

SUBTITLE H. ELECTION LAW ENFORCEMENT COMMISSION

CHAPTER 25

REGULATIONS OF THE ELECTION LAW ENFORCEMENT COMMISSION

Authority

N.J.S.A. 19:27A-17, 19:44A-6, 19:44A-38, 19:44B-7 and 52:13C-22.3.

Source and Effective Date

R.2000 d.322, effective July 17, 2000.
See: 32 N.J.R. 1291(a), 32 N.J.R. 2930(a).

Executive Order No. 66(1978) Expiration Date

Chapter 25, Regulations of the Election Law Enforcement Commission, expires on July 17, 2005.

Chapter Historical Note

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

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

Subchapter 4, Reporting Requirements, was repealed and Subchapter 4, Establishment of Reporting Committees, was adopted as new rules; Subchapter 5, Appointment of Treasurers and Depositories, was repealed and Subchapter 5, Appointment of Campaign Officers and Depositories, was adopted as new rules; Subchapter 6, Deposit of Funds, was repealed and Subchapter 6, Receipt and Use of Funds, was adopted as new rules; Subchapter 7, Use or Transmittal of Deposited Funds; Surplus Campaign Funds, was in part repealed and in part recodified as Subchapter 6, Receipt and Use of Funds; Subchapter 8, Recordkeeping, was recodified as Subchapter 7, Recordkeeping; Subchapter 8,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Political Committee Reporting, was adopted as new rules; and Subchapter 9, Pre-Election and Post-Election Reports, was repealed by R.1993 d.509, effective October 18, 1993.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

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and Legislative Leadership Committee Reporting, was adopted as new rules, and Subchapter 10, Quarterly Reports, was repealed by R.1994 d.573, effective November 21, 1994.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

Subchapter 11, Contributions; Reporting of, was repealed and Subchapter 10, Contribution Reporting, and Subchapter 11, Contribution Limits, were adopted as new rules by R.1995 d.209, effective April 17, 1995.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

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

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

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

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

Pursuant to Executive Order No. 66(1978), Chapter 25, Regulations of the Election Law Enforcement Commission, was readopted as R.2000 d.322, effective July 17, 2000. Subchapter 3, Pre-Candidate Activity; "Testing the Waters", was repealed by R.2000 d.322, effective August 7, 2000. See: Source and Effective Date. See, also, section annotations.

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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.; the Uniform Recall Election Law, P.L. 1995, c. 105, N.J.S.A. 19:27A-1, and the Legislative Activities Disclosure Act of 1971, N.J.S.A. 52:13C-18 et seq. Such provisions shall constitute the rules and regulations of practice and procedure of the New Jersey Election Law Enforcement Commission ("the Commission").

Amended by R.1990 d.526, effective November 5, 1990.
 See: 22 N.J.R. 2251(a), 22 N.J.R. 3391(a).

Citations added.

Amended by R.2000 d.322, effective August 7, 2000.
 See: 32 N.J.R. 1291(a), 32 N.J.R. 2930(a).

Inserted a reference to the Uniform Recall Election Law.

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

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. Be brought solely against a gubernatorial candidate participating in the gubernatorial public financing program;
3. Specifically identify the name and address of the complainant and the name and address of the respondent; and
4. Contain a detailed statement alleging with specificity all facts known to the complainant pertinent to the alleged violation of the primary election expenditure limit, including the complainant's best estimate of the amount expended by the gubernatorial candidate and the alleged facts supporting that estimate.

(b) A complaint filed pursuant to (a) above which requests emergent review in a preelection time period shall be accompanied by a certification requesting emergent disposition and providing specific reasons why emergent review is necessary, including evidence of irreparable harm to a gubernatorial primary election candidate and evidence that the alleged expenditure limit violation is in an amount of at least \$10,000.

(c) 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.

(d) 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.

(e) Relief in an action brought pursuant to this section shall be limited to either or both of the following:

1. A finding or findings that an expenditure or expenditures be counted toward the respondent's expenditure limit in N.J.A.C. 19:25-16.9(a)3; and/or
2. A finding or findings that the respondent shall return public matching funds to the State as directed by the Commission because the expenditure limit in N.J.A.C. 19:25-16.9(a)3 has been exceeded.

New Rule, R.1992 d.458, effective November 16, 1992.
See: 24 N.J.R. 3026(a), 24 N.J.R. 4274(a).
Amended by R.1996 d.389, effective August 19, 1996.
See: 28 N.J.R. 2524(a), 28 N.J.R. 3971(a).

Inserted (b) and recodified former (b) and (c) as (c) and (d).

Amended by R.1999 d.300, effective September 7, 1999.
See: 31 N.J.R. 1446(a), 31 N.J.R. 2627(b).

In (a), inserted a new 2, recodified former 2 and 3 as 3 and 4, and added ", including the complainant's best estimate of the amount expended by the gubernatorial candidate and the alleged facts supporting that estimate" at the end of the new 4; in (b), added "and evidence that the alleged expenditure limit violation is in an amount of at least \$10,000" at the end; and added (e).

19:25-16.49 Postelection proceedings for return of funds

A candidate for nomination for election to the office of Governor who has qualified to and receives public matching funds in an election shall be subject to postelection proceedings undertaken by the Commission seeking reimbursement if the expenditure limit in N.J.A.C. 19:25-16.9(a)3 has been exceeded, or if public funds have been spent in violation of N.J.A.C. 19:25-16.25, or for any other alleged violation pertinent to the legality of funds awarded in the primary election.

New Rule, R.1999 d.300, effective September 7, 1999.
See: 31 N.J.R. 1446(a), 31 N.J.R. 2627(b).

SUBCHAPTER 17. COMPLAINTS AND OTHER PROCEEDINGS; VIOLATIONS**19:25-17.1 Opportunity for hearing**

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-23.1, each respondent shall be afforded the opportunity for a hearing pursuant to the provisions of the Administrative Procedure Act, N.J.S.A. 52:14B-1 et seq. and 52:14F-1 et seq., and N.J.A.C. 1:1.

New Rule, R.2002 d.230, effective July 15, 2002.
See: 34 N.J.R. 1367(a), 34 N.J.R. 2466(c).

Former N.J.A.C. 19:25-17.1, Default for failure to answer complaint, recodified to N.J.A.C. 19:25-17.1A.

19:25-17.1A 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-23.1 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.

Recodified from N.J.A.C. 19:25-17.1 and amended by R.2002 d.230, effective July 15, 2002.

See: 34 N.J.R. 1367(a), 34 N.J.R. 2466(c).
Substituted "52:13C-23.1" for "52:13C-22.2".

19:25-17.2 Offenses

(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 an offense pursuant to the act subject to the penalties provided in N.J.S.A. 19:44A-22.

(d) Each recordkeeping transaction which is not made or maintained in the manner prescribed by the act or regulations shall constitute an offense pursuant to 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).
Amended by R.2000 d.322, effective August 7, 2000.
See: 32 N.J.R. 1291(a), 32 N.J.R. 2930(a).

19:25-17.3 Penalties

(a) Any person, including any candidate, treasurer, candidate committee or joint candidates committee, political committee, continuing political committee, political party committee or legislative leadership committee, charged with the responsibility under the terms of the act, for the preparation, certification, filing or retention of any reports, records, notices or other documents, who fails, neglects or omits to prepare, certify, file or retain any such report, record, notice or document at the time or during the time period, as the case may be, and in the manner prescribed by law, or who omits or incorrectly states or certifies any of the information required by law to be included in such report, record, notice or document, any person who proposes to undertake or undertakes a public solicitation, testimonial affair or other activity relating to contributions or expenditures in any way regulated by the provisions of the act who fails to comply with those regulatory provisions, and any other person who in any way violates any of the provisions of the act shall, in addition to any other penalty provided by law, be liable to a penalty of not more than \$4,300 for the first offense and not more than \$8,500 for the second and each subsequent offense.

(b) Any corporation or labor organization of any kind which provides to any of its officers, directors, attorneys, agents or other employees any additional increment of salary, bonus or monetary remuneration of any kind which, in whole or in part, is intended by that corporation or labor organization to be used for the express purpose of paying or making a contribution, either directly or indirectly, of money or other thing of value to any candidate, candidate committee, joint candidates committee, political party committee, legislative leadership committee, political committee or continuing political committee shall in addition to any other penalty provided by law, be liable to a penalty of not more than \$4,300 for the first offense and not more than \$8,500 for the second and each subsequent offense.

(c) A candidate, candidate committee, joint candidates committee, political committee, continuing political committee, political party committee, legislative leadership committee, or person that makes, incurs or authorizes an expenditure for the purpose of financing a communication aiding or promoting the nomination, election or defeat of any candidate or aiding the passage or defeat of any public question, which is an expenditure that the candidate, committee, individual or group is required to report pursuant to the act, and that fails, neglects or omits to include required political identification information in the manner prescribed by the act or regulations shall be liable to a penalty of not more than \$4,300 for the first offense and not more than \$8,500 for the second and each subsequent offense.

New Rule, R.1996 d.582, effective December 16, 1996 (operative January 1, 1997).
See: 28 N.J.R. 4388(b), 28 N.J.R. 5193(b).
Amended by R.2000 d.322, effective August 7, 2000.
See: 32 N.J.R. 1291(a), 32 N.J.R. 2930(a).
Added (c).
Amended by R.2000 d.472, effective November 20, 2000 (operative January 1, 2001).
See: 32 N.J.R. 2987(a), 32 N.J.R. 4112(a).
Increased dollar amounts throughout.

SUBCHAPTER 18. ADVISORY OPINIONS

19:25-18.1 Requests for advisory opinions

(a) A person or committee subject to, or reasonably believing he, she or it may be subject to, any provision or requirement of the Campaign Reporting Act may request that the Commission provide an advisory opinion pursuant to N.J.S.A. 19:44A-6. Such request shall be in writing and shall include the following:

1. The full name, mailing address and daytime telephone number of the person or committee on whose behalf the opinion is requested;
2. A description of the current filing status, if any, of the person or committee and the name under which the person or committee is filing reports with the Commission if that name is different from the name given in (a)1 above;
3. A full and complete statement of all pertinent facts and contemplated activities that are the subject of the inquiry. Such statement must affirmatively state that the contemplated activities have not been previously undertaken by the person or committee requesting the opinion, and that the person or committee has standing to seek the opinion, that is the opinion will affect the person's or committee's reporting or other requirements under the Act;

4. A statement of the cognizable question of law arising under the Campaign Reporting Act, including specific citations to pertinent sections of the Campaign Reporting Act and these rules;

5. A statement of the result that the person or committee seeks, and a statement of the reasoning supporting that result;

6. The signature of the person requesting the opinion, or in the case of a request submitted on behalf of a candidate or joint candidates committee, the signature of the candidate or candidates on whose behalf a candidate

committee has been established, or in the case of any other committee, the signature of the committee treasurer; and

7. A statement of whether or not the person or committee seeking the advisory opinion consents to a 30-day period for issuance of the Commission's opinion, which period shall start from the date of Commission receipt of the completed advisory opinion request. Such consent shall be understood to be consent to an extension of the 10-day period provided in N.J.S.A. 19:44A-6f for issuance of the opinion.

(b) A request for an advisory opinion submitted by a New Jersey attorney on behalf of the attorney's client shall not require any signature other than that of the attorney provided that the attorney affirmatively states in writing that the attorney has been authorized to represent the person or committee seeking the opinion.

Repeal and New Rule, R.1996 d.468, effective October 7, 1996.

See: 28 N.J.R. 2804(a), 28 N.J.R. 4510(a).

Section was "Scope of advisory opinions".

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).

19:25-18.2 Time for issuing advisory opinions

(a) A request for an advisory opinion shall not be deemed as received by the Commission until all the requirements of N.J.A.C. 19:25-18.1 have been satisfied.

(b) Unless an extension of time is consented to by any person requesting an advisory opinion, the Commission shall issue its opinion within 10 days of receipt of the request for that opinion. For the purpose of this subchapter, the term "days" shall mean days that the Commission is open for the conduct of its business, and shall exclude Saturdays, Sundays, legal holidays and any day in which offices of the State of New Jersey are closed.

Repeal and New Rule, R.1996 d.468, effective October 7, 1996.

See: 28 N.J.R. 2804(a), 28 N.J.R. 4510(a).

Section was "Extension of time".

19:25-18.3 (Reserved)

Repealed by R.1996 d.468, effective October 7, 1996.

See: 28 N.J.R. 2804(a), 28 N.J.R. 4510(a).

Section was "Procedure for advisory opinions".

SUBCHAPTER 19. PERSONAL FINANCIAL DISCLOSURE STATEMENTS

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).

Case Notes

Fine upheld for candidate's failure to timely file personal financial disclosure statement. *New Jersey Election Law Enforcement Commission v. Fuscaldo*, 96 N.J.A.R.2d (ELE) 1.

Failure to certify and file personal financial disclosure statement warranted imposition of monetary penalty. *Election Law Enforcement v. Grant*, 95 N.J.A.R.2d (ELE) 1.

Candidate for governor fined; untimely filing of Personal Financial Disclosure Statement. *Election Law Enforcement Commission v. Zi ruolo*, 94 N.J.A.R.2d (ELE) 1.

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.

"Candidate" means:

1. An individual seeking election to the office of Governor, Senate, or General Assembly;

2. An individual who has received funds or other benefits or has made payments solely for the purpose of determining whether the individual should become a candidate for the office of Governor, Senate, or General Assembly; and

3. An individual appointed to fill a vacancy, which vacancy occurs in the nomination of a candidate by primary election or by direct petition for the office of Governor, Senate, or General Assembly.

"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.

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

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

Inserted "Candidate".

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.

19:25-19.6 Offenses

(a) The term "reporting transaction" means each source of earned or unearned income, fee, honorarium, reimbursement, gift, or any interest in land or building in any city in which casino gambling is authorized, which is subject to the reporting requirements of the Personal Financial Disclosure Statement Act or this subchapter.

(b) Each reporting transaction that is not reported in the manner or not filed on the date established for reporting or filing by the Personal Financial Disclosure Statement Act or this subchapter shall constitute an offense and shall be subject to a penalty of not more than \$1,000 for the first offense, and not more than \$2,000 for the second and each subsequent offense.

New Rule, R.2000 d.322, effective August 7, 2000.
See: 32 N.J.R. 1291(a), 32 N.J.R. 2930(a).

19:25-19.7 Time and place for filing

(a) Each candidate for nomination in a primary election to the office of Governor, Senate, or General Assembly, shall file and certify the correctness of the Personal Financial Disclosure Statement on or before the 10th day following the last day for filing a petition to appear on the ballot in the primary election.

(b) Each candidate nominated directly by petition for the general election to the office of Governor, Senate, or General Assembly shall file and certify the correctness of the Personal Financial Disclosure Statement on or before the 10th day following the day of the holding of the primary election for the general election.

(c) When a vacancy occurs in the nomination of a candidate by primary election or by direct petition for the office of Governor, Senate or General Assembly, the individual who is named to fill the vacancy shall file and certify the correctness of the Personal Financial Disclosure Statement on or before the 10th day following the filing with the Attorney General, Secretary of State or County Clerk of the petition of a successor nominee or the certificate to fill a vacancy.

(d) An original and two copies of the Personal Financial Disclosure Statement shall be received at the Commission offices no later than 5:00 P.M. on the date the report is due for filing pursuant to (a), (b), or (c) above 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.

New Rule, R.2000 d.322, effective August 7, 2000.
See: 32 N.J.R. 1291(a), 32 N.J.R. 2930(a).

SUBCHAPTER 20. LOBBYISTS AND LEGISLATIVE AGENTS

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.

"Benefit recipient" means any member of the Legislature, legislative staff, the Governor, the Governor's staff, or an officer or staff member of the Executive Branch who is the recipient of a benefit paid for or otherwise derived from a lobbyist's or legislative agent's expenditures providing that benefit or benefits.

"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.

(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 a name tag issued by the Commission bearing the full name and photograph of the individual, which name tag shall be prominently displayed and visible 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) On each August 1, 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 and submitted two photographs as provided in N.J.A.C. 19:25-20.20, 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.

Amended by R.1995 d.509, effective September 18, 1995.

See: 27 N.J.R. 2564(a), 27 N.J.R. 3621(d).

Amended by R.2002 d.231, effective July 15, 2002.

See: 34 N.J.R. 1370(a), 34 N.J.R. 2468(a).

In (a), deleted "visibly" following "shall wear", inserted "issued by the Commission" preceding "bearing", "and photograph" preceding "of the individual" and ", which name tag shall be prominently displayed and visible" preceding "at all times"; in (b), inserted "and submitted two photographs" following "annual fee" and amended the N.J.A.C. reference.

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.

(d) A legislative agent who files a notice of termination pursuant to (a) above, and who no longer is conducting activities to influence legislation or regulation on behalf of any person, shall return the name tag issued to the agent pursuant to N.J.A.C. 19:25-20.6 at the time the agent files his or her notice of termination.

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.

Amended by R.2002 d.231, effective July 15, 2002.

See: 34 N.J.R. 1370(a), 34 N.J.R. 2468(a).

Added new (d).

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 ("benefit recipient") 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 benefit recipient exceed \$25.00 per day, or exceed \$200.00 per calendar year, the expenditures, together with the name and office held of the intended recipient of the benefit, shall be stated in detail and shall include the date and type of each expenditure providing a benefit, and either the reasonable commercial value of the benefit as provided in N.J.A.C. 19:25-20.12 with a description of the benefit sufficient for determining its reasonable commercial value, or if the cost is greater than the reasonable commercial value, the cost of the benefit to the lobbyist or legislative agent and the name and address of any person or entity to whom the lobbyist or legislative agent incurred any cost or obligation for providing the benefit.

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 or provided 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 or provided 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 or provided 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 or 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 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 paid for or 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 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 benefit recipient, such expenditure shall be deemed to be made on behalf of the benefit recipient 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).

Amended by R.1997 d.420, effective October 6, 1997.

See: 29 N.J.R. 2809(a), 29 N.J.R. 4302(a).

In (b) and (c), substituted reference to benefits recipient for reference to legislative office holders and staff; in (b), amended information to be listed on Annual Report; and in (b)1 through 6, amended to include items "provided".

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 ("benefit recipient"), the value of the expenditure shall be its reasonable commercial value to the benefit recipient.

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.

Amended by R.1997 d.420, effective October 6, 1997.

See: 29 N.J.R. 2809(a), 29 N.J.R. 4302(a).

Substituted reference to benefits recipient for reference to legislative office holders and staff.

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

See: 32 N.J.R. 1291(a), 32 N.J.R. 2930(a).
Deleted "receiving it" at the end.

19:25-20.13 Notice of lobbying benefit

(a) A lobbyist or legislative agent shall provide a written benefit notice, certified as correct by the lobbyist or legislative agent, to any member of the Legislature, legislative staff member, Governor, Governor's staff, or an officer or staff member of the Executive Branch ("benefit recipient") who has received from that lobbyist or legislative agent a benefit required to be reported on the lobbyist's or legislative agent's Annual Report pursuant to N.J.A.C. 19:25-20.14(a)5 and the benefit notice shall include the same information as required on the Annual Report.

(b) The certified benefit notice shall be transmitted by the lobbyist or legislative agent to the benefit recipient no later than February 1st of the year following the calendar year in which the benefit was received. Proof of service of the benefit notice shall be obtained and maintained for a period of at least three years.

(c) In the event that a lobbyist or legislative agent has provided a benefit recipient with more than one benefit during a preceding calendar year, the lobbyist or legislative agent may include all such benefits in a single written notice provided to the benefit recipient.

(d) In the event that a lobbyist or legislative agent receives reimbursement from any benefit recipient for the reasonable commercial value of any benefit required to be reported on its Annual Report pursuant to N.J.A.C. 19:25-20.14, the lobbyist or legislative agent shall report the receipt and amount of such reimbursement in the Annual Report in which the benefit is required to be reported. The making of such a reimbursement does not remove or alter the requirement that the lobbyist or legislative agent report the expenditure and the benefit recipient on its Annual Report pursuant to N.J.A.C. 19:25-20.14.

New Rule, R.1997 d.420, effective October 6, 1997.

See: 29 N.J.R. 2809(a), 29 N.J.R. 4302(a).

Former section recodified to N.J.A.C. 19:25-20.14.

19:25-20.14 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).

Recodified from 19:25-20.13 by R.1997 d.420, effective October 6, 1997.

See: 29 N.J.R. 2809(a), 29 N.J.R. 4302(a).

Former section recodified to N.J.A.C. 19:25-20.15.

19:25-20.15 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. Recodified from 19:25-20.14 by R.1997 d.420, effective October 6, 1997.

See: 29 N.J.R. 2809(a), 29 N.J.R. 4302(a).

Former section recodified to N.J.A.C. 19:25-20.16.

19:25-20.16 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. 19:25-20.14 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.

Recodified from 19:25-20.15 and amended by R.1997 d.420, effective October 6, 1997.

See: 29 N.J.R. 2809(a), 29 N.J.R. 4302(a).

In (c), amended N.J.A.C. reference. Former section recodified to N.J.A.C. 19:25-20.17.

19:25-20.17 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.

Recodified from 19:25-20.16 by R.1997 d.420, effective October 6, 1997.

See: 29 N.J.R. 2809(a), 29 N.J.R. 4302(a).

Former section recodified to N.J.A.C. 19:25-20.18.

19:25-20.18 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.

Recodified from 19:25-20.17 by R.1997 d.420, effective October 6, 1997.

See: 29 N.J.R. 2809(a), 29 N.J.R. 4302(a).

Former section recodified to N.J.A.C. 19:25-20.19.

19:25-20.19 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.

Recodified from 19:25-20.18 by R.1997 d.420, effective October 6, 1997.

See: 29 N.J.R. 2809(a), 29 N.J.R. 4302(a).

Former section recodified to N.J.A.C. 19:25-20.20.

19:25-20.20 Annual fee

(a) Each legislative agent who is an individual and whose activities are subject to the Act during any part of a 12-month period commencing on August 1 and ending on the following July 31 shall pay an annual fee of \$325.00, and shall submit with the agent's annual fee two identical, two-by-two-inch, color photographs taken of the legislative agent within six months showing a full-face, front view of the agent with a plain white or off-white background.

(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 made 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).

Recodified from 19:25-20.19 by R.1997 d.420, effective October 6, 1997.

See: 29 N.J.R. 2809(a), 29 N.J.R. 4302(a).

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

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

In (c), substituted "made" for "due" following "shall be".

Amended by R.2002 d.231, effective July 15, 2002.

See: 34 N.J.R. 1370(a), 34 N.J.R. 2468(a).

Rewrote (a).

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.