

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 and 52:13C-23.2.

Source and Effective Date

R.1995 d.509, effective August 16, 1995.
See: 27 N.J.R. 2564(a), 27 N.J.R. 3621(d).

Executive Order No. 66(1978) Expiration Date

Chapter 25, Regulations of the Election Law Enforcement Commission, expires on August 16, 2000.

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).

1975 Revisions: Amendments became effective December 9, 1975 as R.1975 d.359. See: 7 N.J.R. 527(a), 7 N.J.R. 52(b).

1977 Revisions: 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).

1979 Revisions: 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).

1980 Revisions: 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). 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). Subchapter 19 was repealed and recodified as N.J.A.C. 19:26-16 effective November 6, 1980 as R.1980 d.491.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).

1981 Revisions: 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).

1983 Revisions: 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). Subchapter 3 which contained rules concerning limitation of expenditures was repealed and a new Subchapter 3 became effective July 18, 1983 as R.1983 d.287. See: 15 N.J.R. 616(a), 15 N.J.R. 1182(e).

1984 Revisions: 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). 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).

1985 Revisions: Subchapters 1, 7 and 11 were readopted pursuant to Executive Order No. 66(1978) filed July 15, 1985 as R.1985 d.398. See: 17 N.J.R. 1399(b), 17 N.J.R. 1917(a).

1986 Revisions: Subchapter 15 was readopted pursuant to Executive Order No. 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 No. 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).

1989 Revisions: 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).

1990 Revisions: Pursuant to Executive Order No. 66(1978), Chapter 25 was readopted as R.1990 d.526, effective October 1, 1990. See: 22 N.J.R. 2251(a), 22 N.J.R. 3391(a).

1993 Revisions: 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, consisting of sections 5.1 through 5.7, 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 recodified from Subchapter 7; Subchapter 7, Use or Transmittal of Deposited Funds; Surplus Campaign Funds, was repealed in part and recodified in part to Subchapter 6, and Subchapter 7, Recordkeeping, was recodified from Subchapter 8; 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).

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

1995 Revisions: Subchapter 11, Contributions; Reporting of, was recodified as Subchapter 10, Contribution Reporting, and Subchapter 11, Contribution Limits, was 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). Subchapter 12 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(a), 27 N.J.R. 3214(a). Pursuant to Executive Order No. 66(1978), Chapter 25 was readopted as R.1995 d.509, effective August 16, 1995. 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.; 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.

(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 elec-

tion 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.

19:25-10.14 Contributions by minors

(a) Contributions by minors shall be attributed to the legal guardian(s) of the minor for the purposes of N.J.A.C. 19:25-11.2, and not to the minor unless:

1. The minor is 14 years or older;
2. The contribution is made from funds comprised of the minor's earned income as defined in N.J.A.C. 19:25-1.7; and
3. Sworn statements made by the minor and by the minor's legal guardian(s) are submitted with the contribution which state that the decision to contribute was solely that of the minor and that the funds used to make the contribution were comprised solely of the minor's earned income.

(b) For the purposes of (a) above, if the minor has more than one legal guardian, the contribution shall be attributed equally to each legal guardian of the minor.

New Rule, R.1997 d.179, effective April 21, 1997.
See: 29 N.J.R. 419(b), 29 N.J.R. 1518(a).

19:25-10.15 Contributions made by check

(a) When a contribution is received by means of a check or other negotiable instrument (hereafter, collectively referred to as "check"), the recipient committee and its campaign or organizational treasurer shall determine the contributor pursuant to the following:

1. If an individual who is solely or jointly a beneficial owner of the funds in the account on which the check is drawn signs the check, the contributor is the individual signing the check and beneficially owning the funds.
2. If the check is signed by more than one individual and each of them jointly is a beneficial owner of the funds in the account on which the check is drawn, each of the individuals signing the check and beneficially owning the funds is a contributor. The amount of the contribution of each individual signatory is the sum of the check divided equally among them, unless written instructions signed by each joint beneficial owner provide for a different percentage allocation of the check amount.
3. If the check is signed by an authorized representative of a corporation, labor organization, group or association and the funds in the account on which the check is drawn are beneficially owned by that corporation, labor organization, group or association, the contributor is the corporation, labor organization, group or association beneficially owning the funds.

4. If the check is signed by a treasurer or organizational treasurer and is drawn on funds in a depository or organizational depository account established by a candidate committee, joint candidates committee, political committee, continuing political committee, political party committee, or legislative leadership committee, the contributor is the respective candidate committee, joint candidates committee, political committee, continuing political committee, political party committee, or legislative leadership committee beneficially owning the funds in the depository or organizational depository account.

5. If the check is signed by an individual who is authorized to sign it as the trustee or guardian of an individual who is the beneficial owner of the funds in the account on which the check is drawn, the contributor is the individual who is the beneficial owner of the funds in the account. A trustee or guardian conveying funds not beneficially owned by that trustee or guardian shall not be a contributor, except as provided at N.J.A.C. 19:25-10.14 for a contribution from a minor.

6. If the check is signed by an authorized representative of a sole proprietorship that is an unincorporated business entity, and the check is drawn on the account of the sole proprietorship, the contributor shall be the individual who is the sole proprietor having beneficial ownership of the funds in the account on which the check is drawn. If the signatory of the check is an individual other than the sole proprietor beneficially owning the account, the campaign or organizational treasurer shall obtain the signature of the sole proprietor, which signature shall be made on the check, or made on some supporting written document expressing the intent of the sole proprietor to make the contribution as an individual. A sole proprietorship shall not be a contributor.

7. If the check is signed by an authorized representative of a partnership entity as defined in N.J.A.C. 19:25-11.10(b), or of a limited liability company as de-

defined in N.J.A.C. 19:25-11.10(c), and the check is drawn on the account of the partnership entity or limited liability company, the contributor shall be an individual (or individuals) who is a partner of that partnership entity, or who is a member of the limited liability company, provided that the procedures set forth in N.J.A.C. 19:25-11.10 are met. A partnership entity or a limited liability company shall not be a contributor.

New Rule, R.1999 d.227, effective July 19, 1999.
See: 31 N.J.R. 747(a), 31 N.J.R. 1942(a).

SUBCHAPTER 11. CONTRIBUTION LIMITS

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 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.

(d) In the case of a partnership entity, as defined in (b) above, and in the case of a limited liability company, as described in (c) above, whose partners or members are making contributions by means of a check issued by the partnership entity or limited liability company to a continuing political committee that is established and controlled by the partners or members, provided that the partnership entity or limited liability company controls only a single continuing political committee, the requirement to obtain a signed acknowledgment from each contributing partner or member shall be satisfied if the check from the partnership entity or limited liability company is accompanied by a list of the names of all contributing partners or members and a certification from an authorized partner or member or other authorized individual identifying any partner or member whose contributions to the continuing political committee in the calendar year exceed \$300.00 in the aggregate.

(e) A contribution received by an organizational treasurer from a contributing partner or member by means of a check drawn on the account of a partnership entity, as defined in (b) above, or limited liability company, as described in (c) above, shall be reported pursuant to N.J.A.C. 19:25-9.3, 10.2 and 10.3.

New Rule, R.1998 d.584, effective December 21, 1998.
Sec: 30 N.J.R. 3391(a), 30 N.J.R. 4389(a).

SUBCHAPTER 12. REPORTING OF EXPENDITURES; INDEPENDENT EXPENDITURES

19:25-12.1 General provisions

(a) An expenditure made by a candidate, candidate committee, joint candidates committee or political committee shall be reported as provided by N.J.A.C. 19:25-8, and as provided by this subchapter.

(b) An expenditure made by a continuing political committee, political party committee, or legislative leadership committee shall be reported as provided in N.J.A.C. 19:25-9, and as provided by this subchapter.

19:25-12.2 Expenditure reporting

(a) An expenditure shall be reported by providing the following information:

1. The date the expenditure was made;
2. The checking account title and number;
3. The full name and address of the payee;
4. The purpose of the expenditure; and
5. The amount of the expenditure.

(b) In describing the purpose of an expenditure pursuant to (a)4 above, the specific election-related reason for the expenditure shall be provided. Descriptions such as "operations," "campaign expense" or "reimbursement" do not satisfy the reporting requirement because they do not provide any specific election-related information. Examples of satisfactory descriptions include such information as "newspaper advertising," "telephone expense," "postage," "printing of campaign flyers," "headquarter rental" and similarly specific items.

19:25-12.3 Written notification of a coordinated expenditure

(a) Whenever a candidate committee, joint candidates committee, political committee, continuing political committee, political party committee or a legislative leadership committee makes or authorizes an expenditure on behalf of a candidate with the cooperation or prior consent of that candidate, or in consultation with or at the request or suggestion of that candidate; or of any person acting on behalf of that candidate, the committee shall provide immediate written notification to that candidate's candidate committee of the expenditure.

(b) When an individual seeking political party office makes or authorizes an expenditure on behalf of a candidate with the cooperation or prior consent of that candidate, or in consultation with or at the request or suggestion of that candidate, or of any person acting on behalf of that candidate, the individual shall provide immediate written notification to the candidate's candidate committee of the expenditure.

(c) "Immediate written notification" for the purposes of this section shall mean written notice delivered to the candidate or the candidate's candidate committee or joint candidates committee within 48 hours of the making or authorizing of the expenditure, which notice shall contain:

1. The date of the making or authorizing of the expenditure;
2. The name and address of the payee;
3. The purpose of the expenditure; and
4. The amount of the expenditure.

(d) "Expenditure on behalf of a candidate" for the purposes of this section shall mean an expenditure made to a payee or recipient other than that candidate's candidate committee or joint candidates committee and made for the purpose of aiding or promoting the candidate's candidacy, such as the purchase for a vendor of brochures advocating the candidate's election (commonly described as "in-kind contributions"). A contribution made directly to a candidate committee or joint candidates committee is not included in the meaning of "expenditure on behalf of a candidate."

19:25-12.4 Expenditures made by credit card

(a) If an expenditure is made on behalf of a candidate committee, joint candidates committee, political committee, continuing political committee, political party committee or legislative leadership committee by use of or by a charge against a credit card account that was not established in the name of that candidate committee, joint candidates committee, political committee, continuing political committee, political party committee or legislative leadership committee, the person or entity owning the credit card and who is liable for any debt charged against that credit card account shall be deemed to have made a loan to that committee subject to reporting as a loan in the amount charged until such time as the committee reimburses that person or entity for that amount.

(b) Whenever a committee pursuant to (a) above makes an expenditure to reimburse a person or entity for a charge made against that person's or entity's credit card account, that committee shall report the following information for each such charge:

1. The exact name or title of the person or entity owning the credit card account, and the name of the lending institution that issued the card;

2. The name and address of the vendor from whom the purchase was made;

3. The date of the purchase;

4. A description pursuant to N.J.A.C. 19:25-12.2(b) of the purpose of the purchase, including a specific itemization of the goods or services acquired;

5. The amount of the purchase; and

6. The name of the payee, and the number, date and amount of the reimbursement check.

(c) Payment by use of credit card reported pursuant to (a) 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.

19:25-12.5 Expenditures by currency; petty cash fund

Payment of expenditures by currency is permissible if the payment is made from proceeds of a petty cash fund established pursuant to N.J.A.C. 19:25-6.4(b).

19:25-12.6 Payments to individuals; "street money"

(a) Any payment by candidate, candidate committee, joint candidates committee, political committee, continuing political committee, political party committee or legislative leadership committee to an individual which is related to efforts by or on behalf of a candidate, candidate committee, joint candidates committee, political committee, continuing political committee, political party committee or legislative leadership committee in aid of or to promote a candidate in an election or the passage or defeat of a public question, or to efforts directly to promote or encourage the participation of voters in an election including, but not limited to, get-out-the-vote efforts, poll watching and challenging, (hereafter referred to as "street money"), shall be made by check issued from the depository account of the candidate or committee making the payment and shall be payable to such named individual.

(b) Any payment by a candidate, candidate committee, joint candidates committee, political committee, continuing political committee, political party committee or legislative leadership committee to any vendor, group, association or other entity made for the purpose of providing funds for further distribution to an individual or individuals as "street money" as described in (a) above shall be made by check issued from the depository account of the candidate or committee making the payment and shall be payable to such vendor, group, association or other entity. A candidate or committee making any payment pursuant to this subsection shall, in addition to the information required by (d) below, report the name and address of each individual receiving any payment as "street money" from the vendor, group, association or other entity, and shall report the date the individual received the payment, and the amount of the payment.

(c) Payment in the form of currency for any of the purposes described in (a) and (b) above is prohibited.

(d) A payment or expenditure made for the purposes described in (a) or (b) above shall be reported by including the following information:

1. The date the expenditure was made;

2. The check number;

3. The name and address of any recipient, who shall be the payee;

4. The purpose of the expenditure, including itemization of the specific services provided by the individual-payee; and,

5. The amount of the expenditure.

Amended by R.1997 d.40, effective January 21, 1997.

See: 28 N.J.R. 4568(a), 29 N.J.R. 377(b).

Substantially amended (a) and rewrote (b).

19:25-12.7 Independent expenditures

Independent expenditures shall be subject to all of the reporting and disclosure requirements of the act. Every person, candidate committee, joint candidates committee, political committee, continuing political committee, political party committee or legislative leadership 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.

19:25-12.8 Reporting of independent expenditures

Any individual or entity expending from his, her or its own funds more than \$600.00 in an election to support or defeat a candidate or more than \$600.00 to aid the passage or defeat of a public question, and who made such expenditure pursuant to N.J.A.C. 19:25-12.7, that is, made the expenditure without the cooperation or prior consent of, or without consultation with or at the request or suggestion of, a candidate or any person or committee acting on behalf of the candidate, shall report all such expenditures at the same time and in the the same manner as a political committee subject to the provisions of N.J.S.A. 19:44A-8.

Amended by R.1996 d.393, effective August 19, 1996.

See: 28 N.J.R. 2521(a), 28 N.J.R. 3970(a).

Lowered the expenditure amount requiring reporting from \$1,000 to \$500.

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

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

Raised contribution thresholds.

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 candidate committee or joint candidates 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.

19:25-12.10 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.

Recodified from 19:25-13.1 by R.1996 d.393, effective August 19, 1996.
See: 28 N.J.R. 2521(a), 28 N.J.R. 3970(a).

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 13. POLITICAL IDENTIFICATION STATEMENTS**Authority**

N.J.S.A. 19:44A-6 and 19:44A-22.3h.

Source and Effective Date

R.1996 d.393, effective August 19, 1996.
See: 28 N.J.R. 2521(a), 28 N.J.R. 3970(a).

Subchapter Historical Note

Subchapter 13, originally Allocation of Expenditures, was recodified as N.J.A.C. 19:25-12.10 by R.1996 d.393, effective August 19, 1996, and a new subchapter 13, Political Identification Statements, was adopted, effective August 19, 1996. See: Source and Effective Date.

19:25-13.1 Definitions

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

"Communication" means a press release, pamphlet, flyer, form letter, sign, billboard or paid advertisement printed in any newspaper or other publication or broadcast on radio or television, or any other form of advertising directed to the electorate.

19:25-13.2 Political identification requirements

(a) Whenever a candidate committee, joint candidates committee, political committee, continuing political committee, political party committee, legislative leadership committee, or an individual or group making independent expenditures pursuant to N.J.A.C. 19:25-12.8, makes, incurs or authorizes an expenditure for the purpose of financing a communication aiding or promoting the nomination, election or defeat of any candidate which is an expenditure that the committee, individual or group is required to report pursuant to the Act, the communication shall clearly state the name and business or residence address of the committee, individual or group, as that information appears on reports filed with the Commission, and that the communication has been paid for by that committee, individual or group.

(b) Whenever a candidate committee, joint candidates committee, political committee, continuing political committee, political party committee, legislative leadership committee, or an individual or group making independent expenditures pursuant to N.J.A.C. 19:25-12.8, makes, incurs or authorizes an expenditure for the purpose of financing a communication aiding the passage or defeat of any public question which is an expenditure that the committee, individual or group is required to report pursuant to the Act, the communication shall clearly state the name and business or residence address of the committee, individual or group, as that information appears on reports filed with the Commission, and that the communication has been paid for by that committee, individual or group.

(c) A candidate committee, joint candidates committee, political committee, continuing political committee, political party committee or legislative leadership committee filing certified statements pursuant to N.J.A.C. 19:25-8.4 or 9.3 and therefore not required to report expenditures or a school board or write-in candidate not required to file certified statements pursuant to N.J.A.C. 19:25-8.4(d) is nevertheless required within any communication paid for by it, or to be paid for by it, to clearly state the name and address of the committee, as that information appears on reports filed with the Commission, and that the communication has been paid for by that committee.

19:25-13.3 Independent expenditure communications

A communication that is paid for by any person, not acting in concert with a candidate or any person or committee acting on behalf of a candidate, that is, is paid for as an independent expenditure pursuant to N.J.A.C. 19:25-12.8, shall in addition to the political identification statement required by this subchapter contain a clear and conspicuous statement that the expenditure was not made with the cooperation or prior consent of, or in consultation with or at the request or suggestion of, any candidate, or any person or committee acting on behalf of any candidate.

19:25-13.4 Vendor records

(a) Any person who accepts compensation from a committee, group or individual described in N.J.A.C. 19:25-13.2 for the purpose of printing, broadcasting, or otherwise disseminating to the electorate a communication subject to political identification statement requirements shall maintain a record of the transaction, which record shall include:

1. An exact copy of the communication;

2. A statement of the number of copies made or, if the communication was broadcast, the dates and times the communication was broadcast; and

3. The name and address of the committee, group or individual paying for the communication and of the candidate or committee, if any, on whose behalf the individual was acting.

(b) The record shall be maintained on file at the principal office of the person accepting the communication for at least two years, and shall be available for public inspection during normal business hours.

19:25-13.5 Exemptions

(a) The following shall be exempt from the political identification requirements in this subchapter:

1. A bona fide news item or editorial contained in any publication of bona fide general circulation;

2. Small, tangible items of de minimis value commonly used in election campaigns to convey a political message, including, but not limited to, buttons, combs, and nail files; and

3. Advertising space costing no more than \$50.00 and purchased by a candidate committee, joint candidates committee, political committee, continuing political committee, political party committee, legislative leadership committee or other person, in a political program book distributed at a fund-raising event, provided that the payment for the advertising space is subject to reporting under the Act.

(b) An exemption with respect to any item listed in (a)2 or 3 above shall not relieve the committee, group or individual making the expenditure for such item from any applicable campaign reporting requirements under the Act.

SUBCHAPTER 14. RECALL ELECTIONS

Authority

N.J.S.A. 19:44A-6 and Sections 8i, 17g(3)(d) and 17h of Chapter 105 of the Laws of 1995.

Source and Effective Date

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 Historical Note

Subchapter 14, Advisory Opinions, was recodified as Subchapter 18 by R.1996 d.10, effective January 2, 1996. See: Source and Effective Date.

19:25-14.1 Definitions

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

“Campaign Reporting Act” means the New Jersey Campaign Contributions and Expenditures Reporting Act, Laws of 1973, chapter 83, as amended, N.J.S.A. 19:44A-1 and following.

“Circulator” means an individual, whether paid or unpaid, who solicits signatures for a recall petition.

“Elected official” means any person holding the office of United States Senator or member of the United States House of Representatives elected from this State, or any person holding a State or local government office which, under the State Constitution or by law, is filled by the registered voters of a jurisdiction at an election, including a person appointed, selected or otherwise designated to fill a vacancy in such office, but does not mean an official of a political party.

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

“Jurisdiction” means the electoral jurisdiction, including, but not limited to, the State, or any county or municipality thereof, within which the voters reside who are qualified to vote for an elected official who is sought to be recalled.

“Notice of intention” means the notice filed with the recall election official by a recall committee for the purpose of initiating a recall effort.

“Recall committee” means a committee formed by persons sponsoring the recall of an elected official which represents the sponsors and signers of a recall petition in matters relating to the recall effort.

“Recall election” means an election held for the purpose of allowing the voters of a jurisdiction to decide whether an elected official shall be recalled from office.

“Recall election official” means the official authorized by law to receive nominating petitions for an elective office, except that with respect to the recall of the county clerk, it means the Secretary of State.

“Recall petition” means a petition prepared and circulated by a recall committee as provided by this act for the purpose of gathering a sufficient number of valid signatures of registered voters to cause a recall election to be called.

“Sponsors” means the proponents of a recall effort who establish a recall committee.

“Recall Act” means the Uniform Recall Election Law, Laws of 1995, chapter 105, N.J.S.A. 19:27A-1 and following.

19:25-14.2 Recall committee subject to candidate committee requirements; penalties

(a) A recall committee established under the Recall Act shall be treated as and shall be subject to the same organizational, reporting, contribution limit and other requirements as are provided for a candidate committee in the Campaign Reporting Act and the regulations promulgated pursuant to it, except as otherwise provided in this Chapter.

(b) A recall committee shall be subject to the penalties provided in the Campaign Reporting Act for a candidate committee.

19:25-14.3 Commencement of fundraising by recall committee

(a) A recall committee shall not solicit or accept contributions in connection with a recall effort until either of the following events occur:

1. The recall committee serves written notice of the recall effort on the official sought to be recalled, and such notice is made by personal service or certified mail with a copy filed with the recall election official; or

2. A copy of a notice of intention approved by the recall election official is served on the official sought to be recalled, as provided by N.J.S.A. 19:27A-7b (Subsection b. of Section 7 of Chapter 105 of the Laws of 1995).

(b) If a recall committee notifies an official sought to be recalled of its intention to initiate a recall effort by the method described in paragraph 1 of subsection (a) above, it must file a notice of intention within 30 days of the date the

notice is served on the official or cease the solicitation, acceptance and expenditure of funds.

19:25-14.4 Recall committee depository and filing requirements

(a) A recall committee shall appoint a treasurer and open a depository account for the purpose of receiving contributions and making expenditures no later than the date on which that recall committee first receives any contribution or makes or incurs any expenditure in connection with a recall effort.

(b) No later than 10 days after establishing a recall committee, the recall committee shall file a designation of campaign depository and treasurer (Form RC-1) which shall be certified as true and correct by the chairperson and treasurer of the recall committee, and shall contain the following information:

1. The full name of the recall committee, which name must contain the name of the elected official sought to be recalled;

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;

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.

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).

Amended by R.1996 d.583, effective December 16, 1996.

See: 28 N.J.R. 4395(b), 28 N.J.R. 5199(a).

Raised contribution thresholds and limits; and added references to candidate committee, joint candidates committee and legislative leadership committee.

19:25-15.15 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. 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) A partnership as defined in (d) below shall not be permitted to make contributions as an entity. In the absence of written instructions to the contrary as provided below, a contribution received by a campaign treasurer drawn on a partnership account must be deemed to be a contribution from the partner or partners, or individual or individuals, who signed the check or written instrument by which the contribution was conveyed, or in the case of a contribution of currency, the partner or individual who has conveyed the currency. If it is the intent of the contributor that any portion of the contribution received from a partnership account is to be attributed or allocated in a manner other than as set forth above, the following written information must be received and maintained by the campaign treasurer and accompany the check or written instrument being submitted for match pursuant to N.J.A.C. 19:25-15.17:

1. Written instructions concerning the allocation of the contribution amount to a contributing partner, or among contributing partners;

2. A signed acknowledgment of the contribution from each contributing partner who has not signed the contribution check or other written instrument; and

3. Contributor information for each contributing partner as required by N.J.A.C. 19:25-7.1.

(d) For the purposes of this section, the term "partnership" means:

1. Any partnership or joint venture organized under or governed by Title 42 of the New Jersey Statutes, including general partnerships within the meaning of N.J.S.A. 42:1-1 et seq., limited liability partnerships organized pursuant to N.J.S.A. 42:1-45 et seq., limited partnerships organized pursuant to or governed by N.J.S.A. 42:2A-1 et seq., and limited partnership associations organized pursuant to N.J.S.A. 42:3-1 et seq., and

2. Any similar association of two or more persons to carry on as co-owners a business for profit including, but not limited to, joint ventures, general partnerships, limited liability partnerships and limited partnerships organized or governed by corresponding laws of any other jurisdiction.

(e) A limited liability company shall not be permitted to make contributions as an entity. In the absence of written instructions to the contrary as provided below, a contribution received by a campaign treasurer drawn upon a limited liability company account must be deemed to be a contribution from the member or members, or the individual or individuals, who signed the check or written instrument by which the contribution was conveyed or, in the case of the contribution of currency, the member or individual who has conveyed the currency. If it is the intent of the contributor that any portion of a contribution received from a limited liability company account is to be attributed or allocated in a manner other than as set forth above, the following written information must be received and maintained by the campaign treasurer and accompany the check or written instrument being submitted for match pursuant to N.J.A.C. 19:25-15.17:

1. Written instructions concerning the allocation of the contribution amount to a contributing member, or among contributing members;

2. A signed acknowledgment of the contribution from each contributing member who has not signed the contribution check or other written instrument; and

3. Contributor information for each contributing member as required by N.J.A.C. 19:25-7.1.

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.

Amended by R.1996 d.583, effective December 16, 1996.

See: 28 N.J.R. 4395(b), 28 N.J.R. 5199(a).

Rewrote (c); inserted new (d) and (e); and recodified existing (d) as (f).

Amended by R.1997 d.179, effective April 21, 1997.

See: 29 N.J.R. 419(b), 29 N.J.R. 1518(a).

Deleted (f), providing, with specified exceptions, that contributions by children under 18 are attributed to the parent responsible for the contribution.

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 \$2,100 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 \$2,100 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).

Amended by R.1996 d.583, effective December 16, 1996.

See: 28 N.J.R. 4395(b), 28 N.J.R. 5199(a).

Raised contribution limits.

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 \$210,000 from persons, candidate committee, joint candidates committees, political committees, continuing political committees, or legislative leadership committees each of whose contributions in the aggregate does not exceed \$2,100, and that at least \$210,000 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 \$210,000.

(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 \$300.00 and an alphabetical list of all contributors whose contributions are in the aggregate \$300.00 or less and which shall contain authorization by the candidate for public disclosure only of contributors whose contributions in the aggregate exceed \$300.00.

(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 \$300.00 the occupation of the individual and the name and mailing address of the individual's employer.

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).

Amended by R.1996 d.583, effective December 16, 1996.

See: 28 N.J.R. 4395(b), 28 N.J.R. 5199(a).

Raised contribution thresholds and limits; and added references to candidate committee, joint candidates committee and legislative leadership committee.

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

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 \$69,000 deposited in such 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.

Amended by R.1996 d.583, effective December 16, 1996.
See: 28 N.J.R. 4395(b), 28 N.J.R. 5199(a).

Raised contribution thresholds.

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 \$4,600,000.

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).

Amended by R.1996 d.583, effective December 16, 1996.

See: 28 N.J.R. 4395(b), 28 N.J.R. 5199(a).

Raised contribution limits.

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 expenditure 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. 19:25-42.

(d) Any expenditure made from a candidate's public fund account shall be identified on election fund 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, a detailed description of the election-related purpose of the expenditure which includes the applicable permitted use of public funds contained in (a) above and the type of expenditure for each expenditure from a list of expenditure types to be provided by the Commission.

(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).

Amended by R.1996 d.583, effective December 16, 1996.

See: 28 N.J.R. 4395(b), 28 N.J.R. 5199(a).

Changed disbursement to expenditure throughout the section.

19:25-15.25 Use of transferred funds

Notwithstanding the provisions of N.J.A.C. 19:25-6.2, any transfer of funds from the general election campaign of the gubernatorial candidate to any other candidate, candidate committee, joint candidates committee, political committee, continuing political committee, political party committee, legislative leadership 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.

Amended by R.1996 d.583, effective December 16, 1996.

See: 28 N.J.R. 4395(b), 28 N.J.R. 5199(a).

Added references to candidate committee, joint candidates committee and legislative leadership committee.

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.

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.

Amended by R.1996 d.583, effective December 16, 1996.

See: 28 N.J.R. 4395(b), 28 N.J.R. 5199(a).

19:25-15.27 Expenditure reporting; travel expenses

(a) Each expenditure from the depository account, matching fund account, or public funds account established by a gubernatorial candidate shall be reported on election fund reports and as required on submissions for public matching funds by providing the following information:

1. The date the expenditure was made;
2. The checking account title and number;
3. The full name and address of the payee;
4. The purpose of the expenditure;
5. The amount of the expenditure; and,
6. The type of expenditure from a list of expenditure types provided by the Commission.

(b) In describing the purpose of an expenditure pursuant to (a)4 above, the specific election-related reason for the expenditure shall be provided. Descriptions such as "operations," "campaign expense" or "reimbursement" do not satisfy the reporting requirement because they do not provide any specific election-related information. Examples of satisfactory descriptions include such information as "newspaper advertising," "telephone expense," "postage," "printing of campaign flyers," "headquarters rental" and similarly specific items.

(c) "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.

(d) 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.

(e) If any individual, including a candidate, uses a government-owned or government-leased vehicle for transportation to aid or promote a campaign for election to the Office of Governor, such use shall:

1. Be reported as a travel expense pursuant to this section;
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).

Amended by R.1996 d.583, effective December 16, 1996.

See: 28 N.J.R. 4395(b), 28 N.J.R. 5199(a).

Inserted new (a) and (b) and recodified existing (a) through (c) as (c) through (e).

Case Notes

Visits by federal officials did not require that costs be allocated against Governor's campaign expenditure fund. *People for Whitman Committee v. Florio '93, Inc.*, 93 N.J.A.R.2d (ELE) 33.

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, candidate committee, joint candidates committee, 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 communication expenditure which is an independent expenditure shall include a clear and conspicuous statement that the communication was not made with the cooperation or prior consent of, or in consultation with or at the request or suggestion of, any candidate, or any person or committee acting on behalf of any candidate.

(c) Whenever a person, candidate committee, joint candidates committee, political committee, or continuing political committee makes, incurs or authorizes an independent expenditure pursuant to N.J.A.C. 19:25-12.7 or 12.8 which is an independent expenditure that is subject to reporting pursuant to the Act, the communication shall clearly state the name and address of the person or committee making the independent expenditure, as that information appears on reports filed with the Commission, and state that the communication has been paid for by that person or committee.

(d) No State committee of a political party and no legislative leadership committee shall make an independent expenditure to support or defeat a candidate for Governor or in aid of the candidacy of a candidate for Governor in 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).

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).

Amended by R.1996 d.583, effective December 16, 1996.

See: 28 N.J.R. 4395(b), 28 N.J.R. 5199(a).

Added references to candidate committee and joint candidates committee; changed advertisement to communication expenditure throughout the section; and added (c) and (d).

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 ex-

penditure 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 by a political party committee or legislative leadership committee, as defined in N.J.A.C. 19:25-1.7, of the same political party as the gubernatorial candidate, 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 a political party committee or legislative leadership committee, as defined in N.J.A.C. 19:25-1.7, of the same political party as the gubernatorial candidate, 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 or legislative leadership committee, as defined in N.J.A.C. 19:25-1.7, of the same political party as the gubernatorial candidate, 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 of the same political party as the gubernatorial candidate, other than a gubernatorial candidate, acting alone in a candidate committee or jointly with other candidates in a joint candidates committee.

(i) For the purposes of this section, the references to a gubernatorial candidate and pictures of a gubernatorial candidate, described in (b), (c) and (d) above, which are deemed insubstantial and not subject to (a) above, shall be strictly limited to references and pictures of a gubernatorial candidate of the same political party as the non-gubernatorial candidate or candidates or political party committee or legislative leadership committee responsible for circulating or causing the circulation of the communication.

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.

Amended by R.1996 d.583, effective December 16, 1996.

See: 28 N.J.R. 4395(b), 28 N.J.R. 5199(a).

Added references to legislative leadership and added (i).

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, candidate committee, joint candidates committee, political committee, continuing political committee, or legislative leadership 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 \$2,100 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 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.

19:25-15.45 Post-election contribution; postelection payment of expenses

(a) Any person, candidate committee, joint candidates committee, political committee, continuing political committee, or legislative leadership 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 committee does not exceed \$2,100 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.

Amended by R.1996 d.583, effective December 16, 1996.

See: 28 N.J.R. 4395(b), 28 N.J.R. 5199(a).

Raised contribution limits and added references to candidate committee, joint candidates committee and legislative leadership committee.

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 \$210,000 has been deposited and expended pursuant to N.J.S.A. 19:44A-32 for gubernatorial general election campaign expenses. Evidence that \$210,000 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 \$210,000 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 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 \$210,000 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 \$210,000.

4. For each contribution from an individual whose aggregate contributions to the candidate in the general election exceed \$300.00 which is submitted in the report required pursuant to this section, the certified statement of qualification shall include the occupation of the individual and the name and mailing address of the individual's employer.

(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).

Amended by R.1996 d.583, effective December 16, 1996.

See: 28 N.J.R. 4395(b), 28 N.J.R. 5199(a).

Raised contribution limits.

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 \$210,000 has been deposited and expended pursuant to N.J.S.A. 19:44-32 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.

Amended by R.1996 d.583, effective December 16, 1996.

See: 28 N.J.R. 4395(b), 28 N.J.R. 5199(a).

Raised contribution limits.

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 the following:

1. Coverage, including time of broadcast of the debate or debates, by specified television and radio stations and other media outlets;
2. Arrangements for a debate moderator or moderators; and
3. Sources of financial support to the organization to underwrite costs associated with the debate or debates.

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).

Amended by R.1996 d.583, effective December 16, 1996.

See: 28 N.J.R. 4395(b), 28 N.J.R. 5199(a).

Added (c)1 through (c)3.

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 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.

Amended by R.1996 d.583, effective December 16, 1996.

See: 28 N.J.R. 4395(b), 28 N.J.R. 5199(a).

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 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 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 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).
 Amended by R.1996 d.583, effective December 16, 1996.
 See: 28 N.J.R. 4395(b), 28 N.J.R. 5199(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).

See: 28 N.J.R. 4395(b), 28 N.J.R. 5199(a).
Rewrote section.

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 \$2,100 in the aggregate from a person, candidate committee, joint candidates committee, political committee, continuing political committee, or legislative leadership committee had theretofore been received for pre-candidacy "testing the waters" activity; or contributions in excess of \$2,100 in the aggregate have been received for that purpose, and the amount of each contribution in excess of \$2,100 in the aggregate

has been returned to the contributor. The certification shall include:

i. A list of all contributors who contributed more than \$2,100 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 to himself or herself from 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.

Amended by R.1996 d.583, effective December 16, 1996.

See: 28 N.J.R. 4395(b), 28 N.J.R. 5199(a).

In (a)3, raised contribution amounts and added references to candidate committee, joint candidates committee, and legislative leadership committee; and in (a)3i, raised contribution amount.

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;
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 general election expenditure limit.

(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 general election candidate.

(c) 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.

(d) Any hearing conducted by the Commission arising from a complaint filed pursuant to this section 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.1993 d.207, effective May 17, 1993.

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

Amended by R.1996 d.583, effective December 16, 1996.

See: 28 N.J.R. 4395(b), 28 N.J.R. 5199(a).

Inserted (a)2; recodified existing (a)2 as (a)3; inserted (b); recodified existing (b) as (c); and added (d).

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 N.J.S.A. 19:44A-44, no amount of the candidate’s own funds in the aggregate in excess of \$2,100, 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 regulation.

“Debate sponsor” means the 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 an individual, a corporation, an association or a labor union. For purposes of this subchapter, person does not include a partnership. A spouse of any person is deemed to be a separate person.

"Principal campaign committee" means the single 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 \$210,000 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 \$210,000 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".

Amended by R.1996 d.389, effective August 19, 1996.

See: 28 N.J.R. 2524(a), 28 N.J.R. 3971(a).

In "Debate sponsor" deleted "private" preceding "organization"; in "Person" added individuals and substituted "partnership" for "political committee"; in "Principal campaign committee" substituted "single" for "political"; and deleted "Political committee".

Amended by R.1996 d.583, effective December 16, 1996.

See: 28 N.J.R. 4395(b), 28 N.J.R. 5199(a).

In "contribution eligible for match", deleted cites to P.L. 1980, c.74 and increased contribution amount; and in "qualified candidate" raised deposit and expenditure amounts.

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. 19:25-4.1 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".

Amended by R.1996 d.389, effective August 19, 1996.

See: 28 N.J.R. 2524(a), 28 N.J.R. 3971(a).

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 committee, joint candidates committee, political committee, continuing political committee, political party committee, or legislative leadership committee any contribution in aid of the candidacy of or in behalf of such candidate in the aggregate in excess of \$2,100 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).

Amended by R.1996 d.389, effective August 19, 1996.

See: 28 N.J.R. 2524(a), 28 N.J.R. 3971(a).

Amended (a).

Amended by R.1996 d.583, effective December 16, 1996.
See: 28 N.J.R. 4395(b), 28 N.J.R. 5199(a).
In (a), raised contribution amount.

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

(a) A non-participating candidate is subject to the \$2,100 limitation on contributions from a person, candidate committee, joint candidates committee, political committee, continuing political committee, political party committee, or legislative leadership committee, pursuant to N.J.S.A. 19:44A-29.

(b) A non-participating candidate is subject to the \$2,100 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 N.J.S.A. 19:44A-7; is not subject to the \$25,000 limit on own funds contained in N.J.S.A. 19:44A-29; is not subject to the \$50,000 limit on bank loans contained in N.J.S.A. 19:44A-33; and is not subject to any limits on the amount of bank loan 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).
Amended by R.1996 d.389, effective August 19, 1996.
See: 28 N.J.R. 2524(a), 28 N.J.R. 3971(a).
Amended (a), and in (c) deleted noncodified statutory references.
Amended by R.1996 d.583, effective December 16, 1996.
See: 28 N.J.R. 4395(b), 28 N.J.R. 5199(a).
In (a) and (b), raised contribution amount.

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 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. 19:25-16.31 (Borrowing of funds, repayment).

3. The amount which any qualified candidate may spend in aid of his or her candidacy shall not exceed \$3,100,000, 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 \$2,100 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.
Amended by R.1996 d.389, effective August 19, 1996.
See: 28 N.J.R. 2524(a), 28 N.J.R. 3971(a).
In (a)2 amended statutory references.
Amended by R.1996 d.583, effective December 16, 1996.
See: 28 N.J.R. 4395(b), 28 N.J.R. 5199(a).
In (a)3, raised expenditure amount; in (a)4, raised contribution amount.

19:25-16.10 Who may or may not contribute

(a) No person, other than a candidate contributing his or her own funds to his or her campaign, candidate committee, joint candidates committee, political committee, continuing political committee, political party committee, or legislative leadership committee 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 \$2,100. Any such contribution in excess of \$2,100 must be returned to the contributor, pursuant to the requirements of N.J.A.C. 19:25-11.8, and evidence of the 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 \$2,100 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.

(d) For the purposes of (c) above, two or more corporations shall be considered affiliated where one individual owns more than a 30 percent interest in each of two or more corporations or where one corporation owns more than a 30 percent interest in each of one or more corporations.

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).

Amended by R.1996 d.389, effective August 19, 1996.

See: 28 N.J.R. 2524(a), 28 N.J.R. 3971(a).

Amended (a) and added (d).

Amended by R.1996 d.583, effective December 16, 1996.

See: 28 N.J.R. 4395(b), 28 N.J.R. 5199(a).

In (a) and (c), raised contribution amounts.

19:25-16.11 Contributions eligible for match

(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 \$2,100 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. 19:25-16.27. The total of all contributions eligible for match from any person, candidate committee, joint candidates committee, political committee, continuing political committee, political party committee, or legislative leadership committee shall not exceed \$2,100 in the aggregate.

(c) A maximum of \$2,100 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 or continuing 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 which was not created to circumvent the contribution limit contained in the act.

(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 \$2,100 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. 19:25-16.27. The total of all contributions eligible for match from any person, candidate committee, joint candidates committee, political committee, continuing political committee, political party committee, or legislative leadership committee shall not exceed \$2,100 in the aggregate.

(c) A maximum of \$2,100 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 or continuing 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 which 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).

Amended by R.1996 d.389, effective August 19, 1996.

See: 28 N.J.R. 2524(a), 28 N.J.R. 3971(a).

Amended (b) and (e).

Amended by R.1996 d.583, effective December 16, 1996.

See: 28 N.J.R. 4395(b), 28 N.J.R. 5199(a).

In (b) and (c), raised contribution amounts.

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 \$2,100 in the aggregate from a person, candidate committee, joint candidates committee, political committee, continuing political committee, political party committee, or legislative leadership committee had theretofore been received for pre-candidacy "testing the waters" activity; or contributions in excess of \$2,100 in the aggregate have been received for that purpose, and the amount of each contribution in excess of \$2,100 in the aggregate has been returned to the contributor. The certification shall include:

i. A list of all contributors who contributed more than \$2,100 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 the waters" activity an amount in excess of \$25,000 from his or her own funds shall reimburse to himself or herself from 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.

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).

Amended by R.1996 d.389, effective August 19, 1996.

See: 28 N.J.R. 2524(a), 28 N.J.R. 3971(a).

Amended (a)3 and (e).

Amended by R.1996 d.583, effective December 16, 1996.

See: 28 N.J.R. 4395(b), 28 N.J.R. 5199(a).

In (a)3 and (a)3i, raised expenditure amounts.

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) A partnership as defined in (e) below shall not be permitted to make contributions as an entity. In the absence of written instructions to the contrary as provided below, a contribution received by a campaign treasurer drawn on a partnership account must be deemed to be a contribution from the partner or partners, or individual or individuals, who signed the check or written instrument by which the contribution was conveyed, or in the case of a contribution of currency, the partner or individual who has conveyed the currency. If it is the intent of the contributor that any portion of the contribution received from a partnership account is to be attributed or allocated in a manner other than as set forth above, the following written information must be received and maintained by the campaign treasurer and accompany the check or written instrument being submitted for match pursuant to N.J.A.C. 19:25-16.18:

1. Written instructions concerning the allocation of the contribution amount to a contributing partner, or among contributing partners;

2. A signed acknowledgment of the contribution from each contributing partner who has not signed the contribution check or other written instrument; and

3. Contributor information for each contributing partner as required by N.J.A.C. 19:25-7.1.

(d) For the purposes of this section, the term "partnership" means:

1. Any partnership or joint venture organized under or governed by Title 42 of the New Jersey Statutes, including general partnerships within the meaning of N.J.S.A. 42:1-1 et seq., limited liability partnerships organized pursuant to N.J.S.A. 42:1-45 et seq., limited partnerships organized pursuant to or governed by N.J.S.A. 42:2A-1 et seq., and limited partnership associations organized pursuant to N.J.S.A. 42:3-1 et seq., and

2. Any similar association of two or more persons to carry on as co-owners a business for profit including, but not limited to, joint ventures, general partnerships, limited liability partnerships and limited partnerships organized or governed by corresponding laws of any other jurisdiction.

(e) A limited liability company shall not be permitted to make contributions as an entity. In the absence of written instructions to the contrary as provided below, a contribution received by a campaign treasurer drawn upon a limited liability company account must be deemed to be a contribution from the member or members, or the individual or individuals, who signed the check or written instrument by which the contribution was conveyed or, in the case of the contribution of currency, the member or individual who has conveyed the currency. If it is the intent of the contributor that any portion of a contribution received from a limited liability company account is to be attributed or allocated in a manner other than as set forth above, the following written information must be received and maintained by the campaign treasurer and accompany the check or written instrument being submitted for match pursuant to N.J.A.C. 19:25-15.17:

1. Written instructions concerning the allocation of the contribution amount to a contributing member, or among contributing members;

2. A signed acknowledgment of the contribution from each contributing member who has not signed the contribution check or other written instrument; and

3. Contributor information for each contributing member as required by N.J.A.C. 19:25-7.1.

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".

Amended by R.1996 d.389, effective August 19, 1996.

See: 28 N.J.R. 2524(a), 28 N.J.R. 3971(a).

Rewrote (c).

Amended by R.1996 d.583, effective December 16, 1996.

See: 28 N.J.R. 4395(b), 28 N.J.R. 5199(a).

Amended (c) and added (d) and (e).

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 \$2,100 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 \$2,100 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).

Amended by R.1996 d.583, effective December 16, 1996.

See: 28 N.J.R. 4395(b), 28 N.J.R. 5199(a).

In (a) and (b), raised contribution amounts.

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.

(e) An expenditure made from a candidate's primary election bank account which is determined after the date of the primary election to be allocable in part to that candidate's general election candidacy shall be reimbursed to the candidate's primary election depository account, established pursuant to N.J.A.C. 19:25-16.4, with general election funds. In no case shall funds from a candidate's primary election public funds account established pursuant to N.J.A.C.

19:25-16.20 be used for any purpose attributable to the general election.

(f) Reimbursements pursuant to (e) above shall be limited strictly to reimbursements for ordinary office expenditures for such purposes as office, furniture, and equipment rental and insurance and salaries, and shall be made on a date after the date of the primary election.

Amended by R.1996 d.389, effective August 19, 1996.

See: 28 N.J.R. 2524(a), 28 N.J.R. 3971(a).

Added (e) and (f).

19:25-16.16 Expenditure reporting

(a) Each expenditure from the depository account, matching fund account, or public funds account established by a gubernatorial candidate shall be reported on election fund reports and as required on submissions for public matching funds by providing the following information:

1. The date the expenditure was made;
2. The checking account title and number;
3. The full name and address of the payee;
4. The purpose of the expenditure;
5. The amount of the expenditure; and
6. The type of expenditure from a list of expenditure types provided by the Commission.

(b) In describing the purpose of an expenditure pursuant to (a)4 above, the specific election-related reason for the expenditure shall be provided. Descriptions such as "operations," "campaign expense" or "reimbursement" do not satisfy the reporting requirement because they do not provide any specific election-related information. Examples of satisfactory descriptions include such information as "newspaper advertising," "telephone expense," "postage," "printing of campaign flyers," "headquarters rental" and similarly specific items.

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".

New Rule, R.1996 d.389, effective August 19, 1996.

See: 28 N.J.R. 2524(a), 28 N.J.R. 3971(a).

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 \$210,000 from persons or political committees each of whose contributions in the aggregate do not exceed \$2,100, and that at least \$210,000 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 \$210,000.

(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 \$300.00 and an alphabetical list of all contributors whose contributions are in the aggregate \$300.00 or less and which shall contain authorization by the candidate for public disclosure only of contributors whose contributions in the aggregate exceed \$300.00.

(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 primary election exceed \$300.00 the occupation of the individual and the name and mailing address of the individual's employer.

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).

Amended by R.1996 d.389, effective August 19, 1996.

See: 28 N.J.R. 2524(a), 28 N.J.R. 3971(a).

In (k)2 changed the contribution amounts from \$100 to \$200, and added (l).

Amended by R.1996 d.583, effective December 16, 1996.

See: 28 N.J.R. 4395(b), 28 N.J.R. 5199(a).

In (c), (k)2, and (l), raised contribution amounts; and in (g); raised expenditure amount.

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

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 \$69,000 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.
Amended by R.1996 d.583, effective December 16, 1996.
See: 28 N.J.R. 4395(b), 28 N.J.R. 5199(a).
Raised required deposit amount.

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 \$1,860,000.

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).
Amended by R.1996 d.583, effective December 16, 1996.
See: 28 N.J.R. 4395(b), 28 N.J.R. 5199(a).
In (b), raised funding amount.

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 \$300.00 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).
Amended by R.1996 d.389, effective August 19, 1996.
See: 28 N.J.R. 2524(a), 28 N.J.R. 3971(a).
Changed the contribution amount from \$100 to \$200.
Amended by R.1996 d.583, effective December 16, 1996.

See: 28 N.J.R. 4395(b), 28 N.J.R. 5199(a).
Raised contribution amount.

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 expenditure 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. 19:25-16.32.

(d) Any expenditure made from a candidate's public fund account shall be identified on election fund 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, a detailed description of the election-related purpose of the expenditure which includes the applicable permitted use of public funds contained in (a) above and the type of expenditure for each expenditure from a list of expenditure types to be provided by the Commission.

(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).
Amended by R.1996 d.389, effective August 19, 1996.
See: 28 N.J.R. 2524(a), 28 N.J.R. 3971(a).
Amended (c) and (d).

19:25-16.26 Use of transferred funds

Notwithstanding the provisions of N.J.A.C. 19:25-6.2, 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 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).
Amended by R.1996 d.389, effective August 19, 1996.
See: 28 N.J.R. 2524(a), 28 N.J.R. 3971(a).
Amended statutory references.

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.

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.

Amended by R.1996 d.389, effective August 19, 1996.

See: 28 N.J.R. 2524(a), 28 N.J.R. 3971(a).

In (a)3 amended the statutory reference.

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 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, candidate committee, joint candidates committee, political committee, continuing political committee, political party committee, or legislative leadership 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 communication expenditure which is an independent expenditure shall include a clear and conspicuous statement that the communication was not made with the cooperation or prior consent of, or in consultation with or at the request or suggestion of, any candidate, or any person or committee acting on behalf of any candidate.

(c) Whenever a person, candidate committee, joint candidates committee, political committee, continuing political committee, political party committee, or legislative leadership committee makes, incurs or authorizes an independent expenditure pursuant to N.J.A.C. 19:25-12.7 or 12.8 which is an independent expenditure that is subject to reporting pursuant to the Act, the communication shall clearly state the name and address of the person or committee making the independent expenditure, as that information appears on reports filed with the Commission, and state that the communication has been paid for by that person or committee.

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).

Amended by R.1996 d.389, effective August 19, 1996.

See: 28 N.J.R. 2524(a), 28 N.J.R. 3971(a).

Rewrote the section.

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 by a political party committee or legislative leadership committee, as defined in N.J.A.C. 19:25-1.7, of the same political party as the gubernatorial candidate, 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 a political party committee or legislative leadership committee, as defined in N.J.A.C. 19:25-1.7, of the same political party as the gubernatorial candidate, 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 or legislative leadership committee, as defined in N.J.A.C. 19:25-1.7, of the same political party as the gubernatorial candidate, conducted seven or fewer days before the gubernatorial primary 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 of the same political party as the gubernatorial candidate, other than a gubernatorial candidate, acting alone in a candidate committee or jointly with other candidates in a joint candidates committee.

(i) For the purposes of this section, the references to a gubernatorial candidate and pictures of a gubernatorial candidate, described in (b), (c) and (d) above, which are deemed insubstantial and not subject to (a) above, shall be strictly limited to references and pictures of a gubernatorial candidate of the same political party as the non-gubernatorial candidate or candidates or political party committee or legislative leadership committee responsible for circulating or causing the circulation of the communication.

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).

Amended by R.1996 d.389, effective August 19, 1996.

See: 28 N.J.R. 2524(a), 28 N.J.R. 3971(a).

Amended (h) and added (i).

Amended by R.1996 d.583, effective December 16, 1996.

See: 28 N.J.R. 4395(b), 28 N.J.R. 5199(a).

In (b), (c), (d)1, and (h), inserted reference to legislative leadership committee and text "of the same political party as the gubernatorial candidate"; and in (i), inserted reference to legislative leadership committee and substituted references to circulating for reference to preparing.

Amended by R.1997 d.218, effective May 19, 1997.

See: 29 N.J.R. 743(a), 29 N.J.R. 2468(a).

In (d)1, substituted "primary election" for "general election".

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, candidate committee, joint candidates committee, political committee, continuing political committee, political party committee, or legislative leadership committee, other than the candidate may in any way endorse or guarantee such loan in the aggregate in excess of the \$2,100 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 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.

Amended by R.1996 d.389, effective August 19, 1996.

See: 28 N.J.R. 2524(a), 28 N.J.R. 3971(a).

Amended by R.1996 d.583, effective December 16, 1996.

See: 28 N.J.R. 4395(b), 28 N.J.R. 5199(a).

Raised loan guarantee amount.

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.

2. Each contribution submitted in the report required by (a)1 above as evidence that \$210,000 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 \$210,000 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 \$210,000.

4. For each contribution from an individual whose aggregate contributions to the candidate in the primary election exceed \$300.00 which is submitted in the report required pursuant to this section, the certified statement of qualification shall include the occupation of the individual and the name and mailing address of the individual's employer.

(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).

Amended by R.1996 d.389, effective August 19, 1996.

See: 28 N.J.R. 2524(a), 28 N.J.R. 3971(a).

Added (a)4.

Amended by R.1996 d.583, effective December 16, 1996.

See: 28 N.J.R. 4395(b), 28 N.J.R. 5199(a).

In (a), raised deposit, expenditure, and contribution amounts.

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 \$210,000 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.

Amended by R.1996 d.583, effective December 16, 1996.

See: 28 N.J.R. 4395(b), 28 N.J.R. 5199(a).

In (a)2, raised deposit and expenditure amount.

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 the following:

1. Coverage, including time of broadcast of the debate or debates, by specified television and radio stations and other media outlets;
2. Arrangements for a debate moderator or moderators; and
3. Sources of financial support to the organization to underwrite costs associated with the debate or debates.

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).

Amended by R.1996 d.389, effective August 19, 1996.

See: 28 N.J.R. 2524(a), 28 N.J.R. 3971(a).

Amended (c).

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 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.

Amended by R.1996 d.389, effective August 19, 1996.

See: 28 N.J.R. 2524(a), 28 N.J.R. 3971(a).

In (a) deleted "private" preceding "organization".

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.

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) 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.

(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.

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).

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).

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 \$3,500 for the first offense and not more than \$7,000 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 con-

tinuing political committee shall in addition to any other penalty provided by law, be liable to a penalty of not more than \$3,500 for the first offense and not more than \$7,000 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).

SUBCHAPTER 18. ADVISORY OPINIONS

Subchapter Historical Note

Subchapter 14, Advisory Opinions, was recodified as Subchapter 18 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).

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).