24 N.J.R. 4277(a).

Revised (b) and (c).

#### 19:25-20.12 Valuation of contributions and expenditures

Where a contribution of goods or services is made to a lobbyist or legislative agent to influence legislation, or to influence regulation, the value of such receipt shall be its reasonable commercial value to the lobbyist or legislative agent receiving it. Where an expenditure of goods or services, including travel, is made by a lobbyist or legislative agent to any member of the Legislature, legislative staff, the Governor, the Governor's staff, or an officer or staff member of the Executive Branch, the value of the expenditure shall be its reasonable commercial value to the member of the Legislature, legislative staff, the Governor, the Governor's staff, or officer or staff member of the Executive Branch receiving it.

Amended by R.1992 d.32, effective January 21, 1992.

See: 23 N.J.R. 3077(a), 24 N.J.R. 298(a).

Recodified from 19:25-20.8. Revised text. Prior text at section "Valuation of contributions and expenditures" recodified to 19:25-20.16.

#### 19:25-20.13 Contents of annual report

(a) The annual report shall contain the following:

1. Name, business address, telephone number of the reporting lobbyist or legislative agent;



2. Name, address and occupation or business of legislative agent(s) engaged by reporting lobbyist, or name, address and occupation or business of lobbyist(s) engaging the reporting legislative agent, whichever is applicable;

3. The particular items of legislation or regulation and any general category or type of legislation or regulation regarding which the legislative agent or lobbyist influenced legislation or influenced regulation during the calendar year, except that a legislative agent who has provided this information in his or her notice of representation and quarterly reports may satisfy this requirement by so indicating on the annual report;

4. Receipts received by the legislative agent or lobbyist as set forth in N.J.A.C. 19:25-20.10;

5. Expenditures made by the lobbyist or legislative agent, as set forth in N.J.A.C. 19:25-20.11.

(b) With respect to any specific event, such as a reception, where expenditures required to be reported pursuant to N.J.A.C. 19:25-20.11(b) in the aggregate exceed \$100.00, the report shall include the date, type of expenditure, amount of expenditure and to whom paid. Any expenditure in excess of \$5.00 made to provide a benefit pursuant to N.J.A.C. 19:25-20.11(b) to a member of the Legislature, legislative staff, the Governor, member of the Governor's staff, or offices or staff members of the Executive Branch present, attending or participating in the event with the actual or constructive knowledge of the lobbyist or legislative agent shall be included in the calculation of the per day, or per calendar year, thresholds contained in N.J.A.C. 19:25-20.11(b).

(c) A legislative agent retained by or representing more than one lobbyist shall include in his or her annual report receipts received from and expenditures made on behalf of all lobbyists by whom it is employed.

(d) An individual who is a legislative agent and who serves as a member of any independent State authority, county improvement authority, or municipal utilities authority, or as a member from New Jersey on an interstate or bi-state authority, or as a member of any board or commission established by statute or resolution or by executive order of the Governor or by the Legislature or by any agency, department or other instrumentality of the State shall disclose such service, including the name of the authority, board or commission, and the date upon which his or her term as a member thereof expires, in the legislative agent's annual report.

Amended by R.1992 d.32, effective January 21, 1992.

See: 23 N.J.R. 3077(a), 24 N.J.R. 298(a).

Recodified from 19:25-20.9. Revised text. Prior text at section "Complaint proceedings; investigations; penalties".

Amended by R.1992 d.459, effective November 16, 1992.

See: 24 N.J.R. 3031(a), 24 N.J.R. 4277(a).

Revised (d).

#### 19:25-20.14 Audit by Commission; recordkeeping

(a) All annual reports of lobbyists or legislative agents required to be filed pursuant to the Act and this subchapter shall be subject to review and audit by the Commission.

(b) Each lobbyist and legislative agent subject to reporting under the Act shall make or obtain and maintain for a period of three years all records and documents relating to its activity in influencing legislation, or influencing regulation, including, but not limited to, checks, bank statements, contracts and receipts, so as to provide evidence to support statements in reports filed with the Commission and to permit an adequate basis for auditing by the Commission, except that a record or document of any single expenditure in an amount of \$5.00 or less may be excluded from this requirement.

Amended by R.1992 d.32, effective January 21, 1992.

See: 23 N.J.R. 3077(a), 24 N.J.R. 298(a).

Recodified from 19:25-20.10. Revised text. Prior text at section "Nonresident legislative agents or lobbyists" recodified to 19:25-20.18.

#### 19:25-20.15 Responsibilities for filing annual reports; certification

(a) The lobbyist and the legislative agent shall have the responsibility of filing annual reports.

(b) Each organization which itself has a filing obligation as a lobbyist pursuant to this subchapter is not relieved of that obligation by virtue of the fact that a legislative agent engaged, designated or employed by it has a filing obligation; except that a lobbyist required to file an annual report pursuant to the Act may designate a legislative agent in its employ or otherwise engaged or used by it to file the annual report on its behalf, provided such designation is made in writing by the lobbyist on a form prescribed by the Commission, is acknowledged in writing by the designated legislative agent and is filed with the Commission on or before the date on which the annual report of the lobbyist is due for filing, and further provided that any violation of the Act shall subject both the lobbyist and the designated legislative agent to the penalties provided by the Act and this subchapter.

(c) Each legislative agent which has a filing obligation pursuant to this subchapter is not relieved of that obligation by virtue of the fact that the organization engaging, retaining or employing it has or may have a filing obligation as a lobbyist or that the legislative agent has been designated by which organization to file an annual report for it; except that any lobbyist organization required to file a report pursuant to the Act which employs or otherwise engages or uses a legislative agent or agents whose only reportable lobbying activity is on behalf of such organization, may file a single annual report required under N.J.A.C. 19:25-20.13 on behalf of its own lobbying activity and the activities of such legislative agent or agents, provided that any violation of the Act shall subject the lobbyist alone to the penalties provided by the Act and this subchapter.

(d) Each report filed with the Commission by a lobbyist or legislative agent shall be certified as to the correctness of the report by the legislative agent or, in the case of a lobbyist, by a legislative agent employed by the lobbyist or a responsible financial or government affairs officer of the lobbyist.

Amended by R.1992 d.32, effective January 21, 1992.

See: 23 N.J.R. 3077(a), 24 N.J.R. 298(a).

Recodified from 19:25-20.11. Revised text. Prior text at section "Severability clause" repealed.

#### 19:25-20.16 Advisory opinions

The Commission may render advisory opinions as to the applicability of the Act and this subchapter to a given specific set of facts and circumstances.

Recodified by R.1992 d.32, effective January 21, 1992.

See: 23 N.J.R. 3077(a), 24 N.J.R. 298(a).

Recodified from 19:25-20.11. Revised text.

#### 19:25-20.17 Complaint proceedings; investigations; penalties

(a) The term "violation" shall mean the failure to report timely or in the manner prescribed by the Act and this subchapter, or the failure to make and maintain a record as prescribed by the Act and this subchapter, any event or transaction required to be reported or recorded by the Act or this subchapter.

(b) Upon receiving evidence of any violation of the Act or this subchapter, the Commission shall have the power to make investigations and bring complaint proceedings, to issue subpoenas for the production of witnesses and documents and to hold or cause to be held, by the Office of Administrative Law, hearings upon such complaint.

(c) In addition to any other penalty provided by law, any person who is found to have committed a violation of the Act or this subchapter shall be liable for civil penalty of up to \$1,000 for that violation, which penalty may be collected in a summary proceeding pursuant to N.J.S.A. 2A:58-1 et seq.

Recodified by R.1992 d.32, effective January 21, 1992.

See: 23 N.J.R. 3077(a), 24 N.J.R. 298(a).

Recodified from 19:25-20.13. Revised text.

#### 19:25-20.18 Nonresident legislative agents or lobbyists

Any legislative agent or lobbyist not a resident of this State, or not a corporation of this State or authorized to do business in this State, shall file with the Commission, before attempting to influence legislation, or influence regulation, its consent to service of process at an address within this State, or by regular mail at an address outside this State.

Recodified by R.1992 d.32, effective January 21, 1992.

See: 23 N.J.R. 3077(a), 24 N.J.R. 298(a).

Recodified from 19:25-20.14. Revised text.

#### 19:25-20.19 Annual fee

(a) Effective August 1, 1995, each legislative agent who is an individual and whose activities during any part of a 12-month period commencing on August 1 and ending on the following July 31 are subject to the Act shall pay an annual fee of \$325.00.

(b) In the event that the legislative agent is a partnership, committee, association, corporation, or other organization or group of persons, the annual fee shall be \$325.00 for each individual from the partnership, committee, association, corporation, or other organization or group of persons, who is required to wear a name tag pursuant to N.J.A.C. 19:25-20.6.

(c) Payment of the annual fee set forth in (a) and (b) above shall be by check or money order payable to "State of New Jersey, Election Law Enforcement Commission," and shall be due on August 1, 1992, and each August 1 thereafter.

(d) In the case of a legislative agent who files an initial notice of representation, the annual fee shall be due upon the filing of such initial notice of representation, and subsequent annual fees shall be due pursuant to (c) above.

(e) No annual fee shall be required if the legislative agent is an organization that is exempt from sales and use taxes under section 9(b) of chapter 30 of the laws of 1966, as amended (N.J.S.A. 54:32-9(b)).

New Rule, R.1992 d.32, effective January 21, 1992.

See: 23 N.J.R. 3077(a), 24 N.J.R. 298(a).

Amended by R.1992 d.251, effective June 15, 1992.

See: 24 N.J.R. 1245(a), 24 N.J.R. 1692(a), 24 N.J.R. 2294(a).

Revised (a) and (b).

Amended by R.1995 d.152, effective March 20, 1995.

See: 26 N.J.R. 4978(a), 27 N.J.R. 1201(b).

### SUBCHAPTER 21. SEVERABILITY CLAUSE

#### 19:25-21.1 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.