

# TEXAS ETHICS COMMISSION RULES



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**Texas Ethics Commission, P.O. Box 12070, Austin, Texas 78711**

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## CHAPTER 6. ORGANIZATION AND ADMINISTRATION

### Subchapter A. GENERAL RULES

#### §6.1. Definitions.

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

- (1) Act--The Government Code, Chapter 571 (concerning Texas Ethics Commission).
- (2) Administrative Procedure Act--The Government Code, Chapter 2001 (concerning Administrative Procedure).
- (3) Agency--The state agency governed by the commission, as it functions and operates through the administrative staff hired by the commission and its executive director.
- (4) Commission--The Texas Ethics Commission, as constituted and described in the Texas Constitution, Article 3, §24a and in the Government Code, Chapter 571.
- (5) Document--A report, complaint, response, letter, or any other written material.
- (6) Executive director--The person employed by the commission to serve as the agency's chief administrative officer, or any other employee of the commission acting as the designee of the executive director.
- (7) Filer--A person required to file a report with the commission or a local filing authority in accordance with a law enforced by the commission.
- (8) Individual--A human being who has been born and is alive.
- (9) Local filing authority--A public servant other than the Texas Ethics Commission with whom a filer must file a report in accordance with a law enforced by the commission.
- (10) Open Meetings Law--The Government Code, Chapter 551 (concerning Open Meetings).
- (11) Open Records Law--The Government Code, Chapter 552 (concerning Open Records).
- (12) Person--An individual, representative, corporation, association, or other entity, including any nonprofit corporation, or any agency or instrumentality of federal, state, or local government.
- (13) Postmark--A postal cancellation by the United States Postal Service that contains the post office name, state, and zip code and the month, day, and year the canceling post office accepted custody of the material.
- (14) Report--Any document or other information required to be filed under this title.

(15) Staff--Employees of the commission, hired by the commission or the executive director.

(16) Title 15--The Election Code, Title 15 (concerning Regulating Political Funds and Campaigns).

**§6.3. Purpose and Construction of Rules.**

(a) This title is adopted for the following purposes:

(1) to establish and explain the practice and procedures followed by the commission and its employees performing its duties under the law; and

(2) to provide specific guidance necessary to encourage and ensure full compliance with all laws administered and enforced by the commission.

(b) A person's obligation to comply with a requirement or prohibition established by statute exists even if this title is silent concerning a statutory requirement.

(c) This title shall always be construed in a manner consistent with all applicable constitutional and statutory requirements.

**§6.9. Computation of Time.**

(a) This section states how to compute a period of time prescribed or allowed by this title, by any order of the agency, or by any applicable statute. The day of the act, event, or default after which the designated period of time begins to run is not included. The last day of the period is included. However, if the last day of the time period would not be a business day as defined by Section 552.0031 of the Texas Government Code, the period is extended until the next day that is a business day.

(b) A time period described by statute or this Part to be a certain number of business days is calculated under subsection (a) of this section without including any day within that time period that is not a business day as defined by Section 552.0031 of the Texas Government Code.

(c) A document required to be filed or served by a deadline established by statute or this title is filed or served when it is actually received. A document may be deemed to be filed or served when it is deposited with the United States Postal Service, properly addressed to the recipient, with all postage prepaid. The date of the postmark on the envelope for the document is presumed to be the date the document was deposited with the United States Postal Service.

(d) A document filed or served by delivery to the United States Postal Service is presumed to have been filed before 5:00 p.m. on the date indicated by the postmark.

## Subchapter B. OFFICERS AND EMPLOYEES OF THE COMMISSION

### §6.21. Officers of the Commission.

- (a) The commission's chair and vice chair shall be elected annually by majority vote of the commission. The election shall take place at the first commission meeting held after June 1 of each year. Each officer shall serve until his or her successor is selected.
- (b) The chair and vice chair shall be members of different political parties.
- (c) The chair and vice chair may be re-elected; however, if a new chair is elected he or she should be a member of a different political party than the former chair.
- (d) The person elected to serve as the commission's chair shall also serve as the commission's presiding officer. The presiding officer shall preside at all meetings of the commission. While presiding, the presiding officer shall direct the order of the meeting, appoint committees and persons to chair committees, recognize persons to be heard at hearings, set reasonable and necessary time limits for speakers, and take other actions to clarify issues and preserve order. Unless the chair appoints a presiding officer pro tem pursuant to subsection (f) of this rule, the vice chair shall perform all duties of the presiding officer when the chair is absent.
- (e) In addition to other powers identified elsewhere in this Part, the presiding officer may perform the following actions of the commission:
- (1) Sign previously approved subpoenas and orders;
  - (2) Schedule hearings and meetings;
  - (3) Timely respond to litigation matters on behalf of the commission, including litigation matters, when action is required before the next scheduled meeting.
- (f) The chair may appoint a commissioner as presiding officer pro tem to preside over a hearing held by the commission.
- (g) If the chair or vice chair is unable to participate in a matter pending before the commission, either may select a replacement from among the other commissioners to exercise their authority and fulfill their duties under this Part and any other applicable law.

### §6.23. Commission Staff.

- (a) The executive director is the chief administrative officer of the agency. The executive director shall attend commission meetings at the pleasure of the commission and serve as liaison between the commission and the public.
- (b) The commission delegates to the executive director all powers conferred on the commission by the Act or other law, except for any power that requires a vote of the commission or approval of the chair. Any action taken by the executive director shall conform with all applicable law, including this Part and other policies that may be adopted from time to time by the commission.

(c) The executive director shall attend commission meetings unless specifically excused by the commission and shall perform any duties or assignments established by the commission.

(d) The general counsel shall attend commission meetings unless specifically excused by the commission, shall provide legal advice to the commission and executive director, and shall perform any duties delegated by the executive director.

**§6.25. Appointment and Operation of Advisory Committees.**

(a) The commission by resolution may establish one or more committees to obtain the viewpoints and advice of interested persons with respect to any contemplated rulemaking. The membership or method of appointment of members to a committee established under this section shall be specified in the resolution that creates the committee. A committee created under this section is advisory only.

(b) In addition to committees established under subsection (a) of this section, with the consent of other members of the commission the presiding officer may from time to time establish and appoint commission members and others to a special committee to exercise advisory duties specified by the presiding officer.

**Subchapter C. COMMISSION MEETINGS**

**§6.35. Called Meetings.**

The executive director shall give notice to each commissioner of the date and time of each meeting. Notice under this section shall be provided a reasonable amount of time in advance of the meeting.

**§6.37. Open Meetings.**

(a) Except as provided by subsection (b) of this section, each meeting of the commission shall be conducted in accordance with the Open Meetings Law.

(b) A commission meeting limited to consideration and action on matters relating to sworn complaints is not subject to the Open Meetings Law.

**§6.39. Meeting Agenda.**

(a) The agenda shall consist of agenda items proposed by the executive director prior to the meetings for which the agenda is specified. At a reasonable time before filing a copy of the agenda as required by the Open Meetings Law, the executive director shall provide a copy of the proposed agenda to the presiding officer. If the presiding officer is not reasonably available, the executive director shall provide a copy of the proposed agenda to any two commissioners.

(b) The presiding officer, a commission member with the consent of the presiding officer, or any two commissioners may direct the executive director to include an item on the agenda if it complies with the posting requirements specified by law. The presiding officer may direct the executive director to remove an item included on a proposed agenda unless that item is requested by two commission members other than the presiding officer.

(c) A member of the public may ask the executive director to place an item on a proposed agenda. The executive director shall advise the commission of the request and may include the item on a proposed agenda.

**§6.41. Public Hearing and Participation.**

(a) A public hearing on an agenda item shall be conducted when required by law or requested by a commissioner.

(b) The executive director shall prepare and maintain a plan for providing special assistance (including without limitation translation of the English language) to persons who request such assistance for the purpose of attending, observing, or participating in a commission meeting.

**§6.43. Speakers Addressing the Commission.**

(a) The executive director shall prescribe a speaker registration form. Each person who wishes to speak at a commission meeting shall provide the following information:

- (1) the speaker's name;
- (2) the person or entity the speaker represents, if any;
- (3) the agenda item the speaker wishes to address; and
- (4) his or her mailing address and telephone number.

(b) Any person who addresses the commission shall state his or her name and the name of the person or entity the speaker represents, if any, for purposes of the tape recording under §6.47 of this title (relating to Recording of Meeting; Minutes).

**§6.45. Order and Conduct of Commission Meeting.**

(a) The presiding officer shall preside at all meetings of the commission. The presiding officer shall direct the order of the meeting in accordance with its agenda, recognize persons to be heard, set reasonable and necessary time limits for speakers, maintain and enforce appropriate standards of conduct, and take any other action necessary in his or her discretion to clarify issues and preserve order.

(b) Commission meetings shall be conducted in accordance with rules and procedures set forth in the most recently published edition of Robert's Rules of Order.

(c) With unanimous consent of all commissioners present, any provision or requirement of this section may be waived.

(d) No action of the commission that otherwise complies with law shall be void or invalid because the action was taken in violation of a rule or procedure established by this section.

**§6.47. Recording of Meeting; Minutes.**

(a) All meetings of the commission shall be recorded. The recording shall be the official record of actions taken at the meeting.

(b) The presiding officer shall announce the names of each commissioner who makes or seconds a motion to be voted upon by the commission. After the vote has been taken, the presiding officer shall announce the vote in a manner that identifies how each commissioner voted, if a commissioner abstained, or if a commissioner was not present for the vote.

(c) The executive director shall prepare minutes after each meeting that reflect all commission votes and other actions taken during the meeting. The minutes shall be approved by vote of the commission at a subsequent commission meeting.

**Subchapter D. RULEMAKING PROCEDURES**

**§6.61. Comments on Proposed Rules.**

(a) Written comments on a proposed rule received at the agency office shall be reviewed by the executive director and made available to each member of the commission before final action to adopt the rule.

(b) Oral or written comments on a proposed rule may also be offered at the public hearing required by §6.63 of this title (relating to Public Hearings on Proposed Rules).

**§6.63. Public Hearings on Proposed Rules.**

The commission will hold a public hearing on each proposed rule before it takes final action to adopt the rule. Unless otherwise scheduled, the public hearing will be held immediately before the commission votes on the proposed rule.

**Subchapter E. AGENCY FEES AND CHARGES**

**§6.81. Charges; Payment of Money; Refunds.**

(a) Any fee or charge payable to the agency shall be paid in advance, unless satisfactory arrangements for subsequent payment are approved by the executive director.

(b) Money paid by actual mistake or in excess, such as a payment not required by law, may be refunded. A mere change of purpose after the payment of money, as when a party desires to withdraw a filing, will not entitle a party to a refund.

**§6.83. Copying Charges.**

The charge for providing copies of documents shall be in accordance with rules established by the General Services Commission or other applicable law.

**§6.87. Waiver of Fees for Copies or Publications.**

The executive director may waive or reduce a charge established by this subchapter when, in his or her discretion, a waiver or reduction of the fee is in the public interest because furnishing the information primarily benefits the general public.

## CHAPTER 8. ADVISORY OPINIONS

### §8.1. Definitions.

The following words and terms, when used in this chapter, shall have the following meanings, unless the context clearly indicates otherwise: AOR number--An advisory opinion request file number assigned by the executive director to a pending advisory opinion request in accordance with this chapter.

### §8.3. Subject of an Advisory Opinion.

- (a) The commission may not issue an advisory opinion that concerns the same or substantially similar facts of pending litigation known to the commission.
- (b) For purposes of this section, the term litigation includes a sworn complaint proceeding before the commission if the request is made by a respondent or complainant or the agent of a respondent or complainant of pending sworn complaint relating to the same issue of law as the advisory opinion request.
- (c) An advisory opinion cannot resolve a disputed question of fact.

### §8.5. Persons Eligible To Receive an Advisory Opinion.

A person who is subject to one of the laws described in §571.091, Gov't Code may request an opinion that advises how the law applies to that person in a specific real or hypothetical factual situation. Opinions may only address how the law applies to the requestor, not any other real or hypothetical person.

### §8.7. Request for an Advisory Opinion.

- (a) A request for an advisory opinion shall describe a specified factual situation. The facts specified may be real or hypothetical. The request must provide sufficient detail to permit the commission to provide a response to the request, including the name of the person making the request and, if applicable, the name of the person on whose behalf the request is made.
- (b) A request for an advisory opinion shall be:
  - (1) in writing; and
  - (2) mailed or hand-delivered to the commission at the agency office or emailed to the commission's email address designated for receiving requests.

### §8.9. Commission Initiated Opinion.

When a majority of the commission determines that an opinion would be in the public interest or in the interest of any person or persons within the jurisdiction of the commission, the commission may on its own motion issue an advisory opinion.

**§8.11. Review and Processing of a Request.**

(a) Upon receipt of a written request for an advisory opinion, the executive director shall determine whether the request:

- (1) pertains to the application of a law specified under §571.091, Gov't Code;
- (2) meets the standing requirements of §8.5 of this chapter; and
- (3) meets the form requirements of §8.7 of this chapter.

(b) If the executive director determines that a request for an opinion meets the requirements of this chapter as set forth in subsections (a)(1)-(3) of this section, the executive director shall assign an AOR number to the request. The executive director shall notify the person making the request of the AOR number and of the proposed wording of the question to be answered by the commission.

(c) If the executive director determines that a request for an opinion does not meet the requirements of this chapter as set forth in subsections (a)(1)-(3) of this section, the executive director shall notify the person making the request of the reason the person making the request is not entitled to an advisory opinion in response to the request.

(d) A person who requests an opinion may withdraw the request prior to its inclusion on a meeting agenda filed by the Commission pursuant to the Open Meetings Law. Once a request is included on such an agenda, it may not be withdrawn by the requestor.

(e) The executive director may submit written questions to the requestor to clarify the real or hypothetical facts submitted with the request.

(f) The executive director may invite comments regarding an advisory opinion request from individuals or entities that may have expertise or an interest in the subject of the request.

**§8.13. Time Period.**

(a) The commission shall issue an advisory opinion in response to a request that meets the requirements of this chapter not later than the 60th day after the date the commission receives the request.

(b) The time available to issue an advisory opinion in response to a written request is automatically extended for 60 days pursuant to §571.092(b), Government Code.

**§8.15. Publication in Texas Register; Comments.**

(a) Each request assigned an AOR number under this chapter shall be published in summary form in the Texas Register.

(b) Any person may submit written comments to the commission concerning an advisory opinion request. Comments submitted should reference the AOR number.

**§8.18. No Defense to Prosecution or Civil Penalty.**

A person who requests an advisory opinion does not obtain a defense to prosecution or to imposition of a civil penalty by requesting the opinion if any of the following apply:

- (1) the commission is not authorized to answer the request because it does not pertain to the application of a law specified under §571.091, Gov't Code ;
- (2) the request does not meet the standing requirements of §8.5 of this chapter; or
- (3) the request does not meet the form requirements of §8.7 of this chapter.

**§8.19. Confidentiality.**

- (a) The name of a person who requests an advisory opinion is confidential.
- (b) The original request for an advisory opinion shall be placed in a confidential file.
- (c) Confidentiality under subsection (a) of this section may be waived only if the person making the request for an advisory opinion provides a verified, written waiver of confidentiality to the executive director.
- (d) If a request for a copy of an advisory opinion request is received, the executive director shall prepare a redacted version of the advisory opinion request by deleting any information that is likely to identify the person making the request. The redacted version of the request shall be provided to the person who requested a copy of the advisory opinion request.

**§8.21. Compilation of Advisory Opinions.**

The executive director shall number and categorize each advisory opinion issued and publish the opinion on the commission's website. The executive director may publish and provide copies of advisory opinions in other formats as may be in the public interest.

**CHAPTER 10. ETHICS TRAINING PROGRAMS**

**§10.1. Training Programs.**

The executive director shall establish a program to provide training relating to the laws administered and enforced by the commission and related laws for:

- (1) members and members-elect of the legislature, to be held by January of each odd-numbered year;
- (2) state employees, in cooperation with state agencies; and
- (3) other persons and officials whose conduct is regulated by laws administered and enforced by the commission and related laws.

**§10.3. Tuition Charges to Attendees of Training Programs.**

Upon approval of the commission, the executive director may establish tuition charges for persons who attend training programs under §10.1(3) of this title (relating to Training Programs) to recover costs of the training.

## CHAPTER 12. SWORN COMPLAINTS

### Subchapter A. RESPONDENTS' RIGHTS

#### §12.1. Notice.

(a) A notice required to be sent to a complainant under chapter 571 of the Government Code shall be sent to the address most recently provided to the commission by the complainant.

(b) A notice required to be sent to a respondent under chapter 571 of the Government Code shall be sent to the address provided to the commission by the complainant or, if the respondent has provided a different address, to the address most recently provided to the commission by the respondent.

(c) A person entitled to receive notice may waive that right by filing a written waiver with the executive director.

(d) A respondent or complainant in a complaint may waive the right under section 571.032 of the Government Code to receive written notices related to the complaint by registered or certified mail, restricted delivery, return receipt requested, and may agree to receive written notices related to the complaint by first class mail, electronic mail, or other means.

#### §12.2. Representation by Counsel.

(a) A respondent has the right to be represented by counsel retained by the respondent in any proceeding of a complaint.

(b) Counsel representing a respondent shall enter an appearance with the commission that contains the counsel's mailing address, email address, telephone number, and state bar number. If the respondent's counsel is not licensed to practice law in Texas, the representative must show authority to appear as the respondent's counsel.

(c) The commission may, through the approval of its executive director, admit an attorney who is a resident of and licensed to practice law in another state, and who is not an active member of the State Bar of Texas, to represent a respondent before the commission if the nonresident attorney complies with the requirements of Tex. Gov't Code §82.0361 and Rule XIX of the Rules Governing Admission to the Bar of Texas and files a motion, accompanied by proof of compliance with those provisions, with the commission requesting to be admitted to represent a respondent.

(d) This rule does not allow a person to engage in the unauthorized practice of law.

#### §12.3. Ex Parte Communications.

Neither commission enforcement staff nor respondents may communicate with commissioners or the general counsel outside the presence of the other party for the purpose of influencing a decision on a pending sworn complaint after the commission accepts jurisdiction over an allegation.

**§12.4. Agreements to be in Writing.**

No stipulation or agreement with respect to any matter in a complaint shall be effective unless it has been:

- (1) reduced to writing and signed by each person making the stipulation or agreement, or by that person's authorized representative, and filed with the commission; or
- (2) entered into the record during the course of a hearing.

**Subchapter B. FILING AND INITIAL PROCESSING OF COMPLAINT**

**§12.11. Deadline for Filing a Complaint.**

(a) The commission has no jurisdiction over an alleged violation:

- (1) if the alleged violation is also a criminal offense, and if, at the time the complaint is filed or at the time the commission would vote to initiate a preliminary review of a matter, the allegation would be barred from criminal prosecution by operation of the applicable statute of limitations; or
- (2) if the alleged violation is not also a criminal offense and if the allegation is based on facts that occurred more than three years before the date the complaint is filed or the date the commission would vote to initiate a preliminary review of a matter.

(b) For purposes of this section, a complaint is not filed unless it complies with the requirements of section 571.122 of the Government Code.

**§12.12. File Date for a Complaint.**

The file date for a complaint is the date the complaint is received by the commission.

**§12.13. Description of Violation.**

(a) If a complaint does not include the specific rule or provision of law alleged to have been violated, the complaint must clearly and concisely describe facts that, if true, would constitute a violation of a law administered and enforced by the commission.

(b) A complaint that erroneously cites a specific rule or provision of law is nonetheless sufficient if the correct citation can reasonably be ascertained by the commission. When a complaint erroneously cites a specific rule or provision of law, the commission shall cite the correct rule or provision of law in the notice provided to the respondent.

**§12.14. Statement of Facts.**

(a) The alleged facts must provide sufficient detail to reasonably place the respondent on notice of the law violated and of the manner and means by which the violation allegedly occurred and to afford the respondent a basis on which to prepare a response.

(b) The facts alleged may adopt by reference the content of documents submitted with the complaint. However, the allegations must reasonably identify those portions of the document that are relevant to the alleged violation.

**§12.15. Commission Initiated Complaint.**

(a) Commission staff may gather or present documents or evidence, make recommendations, and otherwise communicate with commissioners in contemplation of, or in preparation for, a commission initiated preliminary review. Commissioners may request documents, evidence, or recommendations, and otherwise communicate with commission staff in contemplation of, or in preparation for, a commission initiated preliminary review.

(b) A preliminary review initiated by the commission under section 571.124(b) of the Government Code is deemed to be a complaint for purposes of all further proceedings under chapter 571 of the Government Code and of this chapter.

(c) Documents or evidence gathered by the commission and commission staff in contemplation of, or in preparation for, a commission initiated preliminary review are related to the processing of a preliminary review or motion for the purposes of sections 571.139 and 571.140 of the Government Code.

(d) Discussions between the commission and commission staff regarding gathering documents or evidence in contemplation of, or in preparation for, a commission initiated preliminary review are related to the processing of a preliminary review or motion for the purposes of sections 571.139 and 571.140 of the Government Code.

**Subchapter C. INVESTIGATION AND DISCOVERY**

**§12.21. Response to Notice of Complaint.**

(a) The response required by section 571.1242 of the Government Code must:

- (1) be in writing;
- (2) admit or deny the allegations set forth in the complaint; and
- (3) be signed by the respondent.

**§12.22. Written Questions.**

(a) A complainant or respondent must respond to written questions not later than 15 business days after receiving the written questions.

**§12.23. Production of Documents During Preliminary Review.**

(a) Before applying for the commission to issue a subpoena under §571.137(a-1) of the Government Code, commission staff must send to the person from whom records are sought a written request for the production or inspection of documents or other tangible things that:

- (1) specifies the items to be produced or inspected, either by individual item or by category, and describes with reasonable particularity each item and category; and
  - (2) provides a reasonable amount of time, but not less than 30 days, to comply with the request.
- (b) The person from whom records are sought must produce or allow the inspection of documents or other tangible things within the person's possession, custody or control within the time provided in the request, or submit in writing, as appropriate:
- (1) objections to those records that are unreasonable, improper, or unnecessary to investigate the complaint; or
  - (2) that, after a diligent search, no items have been identified that are responsive to the request.
- (c) Commission staff shall provide to the commission any response it receives to its request for production or inspection when applying for a subpoena under §571.137(a-1) of the Government Code.

#### **§12.24. Proposed Settlement Before Preliminary Review Hearing.**

If commission staff proposes to a respondent an agreement to settle a complaint that would be effective upon approval by the commission and the respondent, the 120-day deadline for the commission to propose an agreement to the respondent or dismiss the complaint (provided in section 571.1242(g) of the Government Code) is met. If a respondent approves a proposed agreement, commission staff must submit the proposed agreement to the commission to seek final approval at the next scheduled commission meeting. If a respondent rejects a proposed agreement, the matter shall be set for a preliminary review hearing at the next commission meeting for which notice has not yet been posted. If a respondent rejects a proposed agreement within 45 days before the date of a commission meeting, the matter shall be set for a preliminary review hearing at the next commission meeting thereafter.

#### **§12.25. Subpoenas Issued by Commission.**

- (a) A subpoena issued under §571.137 of the Government Code shall specify the date, time, place, and manner for execution of the subpoena.
- (b) A subpoena issued under section 571.137 of the Government Code that requires a person to provide testimony shall be served on that person at least 10 business days before the date the subpoena is to be executed.
- (c) A subpoena sought by commission staff under section 571.137(a) of the Government Code must be requested in writing and may be approved and issued by the unanimous agreement of the chair and vice chair. If either the chair or vice chair does not approve the request, then staff may seek approval through a vote of the commission, in which case the subpoena will be issued upon the affirmative vote of five commissioners.

**§12.26. Subpoenas Issued by Counsel for the Respondent.**

(a) This section applies only to subpoenas issued by a respondent's counsel under section 571.125(f) (concerning the issuance of a subpoena for a witness in a preliminary review hearing) or 571.130(f) (concerning the issuance of a subpoena for a witness in a formal hearing) of the Government Code.

(b) A subpoena must be issued in the name of "The State of Texas" and must:

(1) state the sworn complaint numbers for the sworn complaints at issue in the hearing at which the witness is summoned to appear;

(2) state that the subpoena pertains to a sworn complaint proceeding before the Texas Ethics Commission;

(3) state the date on which the subpoena is issued;

(4) identify the person to whom the subpoena is directed;

(5) state the time and place of the preliminary review hearing or formal hearing at which the subpoena directs the person to appear;

(6) identify the respondent at whose instance the subpoena is issued and the respondent's attorney of record;

(7) specify with reasonable particularity any documents with which the person to whom the subpoena is directed shall appear;

(8) state the text of § 12.31(i) of this chapter (relating to Purpose and Effect of Motions); and

(9) be signed by the attorney issuing the subpoena.

(c) A subpoena must command the person to whom it is directed to appear and give testimony at:

(1) a preliminary review hearing; or

(2) a formal hearing.

(d) A subpoena may only direct a person to appear, with or without documents, and give testimony at a preliminary review hearing or formal hearing before the commission.

(e) A subpoena may be issued only by the counsel of record for a respondent in a sworn complaint proceeding before the commission against that respondent.

(f) Service.

(1) Manner of service. A subpoena may be served at any place within the State of Texas by any sheriff or constable of the State of Texas, or any person who is not a party and is 18

years of age or older. A subpoena must be served by delivering a copy to the witness and tendering to that person any fees required by law. If the witness is a party and is represented by an attorney of record in the sworn complaint proceeding, the subpoena may be served on the witness's attorney of record.

(2) **Deadline for service.** A subpoena must be served upon the person required to appear at least 21 days before the preliminary review hearing or formal hearing at which the person is required to appear. The subpoena and proof of service must be filed with the commission within three days of its service on the person required to appear.

(3) **Proof of service.** Proof of service must be made by filing either:

(A) the witness's signed written memorandum attached to the subpoena showing that the witness accepted the subpoena; or

(B) a statement by the person who made the service stating the date, time, and manner of service, and the name of the person served.

(g) **Response.**

(1) Except as provided in this subsection, a person served with a subpoena must comply with the command stated therein unless discharged by the commission or by the party summoning such witness. A person commanded to appear and give testimony must remain at the place of hearing from day to day until discharged by the commission or the party summoning the witness.

(2) If a subpoena commanding testimony is directed to a corporation, partnership, association, governmental agency, or other organization, and the matters on which examination is requested are described with reasonable particularity, the organization must designate one or more persons to testify on its behalf as to matters known or reasonably available to the organization.

(3) A person commanded to appear with documents must produce the documents as they are kept in the usual course of business or must organize and label them to correspond with the categories in the demand.

(4) A person commanded to appear at a hearing must file any motion to quash the subpoena or objection to a requirement to appear with certain documents with the commission no later than the 14th day before the hearing at which the person is directed to appear. Commission staff may move to quash a subpoena or object to appearance with certain documents in the same manner as the person commanded to appear by the subpoena. The filer of a motion to quash or objection to a requirement to appear with certain documents must serve the motion or objection on the proponent of the subpoena in person, by mail, by commercial delivery service, by fax, by email, or by other such manner as the presiding officer of the commission may direct, no later than the deadline for filing the motion to quash or objection to appearance with documents with the commission. After affording commission staff and the person commanded to appear an opportunity to move to quash the subpoena or object to appearance with certain documents, and affording the proponent of the subpoena an opportunity to respond to the motion to quash or objection to appearance with documents,

the commission's presiding officer shall rule on a motion to quash or objection to appearance with documents.

(5) A person commanded to attend and give testimony, or to produce documents or things, at a preliminary review hearing or formal hearing may object to giving testimony or producing documents at the time and place specified for the hearing, rather than under subsection (g)(4) of this section.

(6) A party's appearance with a document in response to a subpoena directing the party to appear with the document authenticates the document for use against that party in any proceeding before the commission unless the party appearing with the document objects to the authenticity of the document, or any part of it, at the time of the party's appearance, stating the specific basis for objection. An objection must have a good faith factual and legal basis. An objection made to the authenticity of only part of a document does not affect the authenticity of the remainder. If objection is made, the party attempting to use the document should be given a reasonable opportunity to establish its authenticity. The requirement that the commission provide a reasonable opportunity to establish the document's authenticity may be satisfied by the opportunity to present a witness to authenticate the document at a subsequent hearing before the commission.

(h) A counsel for a respondent issuing a subpoena must take reasonable steps to avoid imposing undue burden or expense on the person served. In ruling on a motion to quash or objection to appearance with documents, the presiding officer must provide a person served with a subpoena an adequate time for compliance, protection from disclosure of privileged material or information, and protection from undue burden or expense. The presiding officer may impose reasonable conditions on compliance with a subpoena, including compensating the witness for undue hardship.

### **§12.27. Discovery Control Plans, Application.**

(a) As determined by the Executive Director from available information, a sworn complaint that appears to allege only technical or de minimis violations, as defined by §12.92 of this chapter (related to Resolution of Technical or De Minimis Allegation), is governed by a Level 1 discovery control plan. All other sworn complaints are governed by a Level 2 discover control plan.

(b) Commission staff shall indicate in the written notice of a complaint provided to the respondent under Section 571.123, Government Code, whether the complaint is governed by a Level 1 or Level 2 discovery control plan

(c) The respondent or commission staff may file a motion requesting that the Executive Director modify a discovery control plan from Level 1 to Level 2, or vice versa, if the facts discovered after the initial determination of the Executive Director warrant the modification.

(d) The Presiding Officer may issue an order modifying the discovery period or scope of discovery for a sworn complaint.

(e) The terms "interrogatory," "request for admission," "deposition," and "request for production" have the same meaning as applied in the Texas Rules of Civil Procedure, except

that an interrogatory and a request for admission is also considered a written question for purposes of Section 571.1242(f) of the Government Code and §12.22(a) of this Chapter (relating to Written Questions).

**§12.28. Level 1 Discovery Control Plan.**

(a) Discovery in a preliminary review under a Level 1 Discovery Control Plan is subject to the limitation provided elsewhere in this Chapter and to the following additional limitations:

(1) All discovery during a preliminary review must be conducted during the discovery period which begins when the initial response to the complaint is due and continues for 90 days.

(2) The discovery period reopens on the date the commission sets the matter for a formal hearing and continues for an additional 90 days.

(3) During a preliminary review, the respondent and commission staff may serve on any other party no more than 5 written interrogatories, excluding interrogatories asking a party only to identify or authenticate specific documents. If set for a formal hearing, each party may serve 10 more interrogatories. Each discrete subpart of an interrogatory is considered a separate interrogatory.

(4) During a preliminary review, the respondent and commission staff may serve on any other party no more than 5 written requests for production. If set for a formal hearing, each party may serve 10 more written requests for production. Each discrete subpart of a request for production is considered a separate request for production.

(5) During a preliminary review, the respondent and commission staff may serve on any other party no more than 5 written requests for admissions. If set for a formal hearing, each party may serve 10 more requests for admissions. Each discrete subpart of a request for admission is considered a separate request for admission.

**§12.29. Level 2 Discovery Control Plan.**

(a) Discovery in a preliminary review under a Level 2 Discovery Control Plan is subject to the limitation provided elsewhere in this Chapter and to the following additional limitations:

(1) All discovery during a preliminary review must be conducted during the discovery period which begins when the initial response to the complaint is due and continues for 120 days.

(2) The discovery period reopens on the date the commission sets the matter for a formal hearing and continues until the earlier of 30 days before a formal hearing or six months after the conclusion the preliminary review hearing.

(3) During a preliminary review, the respondent and commission staff may serve on any other party no more than 10 written interrogatories, excluding interrogatories asking a party only to identify or authenticate specific documents. If set for a formal hearing, each party may serve 15 more interrogatories. Each discrete subpart of an interrogatory is considered a separate interrogatory.

(4) During a preliminary review, the respondent and commission staff may serve on any other party no more than 10 written requests for production. If set for a formal hearing, each party may serve 15 more written requests for production. Each discrete subpart of a request for production is considered a separate request for production.

(5) During a preliminary review, the respondent and commission staff may serve on any other party no more than 10 written requests for admissions. If set for a formal hearing, each party may serve 15 more written requests for production. Each discrete subpart of a request for admission is considered a separate request for admission.

(6) If set for a formal hearing, the respondent or commission staff may request that the discovery control plan allow for the taking of depositions, consistent with and subject to the limits provided by Chapter 2001 of the Government Code.

### **§12.30. Requests for Disclosure.**

(a) The discovery rules of the Texas Rules of Civil Procedure requiring initial disclosures without awaiting a discovery request do not apply to sworn complaint proceedings, except as may be ordered or allowed by the judge.

(b) A party may request disclosure of documents or information that the opposing party has in its possession, custody, or control, including, but not limited to, the following:

(1) the correct names of the parties to the contested case; the name, address, and telephone number of any potential parties;

(2) a general description of the legal theories and the factual bases of the responding party's claims or defenses, if not already set forth in the notice of complaint, response to a complaint, or document filed in the record of the proceeding.

(3) the name, address, and telephone number of persons having knowledge of relevant facts, and a brief statement of each identified person's connection with the case; the statement of any person with knowledge of relevant facts (witness statement) regardless of when the statement was made; and

(4) a copy, or description by category and location, of all documents, electronic information, and tangible items that the disclosing party has in its possession, custody or control and may use to support its claims or defenses, unless the use would be solely for impeachment. A request for disclosure made pursuant to this subsection is not considered a request for production.

## **Subchapter D. PLEADINGS AND MOTIONS**

### **Division 1 – General Rules**

#### **§12.31. Purpose and Effect of Motions.**

To make a request, including to obtain a ruling, order, or any other procedural relief, a party shall file a written motion. The motion shall describe specifically the action requested and the basis for

the requested action. Unless otherwise specified in this chapter, a motion is not granted until it has been ruled on by the executive director, the presiding officer, or by vote of the commission, as applicable, even if the motion is uncontested or agreed.

### **§12.32. Required Form of Motions.**

Written requests for commission action shall be typewritten or printed legibly on 8-1/2 x 11-inch paper and timely filed with the commission. Photocopies are acceptable if copies are clear and legible. All filings shall contain or be accompanied by the following:

- (1) the name of the party seeking action;
- (2) the sworn complaint number;
- (3) the parties to the case and their status as commission staff or respondent;
- (4) a concise statement of the type of relief, action, or order desired and identification of the specific reasons for and facts to support the action requested;
- (5) the signature of the submitting party or the party's authorized representative;
- (6) a proposed order sought by the moving party; and
- (7) a reference in the motion's title to a request for a hearing on the motion if the moving party seeks a hearing.

### **§12.33. Certificate of Conference.**

Except as provided in this chapter or unless otherwise ordered by the presiding officer, all motions shall include a certificate of conference that complies substantially with one of the following examples:

- (1) Example one: "Certificate of Conference: I certify that I conferred with {name of other party or other party's authorized representative} on {date} about this motion. {Succinct statement of other party's position on the action sought and/or a statement that the parties negotiated in good faith but were unable to resolve their dispute before submitting it to the commission for resolution.} Signature.>"; or
- (2) Example two: "Certificate of Conference: I certify that I made reasonable but unsuccessful attempts to confer with {name of other party or other party's authorized representative} on {date or dates} about this motion. {Succinctly describe these attempts.} Signature."

### **§12.34. Motion Deadlines.**

(a) The following deadlines apply to motions in which a hearing is either sought by a party or scheduled by the presiding officer:

- (1) motions must be filed with the commission no later than 30 days before the date of the hearing;

(2) responses to motions must be filed with the commission no later than 14 days before the date of the hearing; and

(3) replies to responses must be filed with the commission no later than 7 days before the date of the hearing.

(b) A scheduling order containing the deadlines under this section shall be included with the notice required by section 571.126 of the Government Code. The presiding officer may amend a scheduling order upon the request of a party for good cause shown. A decision by the presiding officer to amend a scheduling order or to deny a motion, response, or evidence shall be issued to the parties to a hearing within 5 business days after the decision is made.

(c) Except as otherwise provided in this chapter or as ordered or allowed by the commission, responses to motions shall be in writing and filed by the applicable deadline. However, if the presiding officer finds good cause has been shown, responses to written motions may be presented orally at hearing.

(d) The presiding officer may deny a party's motions, responses, or replies or deny a party's evidence from being admitted into the record of the hearing if the party fails to timely file.

### **§12.35. Method of Filing.**

(a) Motions, responses, and other documents in a sworn complaint proceeding must be filed with the commission by emailing it to [sworncomplaints@ethics.state.tx.us](mailto:sworncomplaints@ethics.state.tx.us) and including the following information in the subject line:

(1) the sworn complaint number; and

(2) the title of the document.

(b) The time and date of filing is the electronic time stamp affixed by the commissions email system. Documents received when the commission is closed shall be deemed filed the next business day.

### **§12.36. Service of Documents.**

(a) On the same date a document is filed with the commission, a copy shall also be sent to each party or the party's authorized representative by hand-delivery; by regular, certified, or registered mail; or by email, upon agreement of the parties.

(b) A person filing a document shall include a certificate of service that certifies compliance with this section.

(1) A certificate of service shall be sufficient if it substantially complies with the following example: "Certificate of Service: I certify that on {date}, a true and correct copy of this {name of document} has been sent to {name of opposing party or authorized representative for the opposing party} by {specify method of delivery, e.g., email, regular mail, fax, certified mail.} {Signature}"

(2) If a filing does not certify service, the commission may:

- (A) return the filing;
- (B) send a notice of noncompliance to all parties, stating the filing will not be considered until all parties have been served; or
- (C) send a copy of the filing to all parties.

(c) The following rebuttable presumptions shall apply regarding a party's receipt of documents served by another party:

- (1) If a document was hand-delivered to a party, the commission shall presume that the document was received on the date of filing at the commission.
- (2) If a document was served by courier-receipted overnight delivery, the commission shall presume that the document was received no later than the next business day after filing at the commission.
- (3) If a document was served by regular, certified, or registered mail, or non-overnight courier-receipted delivery, the commission shall presume that it was received no later than three days after mailing.
- (4) If a document was served by fax or email before 5:00 p.m. on a business day, the commission shall presume that the document was received on that day; otherwise, the commission shall presume that the document was received on the next business day.

(d) The sender has the burden of proving date and time of service.

### **§12.37. Non-conforming Documents.**

When a filed document fails to conform to the requirements of this subchapter, the executive director may either:

- (1) reject the filing, identify the errors to be corrected and state a deadline for correction;  
or
- (2) accept the filing.

### **§12.38. Amended and Supplemental Filings.**

A party may amend or supplement its pleadings as follows:

- (1) If a notice of a hearing or other documents provided to the complainant or respondent under section 571.126(b)(2) of the Government Code contain a material defect, the commission may correct the notice or other document and deliver it to the complainant and respondent as soon as practicable and in the same manner as the original notice. If the respondent does not receive the correction at least 10 days before the date of the hearing, the presiding officer may by order reschedule the hearing. The executive director shall notify the parties and the complainant of the date, time, and place of the hearing as soon as practicable.

(2) As to all other matters, an amendment or supplementation that includes information material to the substance of a hearing, requests for relief, changes to the scope of a hearing, or other matters that unfairly surprise other parties may not be filed later than seven days before the date of the hearing, except by agreement of all parties or by permission of the presiding officer.

**§12.39. Application of this Subchapter.**

If there is a conflict between this section and a requirement found in another section relating to a specific type of motion, the more specific provision applies.

**Division 2 – Types of Motions.**

**§12.41. Motion to Extend Time.**

(a) The executive director may extend a deadline pursuant to §571.136 of the Government Code.

(b) A request for more time to file a document or respond to discovery shall include:

(1) a statement of the number of extension requests previously sought in the case by the movant;

(2) the specific reason for the request; and

(3) a proposed date for the deadline the movant seeks to extend.

(c) Motions to extend time shall be filed no later than five days before the date of the deadline at issue or shall state good cause for presenting the motion after that time. If the executive director finds good cause has been demonstrated, the executive director may consider a motion filed after that time.

(d) Unless otherwise ordered by the executive director, responses to motions for extension of a deadline are due three days after receipt of the motion.

(e) A motion for continuance or extension of time is not granted until it has been ruled on by the executive director, even if the motion is uncontested or agreed.

**§12.42. Motion for Continuance.**

(a) The presiding officer may postpone or delay a hearing.

(b) A request to postpone or delay a hearing shall include:

(1) a statement of the number of motions for continuance previously filed in the case by the movant;

(2) the specific reason for the request; and

(3) whether the movant is available if the hearing or prehearing conference is continued to the next tentatively scheduled commission meeting.

(c) Motions for continuance shall be filed no later than five days before the date of the proceeding or shall state good cause for presenting the motion after that time. If the presiding officer finds good cause has been demonstrated, the presiding officer may consider a motion filed after that time.

(d) Responses to motions for continuance shall be in writing, except a response to a motion for continuance made on the date of the proceeding may be presented orally at the proceeding. Unless otherwise ordered or allowed by the presiding officer, responses to motions for continuance shall be made by the earlier of:

- (1) three days after receipt of the motion; or
- (2) the date and time of the proceeding.

(d) A motion for continuance is not granted until it has been ruled on by the presiding officer, even if the motion is uncontested or agreed.

#### **§12.43. Motion to Dismiss.**

(a) A party may move to dismiss a complaint in whole or in part on the grounds that an alleged violation has no basis in law or fact. An alleged violation has no basis in law if the allegations, if taken as true, together with inferences reasonably drawn from them do not constitute a violation of a rule adopted by or a law administered and enforced by the commission. An alleged violation has no basis in fact if no reasonable person could believe the facts alleged.

(b) A motion to dismiss must identify each alleged violation to which it is addressed, and must state specifically the reasons the alleged violation has no basis in law, no basis in fact, or both.

(c) The commission may, but is not required to, conduct an oral hearing on the motion to dismiss. The commission may not consider evidence in ruling on the motion and must decide the motion based solely on the facts alleged in the complaint, together with any complaint exhibits permitted by commission rule or statute.

#### **§12.44. Motion for Summary Disposition.**

(a) Summary disposition shall be granted on all or part of a complaint's allegations if the allegations, the motion for summary disposition, and the summary disposition evidence show that there is no genuine issue as to any material fact and that the moving party is entitled to a decision in its favor as a matter of law on all or some of the issues expressly set out in the motion. Summary disposition is not permitted based on the ground that there is no evidence of one or more essential elements of a claim or defense on which the opposing party would have the burden of proof at the formal hearing.

(b) Unless otherwise ordered by the presiding officer:

- (1) A party must file a motion for summary disposition at least 45 days before a scheduled hearing on the merits.
- (2) The response and opposing summary disposition evidence shall be filed no later than 15 days after the filing of the motion.

(c) A motion for summary disposition shall include the contents listed below. A motion may be denied for failure to comply with these requirements.

(1) The motion shall state the specific issues upon which summary disposition is sought and the specific grounds justifying summary disposition.

(2) The motion shall also separately state all material facts upon which the motion is based. Each material fact stated shall be followed by a clear and specific reference to the supporting summary disposition evidence.

(3) The first page of the motion shall contain the following statement in at least 12-point, bold-face type: “Notice to parties: This motion requests the commission to decide some or all of the issues in this case without holding an evidentiary hearing on the merits. You have 15 days after the filing of the motion to file a response. If you do not file a response, this case may be decided against you without an evidentiary hearing on the merits.”

(d) Responses to motions.

(1) A party may file a response and summary disposition evidence to oppose a motion for summary disposition.

(2) The response shall include all arguments against the motion for summary disposition, any objections to the form of the motion, and any objections to the summary disposition evidence offered in support of the motion.

(e) Summary disposition evidence.

(1) Summary disposition evidence may include deposition transcripts; interrogatory answers and other discovery responses; pleadings; admissions; affidavits; materials obtained by discovery; matters officially noticed; stipulations; authenticated or certified public, business, or medical records; and other admissible evidence. No oral testimony shall be received at a hearing on a motion for summary disposition.

(2) Summary disposition may be based on uncontroverted written testimonial evidence of an interested witness, or of an expert witness as to subject matter concerning which the presiding officer must be guided solely by the opinion testimony of experts, if the evidence is clear, positive and direct, otherwise credible and free from contradictions and inconsistencies, and could have been readily controverted.

(3) All summary disposition evidence offered in support of or in opposition to a motion for summary disposition shall be filed with the motion or response. Copies of relevant portions of materials obtained by discovery that are relied upon to support or oppose a motion for summary disposition shall be included in the summary disposition evidence.

(f) Proceedings on motions.

(1) The presiding officer may order a hearing on a motion for summary disposition and the commission may rule on the motion without a hearing.

(2) The affirmative vote of six commissioners is necessary to grant summary disposition finding a violation by a preponderance of the evidence.

(3) If summary disposition is granted on all contested issues in a case, the record shall close on the date ordered by the presiding officer or on the later of the filing of the last summary disposition arguments or evidence, the date the summary disposition response was due, or the date a hearing was held on the motion. The commission shall issue a final decision and written report, including a statement of reasons, findings of fact, and conclusions of law in support of the summary disposition rendered.

(4) If summary disposition is granted on some but not all of the contested issues in a case, the commission shall not take evidence or hear further argument upon the issues for which summary disposition has been granted. The commission shall issue an order:

(A) specifying the facts about which there is no genuine issue;

(B) specifying the issues for which summary disposition has been granted; and

(C) directing further proceedings as necessary. If an evidentiary hearing is held on the remaining issues, the facts and issues resolved by summary disposition shall be deemed established, and the hearing shall be conducted accordingly. After the evidentiary hearing is concluded, the commission shall include in the final decision a statement of reasons, findings of fact, and conclusions of law in support of the partial summary disposition rendered.

#### **§12.45. Motion for Sanctions.**

(a) The commission has the authority to impose appropriate sanctions against a party or its representative for:

(1) filing a motion or pleading that is deemed by the commission to be groundless and brought:

(A) in bad faith;

(B) for the purpose of harassment; or

(C) for any other improper purpose, such as to cause unnecessary delay or needless increase in the cost of the proceeding;

(2) abuse of the discovery process in seeking, making, or resisting discovery;

(3) failure to comply with a commission order; or

(4) violating §12.51 of this chapter (relating to Conduct and Decorum).

(b) By record vote of at least six commissioners, the commission may issue an order imposing sanctions when justified by party or representative behavior described in subsection (a) of this section and after notice and opportunity for hearing. Sanctions may include:

- (1) disallowing or limiting further discovery by the offending party;
  - (2) charging all or part of the expenses of discovery against the offending party or its representatives;
  - (3) deeming designated facts be admitted for purposes of the proceeding;
  - (4) refusing to allow the offending party to support or oppose a claim or defense or prohibiting the party from introducing designated matters into the record;
  - (5) disallowing in whole or in part requests for relief by the offending party and excluding evidence in support of those requests; and
  - (6) striking motions or testimony in whole or in part.
- (c) In deciding if a complaint is frivolous, the commission will be guided by the Texas Rules of Civil Procedure, Rule 13, and interpretations of that rule, and may also consider:
- (1) the timing of the complaint with respect to when the facts supporting the alleged violation became known or should have become known to the complainant, and with respect to the date of any pending election in which the respondent is a candidate or is involved with a candidacy, if any;
  - (2) the nature and type of any publicity surrounding the filing of the complaint, and the degree of participation by the complainant in publicizing the fact that a complaint was filed with the commission;
  - (3) the existence and nature of any relationship between the respondent and the complainant before the complaint was filed;
  - (4) if respondent is a candidate for election to office, the existence and nature of any relationship between the complainant and any candidate or group opposing the respondent;
  - (5) any evidence that the complainant knew or reasonably should have known that the allegations in the complaint were groundless; and
  - (6) any evidence of the complainant's motives in filing the complaint.

### **Subchapter E. HEARINGS**

#### **Division 1 – General Rules**

##### **§12.51. Conduct and Decorum.**

- (a) Parties, representatives, and other participants at a hearing shall conduct themselves with dignity, show courtesy and respect for one another and for the commission, and follow any additional guidelines of decorum prescribed by the presiding officer, including adherence to the amount of time allotted for the hearing. Attorneys shall adhere to the standards of conduct in the Texas Lawyer's Creed promulgated by the Supreme Court of Texas and the Court of Criminal

Appeals and the Texas Disciplinary Rules of Professional Conduct promulgated by the Supreme Court of Texas.

- (b) Attorneys should advise their clients and witnesses of the applicable rules of conduct and decorum.
- (c) All objections, arguments, and other comments by parties shall be directed to the commission and not to an opposing party.
- (d) While a party is addressing the commission or questioning a witness, any other party shall not interrupt for any purpose except to make a valid objection.
- (e) Parties shall not approach the dais without leave of the presiding officer and must not lean on the dais.
- (f) Parties shall remain seated at the counsel table at all times except:
  - (1) when addressing the commission; and
  - (2) whenever it may be proper to handle documents, exhibits, or other evidence.
- (g) Parties must question witnesses and deliver arguments to the commission while seated at the counsel table or standing at the lectern. If a party seeks to question or argue from another location, leave of the presiding officer must be requested and granted.
- (h) Parties must request leave of the presiding officer to conduct a demonstration.
- (i) The presiding officer may take appropriate action to maintain and enforce proper conduct and decorum, including:
  - (1) issuing a warning;
  - (2) sanctioning a party pursuant to §12.33 of this chapter;
  - (3) excluding persons from the proceeding;
  - (4) recessing the proceeding; and
  - (5) clearing the hearing room of persons causing a disruption.

**§12.52. Private Deliberations.**

As provided by section 571.139 of the Government Code, the commission may deliberate in private regarding the resolution of a sworn complaint or motion, including a dismissal of a complaint, a determination of whether a violation within the jurisdiction of the commission has occurred, and an appropriate penalty upon a finding of a violation. As provided by section 2001.061 of the Government Code, the presiding officer may permit the executive director, general counsel, or other employee of the commission who has not participated in a hearing in the complaint for the purpose of using the special skills or knowledge of the agency and its staff in evaluating the evidence.

**§12.53. Record of Rulings.**

Rulings not made orally at a recorded hearing shall be in writing and issued to all parties of record.

**Division 2 – Powers of the Presiding Officer.**

**§12.61. Selection and Delegation of Presiding Officer.**

(a) Except as otherwise provided in subsection (b), the commission's chair shall serve as the presiding officer for all hearings.

(b) The chair may appoint another commissioner to preside over a hearing held by the commission.

**§12.62. Set Hearings.**

The presiding officer may order that one or more hearings be held to address any matters pending in a sworn complaint proceeding, including motions to dismiss, motions for discovery or subpoenas, motions for sanctions, or any other matters related to the proceeding. The commission shall provide such an order to the parties and the complainant within five business days after the decision is made. The order shall include the date, time, and place of the hearing and a list of the matters to be addressed at the hearing.

**§12.63. Consolidate or Sever Matters for Hearing.**

(a) The presiding officer may order that cases be consolidated or joined for hearing if there are common issues of law or fact and consolidation or joint hearing will promote the fair and efficient handling of the matters.

(b) The presiding officer may order severance of issues if separate hearings on the issues will promote the fair and efficient handling of the matters.

**§12.64. Conduct Hearings.**

The presiding officer shall have the authority and duty to conduct a full, fair, and efficient hearing, including the power to:

- (1) administer oaths;
- (2) take testimony, including the power to question witnesses and to request the presence of a witness from a state agency;
- (3) require the prefilings of exhibits and testimony;
- (4) exclude irrelevant, immaterial, or unduly repetitious testimony;
- (5) reasonably limit the time for presentations of evidence or argument;

(6) reopen the record when justice requires, if the commission has not issued a final order; and

(7) take other steps conducive to a fair and efficient formal hearing.

**§12.65. Rule on Evidentiary Matters.**

The presiding officer shall have the power to rule on admissibility and other questions of evidence.

**§12.66. Sign Orders and Subpoenas.**

The presiding officer may sign previously approved subpoenas and orders.

**Division 3 – Preliminary Review Hearings.**

**§12.71. Notice of Preliminary Review Hearing.**

(a) Commission staff shall provide notice of a preliminary review hearing to a respondent and complainant at least 30 days before the date of the hearing and must include:

- (1) the date, time, place, and nature of the hearing;
- (2) a statement of the legal authority and jurisdiction under which the hearing is to be held;
- (3) a reference to the particular sections of the statutes and rules involved; and
- (4) a short and plain statement of the factual matters asserted.

(b) Commission staff shall provide to a respondent at least 10 days before the date of the hearing:

- (1) a list of proposed witnesses to be called at the hearing and a brief statement as to the nature of the testimony expected to be given by each witness to be called at the hearing; and
- (2) copies of all documents expected to be used or introduced as exhibits at the hearing.

(c) The respondent shall provide to commission staff the contents described by subsections (b)(1) and (b)(2) of this section at least 5 days before the date of the hearing. If a respondent or commission staff fail to comply with this section, the commission may reschedule the hearing or proceed with the hearing and exclude at the hearing evidence, documents, and testimony provided by the respondent or commission staff, as applicable, but such failure may be excused upon a showing of good cause.

**§12.72. Preliminary Review Hearing.**

(a) Commission staff and the respondent may present any relevant evidence at a preliminary review hearing, including examination and cross-examination of witnesses.

(b) Commission staff and the respondent may present an opening and closing statement at a preliminary review hearing.

#### **Division 4 – Formal Hearings.**

##### **§12.81. Order of Formal Hearing.**

As soon as practicable after the commission orders a formal hearing, the executive director shall provide to the parties to the complaint, and to the complainant, a copy of the commission's decision to order the hearing. The decision shall include the date, time, and place of the hearing and be signed by the presiding officer.

##### **§12.82. Notice of Formal Hearing.**

(a) Commission staff shall provide notice of a formal hearing to a respondent and complainant at least 60 days before the date of the hearing and must include, in addition to the contents required by section 571.126(b) of the Government Code:

- (1) the date, time, place, and nature of the hearing;
- (2) a statement of the legal authority and jurisdiction under which the hearing is to be held;
- (3) a reference to the particular sections of the statutes and rules involved; and
- (4) a short and plain statement of the factual matters asserted.

(b) Commission staff shall file and provide to a respondent and complainant at least 30 days before the date of the hearing:

- (1) a list of proposed witnesses to be called at the hearing and a brief statement as to the nature of the testimony expected to be given by each witness to be called at the hearing; and
- (2) copies of all documents expected to be used or introduced as exhibits at the hearing.

(c) The respondent shall file and provide to commission staff at least 14 days before the date of the hearing:

- (1) a list of proposed witnesses to be called at the hearing and a brief statement as to the nature of the testimony expected to be given by each witness to be called at the hearing; and
- (2) copies of all documents expected to be used or introduced as exhibits at the hearing.

(d) If a respondent or commission staff fail to comply with this section, the commission may reschedule the hearing or proceed with the hearing and exclude at the hearing evidence, documents, and testimony provided by the respondent or commission staff, as applicable, but such failure may be excused upon a showing of good cause.

**§12.83. Formal Hearing: Venue.**

When the commission orders a formal hearing the commission shall decide whether the formal hearing will be held before the commission or before the State Office of Administrative Hearings.

**§12.84. Presentation of Evidence.**

(a) After the resolution of all prehearing matters, each party shall make its presentation during the formal hearing. Commission staff shall make the first opening statement. The respondent or respondent's authorized representative shall then make an opening statement, should the respondent wish to do so at that time. The respondent may reserve the opening statement until the presentation of the respondent's case.

(b) Following opening statements, commission staff may present evidence in its case. At the conclusion of the presentation of the evidence, commission staff may rest. The respondent or the respondent's authorized representative may then make an opening statement, or, if an opening statement has already been made, present evidence in its defense of the allegations raised in the notice of formal hearing. At the conclusion of the presentation of evidence by the respondent, the respondent may rest.

(c) After both parties have rested their case, commission staff shall make a closing argument. The respondent may then make a closing argument. Commission staff may then make a reply.

(d) Unless otherwise ordered by the presiding officer, after closing arguments, evidence will be closed and the case will be turned over to the members of the commission for deliberation and decision.

**§12.85. Rules of Evidence.**

(a) The Texas Rules of Evidence as applied in a nonjury civil case in district court govern a formal hearing only to the extent consistent with Chapter 571 of the Government Code.

(b) Evidence may be admitted if it meets the standards set out in section 2001.081 of the Government Code.

**§12.86. Numbering of Exhibits.**

(a) Each exhibit to be offered shall first be numbered by the offering party.

(b) Copies of the original exhibit shall be furnished by the party offering the exhibit to the commission and to each party present at the hearing unless otherwise ordered by the presiding officer.

(c) An exhibit excluded from evidence will be considered withdrawn by the offering party and will be returned to the party.

(d) Pre-numbered exhibits may be filed with the commission prior to the formal hearing. Pre-numbered exhibits that are not offered and admitted at the hearing will be deemed withdrawn.

**Subchapter F. RESOLUTIONS.**

**§12.91. Agreed Resolutions.**

(a) Upon the affirmative vote of six commissioners, the commission may enter into an agreed resolution with a respondent to settle a complaint filed against the respondent, including an assurance of voluntary compliance, a notice of reporting error, or an agreed order.

(b) An assurance of voluntary compliance:

(1) resolves a sworn complaint:

(A) with no determination that a violation within the jurisdiction of the commission has occurred, if entered into before a preliminary review hearing is completed; or

(B) with a determination that all violations within the jurisdiction of the commission, when viewed as a whole in consideration of any mitigating action taken by the respondent, are technical or de minimis; and

(2) may include a civil penalty.

(c) A notice of reporting error resolves a complaint with a determination that all violations within the jurisdiction of the commission are reporting errors that do not materially defeat the purpose of disclosure and may include a civil penalty in the form of an assessment fee.

(d) An agreed order resolves a sworn complaint with a determination that one or more violations within the jurisdiction of the commission occurred and may include a civil penalty.

**§12.92. Resolution of Technical or De Minimis Allegations.**

(a) Technical, clerical, or de minimis violations for purposes of §§ 571.0631 and 571.140 of the Government Code means any violation of law under the TEC's jurisdiction that neither materially affects disclosure nor undermines public trust in government.

(b) Examples of technical, clerical, or de minimis violations include:

(1) Typographical or incomplete information on a campaign finance report that is not misleading and does not materially affect disclosure;

(2) Failure to include a disclosure statement or a highway right-of-way notice on political advertising;

(3) Failure of a non-incumbent to use the word “for” in a campaign communication that is not otherwise misleading;

(4) Failure to file a timely campaign finance report or campaign treasurer appointment if the alleged violations do not materially affect disclosure;

(5) Failure to timely respond to a sworn complaint if the respondent shows good cause for the late response.

(c) During the review of a sworn complaint under Chapter 571, Subchapter E of the Government Code, if the executive director determines that all of the alleged violations in the sworn complaint are technical or de minimis, the executive director may enter into an assurance of voluntary compliance with the respondent. Before entering into an assurance of voluntary compliance, the executive director may require a respondent to correct the violations.

**§12.93. Default Proceedings.**

(a) If a respondent fails to respond to a complaint by the deadline set by Section 571.1242 or fails to appear for a formal hearing, the commission may, upon notice and hearing, proceed on a default basis.

(b) A default proceeding under this section requires adequate proof of the following:

(1) the notice of hearing to the respondent stated that the allegations listed in the notice could be deemed admitted and that the relief sought in the notice of hearing might be granted by default against the party that fails to appear at the hearing;

(2) the notice of hearing satisfies the requirements of sections 2001.051 and 2001.052 of the Government Code; and

(3) the notice of hearing was:

(A) received by the defaulting party; or

(B) sent by regular mail or by certified mail, restricted delivery, return receipt requested, to the party's last known address as shown by the commission's records.

(c) In the absence of adequate proof to support a default, the presiding officer shall continue the hearing and direct commission staff to provide adequate notice of hearing. If adequate notice is unable to be provided, the commission may dismiss the complaint.

(d) Upon receiving the required showing of proof to support a default, the commission may by vote deem admitted the allegations in the notice of hearing and issue a default decision.

(e) A respondent may file a motion to set aside a default decision under this section.

(1) A motion to set aside a default decision under this section shall set forth the grounds for reinstatement or rehearing and must be supported by affidavit of the movant or their attorney that:

(A) the respondent had no notice of the hearing;

(B) the respondent had no notice of the consequences for failure to appear; or

(C) although the respondent had notice, its failure to appear was not intentional or the result of conscious indifference, but due to reasonable mistake or accident that can be supported by adequate proof; and

(D) a statement of whether the motion is opposed.

(2) Whether or not the motion is opposed, the presiding officer may rule on the motion without setting a hearing or may set a hearing to consider the motion. If the presiding officer finds good cause for the respondent's failure to appear or file a response to a complaint, the presiding officer shall vacate the default and reset the case for a hearing. The presiding officer may also present the motion to set aside the default decision for a vote of the commission at the next meeting of the commission after the motion was filed. A motion to set aside a default decision is denied by operation of law if not ruled on by the presiding officer or by vote of the commission at the next regular meeting of the commission after the motion was filed.

(3) A motion to set aside a default decision must be filed not later than the 14th day after the respondent received the default decision.

(4) A default decision is final:

(A) if a motion to set aside the default decision is not filed on time, on the expiration of the period for filing a motion to set aside the default decision;

(B) if a motion to set aside the default decision is timely filed, on the date the commission denies the motion.

#### **§12.94. Final Orders after Formal Hearings.**

(a) The commission should issue a final order within 60 days after the conclusion of a formal hearing.

(b) The executive director shall dismiss a complaint if the commission fails to adopt a motion under section 571.132 of the Government Code. The dismissal shall state the complaint was dismissed because there were insufficient commission votes to find that there was or was not a violation of law.

**CHAPTER 13. REFERRALS TO PROSECUTORS.**

**§13.1. Referral to Prosecuting Attorney.**

(a) Under section 571.171 of the Government Code, the commission may vote to refer a matter related to a sworn complaint to the appropriate prosecuting attorney for criminal prosecution upon the commission accepting jurisdiction over the sworn complaint.

(b) A referral under subsection (a) of this section shall be delayed in accordance with section 571.134 of the Government Code.

## Chapter 16. FACIAL COMPLIANCE REVIEWS AND AUDITS.

### §16.1. Definitions.

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

- (1) Deficiency—An error, omission, inaccuracy, or violation of a law or rule administered and enforced by the commission that is apparent on the face of a statement or report filed with the commission.
- (2) Compliance review report—A report sent to a filer detailing deficiencies in a report that is the subject of a facial compliance review.
- (3) Facial compliance review—A review conducted under section 571.069 of the Government Code of the information disclosed on a report, randomly selected in accordance with §16.2 of this title, filed with the commission for facial completeness, accuracy, reliability, and compliance with the law.
- (4) Report—A personal financial statement, lobby registration, lobby activities report, or campaign finance report filed with the commission.

### §16.2. Random Selection.

The report subject to a facial compliance review must be randomly selected from a list of all reports filed by a particular filer type for a specific filing deadline.

### §16.3. Corrected or Amended Report Filed During a Facial Compliance Review; Late Fines.

(a) A correction filed for the report that is subject to the facial compliance review will not be subject to a late fine if:

- (1) The correction is filed not later than the 30th day after the date the filer receives the compliance review report;
- (2) The corrected information complies with the law; and
- (3) The original report was filed in good faith and without an intent to mislead or misrepresent the information contained in the report.

(b) A late fine will not be assessed for corrections filed to correct reporting errors made in any report filed prior to the report that is subject to the facial compliance review if:

- (1) The filer learned of the errors through the facial compliance review;
- (2) The correction is filed not later than the 30th day after the date the filer receives the compliance review report;
- (3) The corrections comply with the law; and

(4) The original report was filed in good faith and without an intent to mislead or misrepresent the information contained in the report.

(c) A correction filed in accordance with this section will not be considered a prior late offense for purposes of determining the waiver or reduction of a fine under chapter 18 of this title.

**§16.4. Additional Documents and Information Submitted in Response to a Facial Compliance Review; Timeliness.**

(a) The commission may request from a filer documentation and other information used by the filer to compile a report that is subject to a facial compliance review.

(b) Documentation and other information requested by the commission is timely submitted if received by the commission not later than the 30th day after the date the filer receives the request for additional documentation.

**§16.5. Commission Initiated Preliminary Review or Audit Resulting from a Facial Compliance Review.**

(a) The commission may initiate a preliminary review as authorized by §571.124 of the Government Code or perform a complete audit of a report that is subject to a facial compliance review under §571.069 of the Government Code if:

(1) a correction is not resubmitted to the commission in accordance with §16.3 of this title;

(2) documentation or other information requested by the commission during a facial compliance review is not submitted to the commission in accordance with §16.4 of this title; or

(3) the commission has determined by a vote of at least six commission members that the correction filed in response to a compliance review report, does not comply with the law.

**§16.6. Notice of Audit of Report.**

The commission shall notify a filer that the commission will perform a complete audit of a report that is the subject of a facial compliance review not later than the seventh day after the date the commission votes to initiate the audit.

**§16.7. Supporting Documentation in Response to Audit; Timeliness.**

(a) A filer must submit to the commission, upon request and where applicable, supporting documentation in the possession, custody, or control of the filer or filer's agents that contains information necessary for filing the report that is subject to the audit, such as:

(1) bank statements;

(2) cancelled checks;

(3) receipts;

- (4) credit card statements;
- (5) invoices;
- (6) loan documents;
- (7) books or ledgers;
- (8) employee timesheets and payroll records;
- (9) certificates of formation or other business documents; and
- (10) real property records.

(b) A filer must submit to the commission the supporting documentation in response to an audit not later than the 30th business day from the date the filer receives notice of the audit.

#### **§16.8. Complete Audit Report.**

(a) Commission staff must complete a draft audit report not later than the 30th day after the commission receives from the filer the documentation requested under §16.6 of this title.

(b) The filer must have an opportunity to confer and object in writing to any findings in the draft audit report before it is submitted to the commission for approval.

(c) Commission staff must consider the filer's objections before submitting the draft audit report to the commission for approval.

(d) Upon approval of an audit, the commission shall send to the filer a final audit report that includes:

- (1) a notification that the commission has determined the report that was subject to the audit complies with the law; or
- (2) required corrective actions that the filer must take to cure any deficiency found in the report that is subject to the audit.

(e) A filer must correct or amend a report to correct all deficiencies identified in a complete audit report not later than the 30th day from the date the filer receives the complete audit report.

#### **§16.9. Representation by Attorney.**

(a) A filer has the right to be represented by an attorney retained by the filer during a facial compliance review or an audit initiated by the commission as a result of a facial compliance review.

(b) A letter of representation must be submitted to the commission if the filer is represented by an attorney.

**§16.10. Extension of Deadlines.**

The executive director may extend all deadlines related to this chapter except as provided by §571.069(a) of the Government Code (relating to when a corrected or amended report is considered filed as of the date the report was originally filed).

**§16.11. Waiver of Delivery by Certified Mail.**

A filer may waive the right under §571.032 of the Government Code to receive written notices related to a facial compliance review or audit by registered or certified mail, restricted delivery, return receipt requested, and may agree to receive written notices by first class mail, electronic mail, or other means.

**§16.12. Facial Review of Total Amount of Political Contributions Maintained.**

(a) In this section "expected total political contributions maintained" for a report subject to review is the total amount of political contributions maintained disclosed on the previous report and all monetary political contributions, loans, and credits, less all expenditures from political contributions disclosed on the report that is subject to review, excluding the purchase of investments that can be readily converted to cash.

(b) When there is a difference greater than the threshold set by §20.50(c) of this title (relating to Total Political Contributions Maintained) between the total amount of political contributions maintained disclosed in a report and the expected total political contributions maintained, the commission may request from the filer the bank statement showing the balance as of the last day of the reporting period for each account in which political contributions are maintained.

(c) Producing the requested bank statements that show the total amount of political contributions was accurately reported in the report that is subject to review is sufficient to end the review of the total amount of political contributions maintained as disclosed in the report.

## CHAPTER 18. GENERAL RULES CONCERNING REPORTS

### §18.1. Forms.

- (a) The executive director shall prescribe forms for statements and reports required to be filed with the commission.
- (b) The executive director may issue a certificate approving a form submitted to the commission for approval if the form:
- (1) provides for the reporting of all information required on the prescribed form;
  - (2) is substantially similar in paper size and format to the prescribed form; and
  - (3) will not be confusing to those who use the form.
- (c) A filer whose form has been approved by the executive director under subsection (b) must submit a new form for approval if information required to be reported has changed since the original form was approved.
- (d) A filer who files a report using computer software provided by the commission or using computer software that meets commission specifications for a standard file format must enter data for the report in accordance with the instructions provided for the software.
- (e) A filer who files a report using computer software provided by the commission must use the most current version of the software.

### §18.3. Provision of Forms by Local Filing Authority.

A local filing authority shall make the appropriate form available for use by persons required to file a report with that filing authority.

### §18.5. Specification of Office.

When a filer is required to identify the office sought by a candidate or held by an officeholder, the filer shall list the title of the public office, including the district and, if the office is an office of a political subdivision, the name of the political subdivision.

### §18.7. Timely Reports and Complete Reports.

- (a) A report is timely if it is complete and is filed by the applicable deadline using the reporting method required by law.
- (b) The deadline for any report filed electronically with the commission is midnight Central Time Zone on the last day for filing the report under the law requiring the filing of the report.
- (c) A report is late if it is:
- (1) incomplete;

(2) not filed by the applicable deadline; or

(3) not filed by computer diskette, modem, or other means of electronic transfer and the filer is required by law to file using one of these methods.

(d) A report filed electronically is not late if:

(1) the commission's office is closed on the deadline and the report is filed by midnight, Central Time Zone, on the next regular business day, excluding a legal holiday, when the commission's office is open; or

(2) the commission cannot accept reports on the deadline because the agency filing system is not accessible or the agency network is inoperable, and the report is filed by midnight, Central Time Zone, on the next regular business day, excluding a legal holiday, that the commission is able to accept reports.

### **§18.9. Corrected/Amended Reports.**

(a) A filer may correct/amend a report filed with the commission or a local filing authority at any time.

(b) A corrected/amended report must clearly identify how the corrected/amended report is different from the report being corrected/amended.

(c) A filer who files a corrected/amended report must submit an affidavit identifying the information that was corrected/amended.

(d) A corrected/amended report filed with the commission after the original report is due is subject to a late fine as provided by §18.13 of this title (relating to Fine for a Late Report).

(e) Subsection (d) does not apply to:

(1) a lobby registration or report, other than an activities report, that is corrected/amended not later than the 14th business day after the date the filer became aware of the errors or omissions in the original registration or report;

(2) a semiannual report that is corrected/amended before the eighth day after the original report was filed;

(3) a semiannual report that is corrected/amended on or after the eighth day after the original report was filed if:

(A) the correction/amendment is made before a sworn complaint is filed with regard to the subject of the correction/amendment; and

(B) the original report was made in good faith and without an intent to mislead or misrepresent the information contained in the report;

(4) an 8-day pre-election report that is corrected/amended in accordance with §18.10 of this title (relating to Guidelines for Substantial Compliance for a Corrected/Amended 8-day Pre-election Report);

(5) a report other than an 8-day pre-election report that is corrected/amended not later than the 14th business day after the date the filer learns the report as originally filed is inaccurate or incomplete if:

(A) the errors or omissions were made in good faith; and

(B) the filer files an affidavit stating that the errors or omissions in the original report were made in good faith.

(f) In this section, “8-day pre-election report” has the same meaning assigned by §18.10(c) of this title.

(g) Except as provided by subsections (b) and (c), this section does not apply to a civil penalty assessed through the sworn complaint or facial compliance review process.

***§18.10. Guidelines for Substantial Compliance for a Corrected/Amended 8-day Pre-election Report.***

(a) A corrected/amended 8-day pre-election report substantially complies with the applicable law and will not be assessed a late fine under §18.9 of this title (relating to Corrected/Amended Reports) if:

(1) The original report was filed in good faith and the corrected/amended report was filed not later than the 14th business day after the date the filer learned of the errors or omissions; and

(2) The only corrections/amendments needed were to correct the following types of errors or omissions:

(A) a technical, clerical, or de minimis error, including a typographical error, that is not misleading and does not substantially affect disclosure;

(B) an error in or omission of information that is solely required for the commission’s administrative purposes, including a report type or filer identification number;

(C) an error that is minor in context and that, upon correction/amendment, does not result in changed monetary amounts or activity disclosed, including a descriptive change or a change to the period covered by the report;

(D) one or more errors in disclosing contributions that, in total:

(i) do not exceed \$7,500; or

(ii) do not exceed the lesser of 10% of the total contributions on the corrected/amended report or \$20,000;

(E) one or more errors in disclosing expenditures that, in total:

(i) do not exceed \$7,500; or

(ii) do not exceed the lesser of 10% of the total expenditures on the corrected/amended report or \$20,000;

(F) one or more errors in disclosing loans that, in total:

(i) do not exceed \$7,500; or

(ii) do not exceed the lesser of 10% of the amount originally disclosed or \$20,000; or

(G) an error in the amount of total contributions maintained that:

(i) does not exceed \$7,500; or

(ii) does not exceed the lesser of 10% of the amount originally disclosed or \$20,000.

(H) The only correction/amendment by a candidate or officeholder was to add to or delete from the outstanding loans total an amount of loans made from personal funds;

(I) The only correction/amendment by a political committee was to add the name of each candidate supported or opposed by the committee, when each name was originally disclosed on the appropriate schedule for disclosing political expenditures;

(J) The only correction/amendment was to disclose the actual amount of a contribution or expenditure, when:

(i) the amount originally disclosed was an overestimation;

(ii) the difference between the originally disclosed amount and the actual amount did not vary by more than the greater of \$7,500 or 10%; and

(iii) the original report clearly included an explanation of the estimated amount disclosed and the filer's intention to file a correction/amendment as soon as the actual amount was known; or

(K) The only correction/amendment was to delete a duplicate entry.

(b) If a corrected/amended 8-day pre-election report does not meet the substantial complies criteria under subsection (a) the executive director shall determine whether there is reason to believe the report was originally filed in bad-faith, with the purpose of evading disclosure, or otherwise substantially defeated the purpose of disclosure and therefore was filed as of the date of correction.

(c) A filer may seek a waiver or reduction of a civil penalty assessed under this subsection as provided for by this chapter.

(d) In this section, “8-day pre-election report” means a report due eight days before an election filed in accordance with the requirements of §254.064(c), 254.124(c), or 254.154(c) of the Election Code (relating to a candidate, a specific-purpose committee, or a general-purpose committee, respectively).

**§18.13. Fine for a Late Report.**

(a) Except as provided by subsection (b) or (c) of this section, the fine is \$500 for:

(1) a late report required to be filed with the commission under Election Code chapter 254 or 257, Government Code chapter 305, or Government Code chapter 572; or

(2) a late report filed with the commission under Local Government Code chapter 159, subchapter C.

(b) The fine for a report due eight days before an election is \$500 for the first day the report is late and \$100 for each day thereafter that the report is late, up to a maximum fine of \$10,000.

(c) The fine for the first semiannual report under Section 254.063, 254.123, or 254.153, Election Code, that is required to be filed by a candidate or political committee following the primary or general election is \$500 for the first day the report is late and \$100 for each day thereafter that the report is late, up to a maximum fine of \$10,000.

(d) A fine assessed under this chapter is in addition to any other sanction assessed under other law.

**§18.15. Additional Fine.**

In addition to any other fine assessed under this chapter, the commission may vote to impose a fine of \$2,500 against a filer whose report is more than 30 days late and who has not paid the penalty related to that report within 10 days after receiving the commission notice of lateness.

**§18.17. Report Must be Filed.**

(a) The payment of a civil or criminal fine for failure to file a report, or for filing a report late, does not satisfy a filer's obligation to file the report. Late fines continue to accrue until the report is filed.

(b) A filer, other than the treasurer of a political committee, who dies or becomes incapacitated is considered to have filed the report on the date of the filer's death or the date the filer is determined to be incapacitated, as applicable, for purposes of this chapter. In this subsection, “incapacitated” means determined by a judgment of a court exercising probate jurisdiction to be either partially mentally incapacitated without the right to vote or totally mentally incapacitated.

**§18.19. Affidavit of Timely Filing.**

A filer who has been notified by the commission that a report is late but who filed the report on or before the deadline may submit an affidavit to the executive director swearing that the report was timely filed.

**§18.21. Jurisdiction to Consider Waiver Request.**

(a) A filer may ask the commission to waive or reduce a civil penalty determined by §§ 305.033(b) or 572.033(b) of the Government Code, or §254.042(b) of the Election Code by submitting a written request to the Commission.

(b) The commission will not consider a request under subsection (a) of this section unless the filer, not later than 210 days after the report or statement was due:

- (1) submits the request in the manner prescribed by subsection (a) of this section;
- (2) files all reports owed to the commission; and
- (3) pays all outstanding civil penalties owed to the commission that are not subject to a pending request for waiver or appeal.

(c) Upon a showing of good cause, the executive director may extend the deadline in subsection (b) of this section.

**§18.24. General Guidelines for Administrative Waiver or Reduction of Statutory Civil Penalties.**

(a) For purposes of determining whether a filer is eligible for a waiver or reduction of a civil penalty under §§18.25 or 18.26 of this title (relating to Administrative Waiver or Reduction of Certain Statutory Civil Penalties and Administrative Waiver or Reduction of Statutory Civil Penalties in Excess of \$500 respectively), a “prior late offense” is any report for which a civil penalty for late filing was assessed, regardless of whether the civil penalty was waived or reduced. The term does not include:

- (1) reports for which no late notices were sent and the filer did not file a request that the civil penalty be waived or reduced for the prior late report; and
- (2) reports determined by the executive director to be not required.

(b) A filer may appeal a determination made under §§18.25 or 18.26 of this title by submitting a request for appeal in writing to the commission within thirty (30) calendar days from the date of the letter informing the filer of the decision.

(1) The request for appeal should state the filer's reasons for requesting an appeal, provide any additional information needed to support the request, and state whether the filer would like the opportunity to appear before the commission and offer testimony regarding the appeal.

(2) The Executive Director may review the appeal and reconsider the determination made under §§18.25 or 18.26 of this title or set the appeal for a hearing before the commission.

(3) After hearing a request for appeal, the commission may affirm the determination made under §§18.25 or 18.26 of this title or make a new determination based on facts presented in the appeal.

**§18.25. Administrative Waiver or Reduction of Certain Statutory Civil Penalties**

(a) The executive director shall apply this section to a late report subject to a statutory civil penalty of not more than \$500.

(b) The executive director shall use the following chart to determine the level of waiver or reduction of a civil penalty under this section:

# OF PRIOR LATE OFFENSES IN PAST 5 YEARS	ADJUSTED FINE
0	Waiver
1	\$100
2	\$250
3 or more	No reduction or waiver

**§18.26. Administrative Waiver or Reduction of Statutory Civil Penalties in Excess of \$500**

(a) The executive director shall apply this section to a late report subject to a statutory civil penalty in excess of \$500.

(b) The executive director shall use the following chart to determine the level of waiver or reduction of a civil penalty under this section:

Prior Late Offenses	Total Political Expenditures or Contributions in Reporting Period									
	<\$5k	<\$10k	<\$20k	<\$30k	<\$40k	<\$50k	<\$60k	<\$70k	<\$80k	<\$90k
0	\$0	90%	80%	70%	60%	50%	40%	30%	20%	10%
1	\$100	70%	60%	50%	40%	30%	20%	10%	0%	0%
2	\$250	50%	40%	30%	20%	10%	0%	0%	0%	0%

(c) For purposes of using the chart in subsection (b) of this section:

(1) where the chart identifies a dollar amount, that is the amount of the reduced or waived penalty; and

(2) where the chart identifies a percentage, that is the percentage by which the penalty is reduced.

**§18.31. Adjustments to Reporting Thresholds.**

(a) Pursuant to section 571.064 of the Government Code, the reporting thresholds are adjusted as follows:

Campaign Finance Reports: Section of Election Code	Threshold Description	Original Threshold Amount	Adjusted Amount
253.031(b)	PAC: Amount of contributions or expenditures permitted before TA is required	\$500	\$1,110
253.031(d)(2)	CEC: Amount of contributions or expenditures permitted before TA is required	\$25,000	\$41,460
253.032(a)	Contribution by Out-of-state PAC: Threshold above which certain paperwork is required	\$500	\$1,140
253.032(a)(1)	Contribution to Out-of-state PAC: Threshold above which certain contribution information is required	\$100	\$230
253.032(e)	Contribution by Out-of-state PAC: Threshold at or below which certain information is required	\$500	\$1,140
254.031(a)(1)	Contributions: Threshold over which more information is required	\$50	\$110
254.031(a)(2)	Loans: Threshold over which more information is required	\$50	\$110
254.031(a)(3)	Expenditures: Threshold over which more information is required	\$100	\$230
254.031(a)(5)	Contributions: Threshold at or below which more information is not required	\$50	\$110
254.031(a)(5)	Expenditures: Threshold at or below which more information is not required	\$100	\$230
254.031(a)(9)	Interest, credits, refunds: Threshold over which more information is required	\$100	\$140
254.031(a)(10)	Sale of political assets: Threshold over which proceeds must be reported	\$100	\$140
254.031(a)(11)	Investment Gain: Threshold over which more information is required	\$100	\$140

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<b>Campaign Finance Reports: Section of Election Code</b>	<b>Threshold Description</b>	<b>Original Threshold Amount</b>	<b>Adjusted Amount</b>
254.031(a)(12)	Contribution Gain: Threshold over which more information is required	\$100	\$140
254.0311(b)(1)	Caucus, contributions from non-caucus members: Threshold over which more information is required	\$50	\$110
254.0311(b)(2)	Caucus, loans: Threshold over which more information is required	\$50	\$110
254.0311(b)(3)	Caucus, expenditures: Threshold over which more information is required	\$50	\$110
254.0311(b)(4)	Caucus, contributions and expenditures: Threshold at or below which more information is not required	\$50	\$110
254.0312	Contributions, Best Efforts: Threshold under which filer is not required to request contributor information to be in compliance	\$500	\$870
254.036	Electronic Filing Exemption: Threshold at or below which a filer may qualify	\$20,000	\$34,890
254.038(a)	Daily Reports by certain candidates and PACs: Contribution threshold triggering report	\$1,000	\$2,290
254.039	Daily Reports by GPACs: Contribution threshold triggering report	\$5,000	\$7,820
254.039	Daily reports by GPACs: DCE expenditure thresholds (single candidate/group of candidates)	\$1,000/\$15,000	\$2,290/\$34,330
254.0611(a)(2)	Judicial candidates, contributions: Threshold over which more information is required	\$50	\$110
254.0611(a)(3)	Judicial candidates, asset purchase: Threshold over which more information is required	\$500	\$1,140
254.0612	Statewide executive and legislative candidates, contributions: Threshold over which more information is required	\$500	\$1,140
254.095	Local officeholders, contributions: Threshold under which reporting is not required	\$500	\$1,140
254.151(6)	GPAC, contributions: Threshold over which more information is required	\$50	\$110

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<b>Campaign Finance Reports: Section of Election Code</b>	<b>Threshold Description</b>	<b>Original Threshold Amount</b>	<b>Adjusted Amount</b>
254.1541(a)	GPAC, higher itemization threshold: Threshold under which it applies	\$20,000	\$33,170
254.1541(b)	GPACs that meet higher itemization threshold: Threshold over which more contributor information is required	\$100	\$230
254.156(1)	MPAC: Threshold over which contribution, lender and expenditure information is required	\$10	\$20
254.156(2)	MPACs that meet higher itemization threshold: Threshold over which more contributor information is required	\$20	\$50
254.181, 254.182, 254.183	Candidate or SPACs, modified reporting: Contribution or expenditure threshold at or below which filers may avoid pre-election reports	\$500	\$1,140
254.261	DCE filers: Threshold over which a report must be filed	\$100	\$170

<b>Lobby Registrations and Reports: Section of Government Code</b>	<b>Threshold Description</b>	<b>Original Threshold Amount</b>	<b>Adjusted Amount</b>
305.003(1)	Lobbyist, expenditures: Threshold over which registration is required	\$500, by 1 Tex. Admin. Code §34.41	\$990
305.003(2)	Lobbyist, compensation: Threshold over which registration is required	\$1,000, by 1 Tex. Admin. Code §34.43	\$1,990
305.004(7)	Lobbying for political party: Threshold at or below which registration is not required	\$5,000	\$11,440
305.005(g)(2)	Lobbyist: Compensation threshold	\$10,000	Less than \$22,890
305.005(g)(3)	Lobbyist: Compensation threshold	\$25,000	\$22,890 to less than \$57,220
305.005(g)(4)	Lobbyist: Compensation threshold	\$50,000	\$57,220 to less than \$114,430
305.005(g)(5)	Lobbyist: Compensation threshold	\$100,000	\$114,430 to less than \$228,870

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<b>Lobby Registrations and Reports: Section of Government Code</b>	<b>Threshold Description</b>	<b>Original Threshold Amount</b>	<b>Adjusted Amount</b>
305.005(g)(6)	Lobbyist: Compensation threshold	\$150,000	\$228,870 to less than \$343,300
305.005(g)(7)	Lobbyist: Compensation threshold	\$200,000	\$343,300 to less than \$457,730
305.005(g)(8)	Lobbyist: Compensation threshold	\$250,000	\$457,738 to less than \$572,160
305.005(g)(9)	Lobbyist: Compensation threshold	\$300,000	\$572,160 to less than \$686,600
305.005(g)(10)	Lobbyist: Compensation threshold	\$350,000	\$686,600 to less than \$801,030
305.005(g)(11)	Lobbyist: Compensation threshold	\$400,000	\$801,030 to less than \$915,460
305.005(g)(12)	Lobbyist: Compensation threshold	\$450,000	\$915,460 to less than \$1,029,890
305.005(g)(13)	Lobbyist: Compensation threshold	\$500,000	\$1,029,890 to less than \$1,144,330
305.005(g-1)	Lobbyist: Compensation threshold	\$500,000	\$1,144,330 or more
305.0061(c)	Lobbyist, legislative/executive branch member: Threshold over which gifts, awards and mementos must be disclosed	\$50	\$110
305.0061(e-1)	Lobbyist, food and beverage: threshold at or below which it is considered a gift and reported as such	\$50	\$110
305.0063	Lobbyist, annual filer: expenditure threshold at or below which filer may file annually	\$1,000	\$2,290

<b>Personal Financial Statements: Section of Gov't Code</b>	<b>Threshold Description</b>	<b>Original Threshold Amount</b>	<b>Adjusted Amount</b>
572.022(a)(1)	PFS threshold	less than \$5,000	less than \$11,440
572.022(a)(2)	PFS threshold	\$5,000 to less than \$10,000	\$11,440 to less than \$22,890

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<b>Personal Financial Statements: Section of Gov't Code</b>	<b>Threshold Description</b>	<b>Original Threshold Amount</b>	<b>Adjusted Amount</b>
572.022(a)(3)	PFS threshold	\$10,000 to less than \$25,000	\$22,890 to less than \$57,220
572.022(a)(4)	PFS threshold	\$25,000 or more	\$57,220 or more
572.005, 572.023(b)(1)	PFS, retainer: Threshold over which filer with a substantial interest in a business entity must report more information	\$25,000	\$57,220
572.023(b)(4)	PFS, interest, dividends, royalties and rents: Threshold over which information must be reported	\$500	\$1,140
572.023(b)(5)	PFS, loans: Threshold over which information must be reported	\$1,000	\$2,290
572.023(b)(7)	PFS, gifts: Threshold over which information must be reported	\$250	\$570
572.023(b)(8)	PFS, income from trust: Threshold over which information must be reported	\$500	\$1,140
572.023(b)(15)	PFS, government contracts: Threshold of aggregate over which more information must be reported	Exceeds \$10,000	Exceeds \$12,560
572.023(b)(15)(A)	PFS, government contracts: Itemization threshold	\$2,500 or more	\$3,140 or more
572.023(b)(16)(D)(i)	PFS, bond counsel fees paid to legislator: Threshold	less than \$5,000	less than \$6,280
572.023(b)(16)(D)(ii)	PFS, bond counsel fees paid to legislator: Threshold	at least \$5,000 but less than \$10,000	at least \$6,280 but less than \$12,560
572.023(b)(16)(D)(iii)	PFS, bond counsel fees paid to legislator: Threshold	at least \$10,000 but less than \$25,000	at least \$12,560 but less than \$31,410
572.023(b)(16)(D)(iv)	PFS, bond counsel fees paid to legislator: Threshold	\$25,000 or more	\$31,410 or more
572.023(b)(16)(E)(i)	PFS, bond counsel fees paid to individual's firm: Threshold	less than \$5,000	less than \$6,280
572.023(b)(16)(E)(ii)	PFS, bond counsel fees paid to individual's firm: Threshold	at least \$5,000 but less than \$10,000	at least \$6,280 but less than \$12,560
572.023(b)(16)(E)(iii)	PFS, bond counsel fees paid to individual's firm: Threshold	at least \$10,000 but less than \$25,000	at least \$12,560 but less than \$31,410
572.023(b)(16)(E)(iv)	PFS, bond counsel fees paid to individual's firm: Threshold	\$25,000 or more	\$31,410 or more

<b>Speaker Election and Certain Ceremonial Reports: Section of Government Code</b>	<b>Threshold Description</b>	<b>Original Threshold Amount</b>	<b>Adjusted Amount</b>
302.014(4)	Speaker: Expenditures over which more information must be reported	\$10	\$20
303.005(a)(1) – (10)	Governor for a Day/Speaker’s Day: Threshold over which more information must be reported	\$50	\$110

<b>Thresholds set by Title 1, Part 2, Tex. Admin. Code</b>	<b>Threshold Type</b>	<b>Original Threshold Amount</b>	<b>Adjusted Amount</b>
20.62(a)	Staff Reimbursement	\$5,000	\$7,300
20.220	Comptroller: Additional disclosure	\$500	\$720

(b) The changes made by this rule apply only to conduct occurring on or after the effective date of this rule.

(c) The effective date of this rule is January 1, 2026.

(d) In this section:

- (1) “CEC” means county executive committee;
- (2) “DCE” means direct campaign expenditure-only filer;
- (3) “GPAC” means general-purpose political committee;
- (4) “MPAC” means monthly-filing general-purpose political committee;
- (5) “PAC” means political committee;
- (6) “PFS” means personal financial statement;
- (7) “SPAC” means specific-purpose political committee; and
- (8) “TA” means treasurer appointment.

## CHAPTER 20. REPORTING POLITICAL CONTRIBUTIONS AND EXPENDITURES

### Subchapter A. GENERAL RULES

#### **§20.1. Definitions.**

*The following words and terms, when used in Title 15 of the Election Code, in this chapter, Chapter 22 of this title (relating to Restrictions on Contributions and Expenditures), and Chapter 24 of this title (relating to Restrictions on Contributions and Expenditures Applicable to Corporations and Labor Organizations), shall have the following meanings, unless the context clearly indicates otherwise.*

*(1) Campaign communication--The term does not include a communication made by e-mail.*

*(2) Campaign treasurer--Either the individual appointed by a candidate to be the campaign treasurer, or the individual responsible for filing campaign finance reports of a political committee under Texas law or the law of any other state.*

*(3) Contribution--The term does not include a transfer for consideration of anything of value pursuant to a contract that reflects the usual and normal business practice of the vendor.*

*(4) Corporation--The term does not include professional corporations or professional associations.*

*(5) Election cycle--A single election and any related primary or runoff election.*

*(6) Identified measure--A question or proposal submitted in an election for an expression of the voters' will and includes the circulation and submission of a petition to determine whether a question or proposal is required to be submitted in an election for an expression of the voters' will.*

*(7) Non-political expenditure--An expenditure from political contributions that is not an officeholder expenditure or a campaign expenditure.*

*(8) Opposed candidate--A candidate who has an opponent whose name is to appear on the ballot. The name of a write-in candidate does not appear on the ballot.*

*(9) Pledge--A contribution in the form of an unfulfilled promise or unfulfilled agreement, whether enforceable or not, to provide a specified amount of money or specific goods or services. The term does not include a contribution made in the form of a check.*

*(10) Political advertising:*

*(A) A communication that supports or opposes a political party, a public officer, a measure, or a candidate for nomination or election to a public office or office of a political party, and:*

*(i) is published in a newspaper, magazine, or other periodical in return for consideration;*

*(ii) is broadcast by radio or television in return for consideration;*

*(iii) appears in a pamphlet, circular, flyer, billboard, or other sign, bumper sticker, or similar form of written communication; or*

*(iv) appears on an Internet website.*

*(B) The term does not include an individual communication made by e-mail but does include mass e-mails involving an expenditure of funds beyond the basic cost of hardware messaging software and bandwidth.*

*(11) Political subdivision--A county, city, or school district or any other governmental entity that:*

*(A) embraces a geographic area with a defined boundary;*

*(B) exists for the purpose of discharging functions of government; and*

*(C) possesses authority for subordinate self-government through officers selected by it.*

*(12) Report--Any document required to be filed by this title, including an appointment of campaign treasurer, any type of report of contributions and expenditures, and any notice.*

*(13) Special pre-election report--A shorthand term for a report filed in accordance with the requirements of §20.221 and §20.333 of this chapter (relating to Special Pre-Election Report by Certain Candidates; and Special Pre-Election Report by Certain Specific-Purpose Committees) and §254.038 and §254.039 of the Election Code.*

*(14) Unidentified measure--A question or proposal that is intended to be submitted in an election for an expression of the voters' will and that is not yet legally required to be submitted in an election, except that the term does not include the circulation or submission of a petition to determine whether a question or proposal is required to be submitted in an election for an expression of the voters' will. The circulation or submission of a petition to determine whether a question or proposal is required to be submitted in an election for an expression of the voters' will is considered to be an identified measure.*

*(15) Principal purpose--A group has as a principal purpose of accepting political contributions or making political expenditures, including direct campaign expenditures, when that activity is an important or a main function of the group.*

*(A) A group may have more than one principal purpose. When determining whether a group has a principal purpose of accepting political contributions or making political expenditures, the Commission may consider any available evidence regarding the activities by the group and its members, including, but not limited to:*

- (i) public statements,*
- (ii) fundraising appeals,*
- (iii) government filings,*
- (iv) organizational documents; and*
- (v) the amount of political expenditures made and political contributions accepted by the group and its members.*

*(B) A group does not have a principal purpose of making political expenditures if it can demonstrate that not more than 49% of its overall expenditures are political expenditures.*

*(C) The following shall be included for purposes of calculating the proportion of the group's political expenditures to all other spending:*

- (i) the amount of money paid in compensation and benefits to the group's employees for work related to making political expenditures;*
- (ii) the amount of money spent on political expenditures; and*
- (iii) the amount of money attributable to the proportional share of administrative expenses related to political expenditures. The proportional share of administrative expenses is calculated by comparing the political expenditures in clause (ii) of this subparagraph with non-political expenditures. (For example, if the group sends three mailings a year and each costs \$10,000, if the first two are issue-based newsletters and the third is a direct advocacy sample ballot, and there were no other expenditures, then the proportion of the administrative expenses attributable to political expenditures would be 33%.) Administrative expenses include:*

- (I) fees for services to non-employees;*
- (II) advertising and promotion;*
- (III) office expenses;*
- (IV) information technology;*
- (V) occupancy;*
- (VI) travel expenses;*
- (VII) interest; and*
- (VIII) insurance.*

*(D) The group may maintain specific evidence of administrative expenses related only to political expenditures or only to non-political expenditures. Specifically identified administrative expenses shall not be included in the proportion established by subparagraph (C)(iii) but allocated by the actual amount of the expense.*

*(E) In this section, the term "political expenditures" includes direct campaign expenditures*

*(16) In connection with a campaign:*

*(A) An expenditure is made in connection with a campaign for an elective office if it is:*

*(i) made for a communication that expressly advocates the election or defeat of a clearly identified candidate by:*

*(I) using such words as "vote for," "elect," "support," "vote against," "defeat," "reject," "cast your ballot for," or "Smith for city council;" or*

*(II) using such phrases as "elect the incumbent" or "reject the challenger," or such phrases as "vote pro-life" or "vote pro-choice" accompanied by a listing of candidates described as "pro-life" or "pro-choice;"*

*(ii) made for a communication broadcast by radio, television, cable, or satellite or distributed by print or electronic media, including any print publication, mailing, Internet website, electronic mail, or automated phone bank, that:*

*(I) refers to a clearly identified candidate;*

*(II) is distributed within 30 days before a contested election for the office sought by the candidate;*

*(III) targets a mass audience or group in the geographical area the candidate seeks to represent; and*

*(IV) includes words, whether displayed, written, or spoken; images of the candidate or candidate's opponent; or sounds of the voice of the candidate or candidate's opponent that, without consideration of the intent of the person making the communication, are susceptible of no other reasonable interpretation than to urge the election or defeat of the candidate;*

*(iii) made by a candidate or political committee to support or oppose a candidate; or*

*(iv) a campaign contribution to:*

*(I) a candidate; or*

*(II) a group that, at the time of the contribution, already qualifies as a political committee.*

*(B) An expenditure is made in connection with a campaign on a measure if it is:*

*(i) made for a communication that expressly advocates the passage or defeat of a clearly identified measure by using such words as “vote for,” “support,” “vote against,” “defeat,” “reject,” or “cast your ballot for;”*

*(ii) made for a communication broadcast by radio, television, cable, or satellite or distributed by print or electronic media, including any print publication, mailing, Internet website, electronic mail, or automated phone bank, that:*

*(I) refers to a clearly identified measure;*

*(II) is distributed within 30 days before the election in which the measure is to appear on the ballot;*

*(III) targets a mass audience or group in the geographical area in which the measure is to appear on the ballot; and*

*(IV) includes words, whether displayed, written, or spoken, that, without consideration of the intent of the person making the communication, are susceptible of no other reasonable interpretation than to urge the passage or defeat of the measure;*

*(iii) made by a political committee to support or oppose a measure; or*

*(iv) a campaign contribution to a group that, at the time of the contribution, already qualifies as a political committee.*

*(C) Any cost incurred for covering or carrying a news story, commentary, or editorial by a broadcasting station or cable television operator, Internet website, or newspaper, magazine, or other periodical publication, including an Internet or other electronic publication, is not a campaign expenditure if the cost for the news story, commentary, or editorial is not paid for by, and the medium is not owned or controlled by, a candidate or political committee.*

*(D) For purposes of this section:*

*(i) a candidate is clearly identified by a communication that includes the candidate’s name, office sought, office held, likeness, photograph, or other apparent and unambiguous reference; and*

*(ii) a measure is clearly identified by a communication that includes the measure’s name or ballot designation (such as “Proposition 1”), purposes, election date, or other apparent and unambiguous reference.*

(17) *Discount*--The provision of any goods or services without charge or at a charge which is less than fair market value. A discount is an in-kind political contribution unless the terms of the transaction reflect the usual and normal practice of the industry and are typical of the terms that are offered to political and non-political persons alike, or unless the discount is given solely to comply with §253.041 of the Election Code. The value of an in-kind contribution in the form of a discount is the difference between the fair market value of the goods or services at the time of the contribution and the amount charged.

(18) *School district*--For purposes of §254.130 of the Election Code and §20.7 of this chapter (relating to Reports Filed with Other Local Filing Authority), the term includes a junior college district or community college district.

(19) *Vendor*--Any person providing goods or services to a candidate, officeholder, political committee, or other filer under this chapter. The term does not include an employee of the candidate, officeholder, political committee, or other filer.

(20) *Hybrid committee*--A political committee that, as provided by §252.003(a)(4) or §252.0031(a)(2) of the Election Code, as applicable, has filed a campaign treasurer appointment that includes an affidavit stating that:

(A) the committee is not established or controlled by a candidate or an officeholder; and

(B) the committee will not use any political contribution from a corporation or a labor organization to make a political contribution to:

(i) a candidate for elective office;

(ii) an officeholder; or

(iii) a political committee that has not filed an affidavit in accordance with this section.

(21) *Direct campaign expenditure-only committee*--A political committee, as authorized by §253.105 of the Election Code to accept political contributions from corporations and/or labor organizations, that:

(A) is not established or controlled by a candidate or an officeholder;

(B) makes or intends to make direct campaign expenditures;

(C) does not make or intend to make political contributions to:

(i) a candidate;

(ii) an officeholder;

(iii) a specific-purpose committee established or controlled by a candidate or an officeholder; or

*(iv) a political committee that makes or intends to make political contributions to a candidate, an officeholder, or a specific-purpose committee established or controlled by a candidate or an officeholder; and*

*(D) has filed an affidavit with the Commission stating the committee's intention to operate as described by subparagraphs (B) and (C).*

*(22) Reportable Activity--For the purposes of filing a final report, this term includes an expenditure to pay a campaign debt.*

*(23) Statewide Measure--A measure to be voted on by all eligible voters in the state.*

*(24) District Measure--A measure to be voted on by the voters of a district.*

**§20.7. Reports Filed with Other Local Filing Authority.**

*(a) Except as provided by Chapter 252 of the Election Code, the secretary of a political subdivision (or the presiding officer if the political subdivision has no secretary) is the appropriate filing authority for reports filed by:*

*(1) a candidate for an office of a political subdivision other than a county;*

*(2) a person holding an office of a political subdivision other than a county.*

**§20.13. Out-of-State Committees.**

*(a) An out-of-state political committee is required to file reports for each reporting period under Subchapter F, Chapter 254, Election Code, in which the out-of-state political committee accepts political contributions or makes political expenditures in connection with a state or local election in Texas. Section 254.1581 of the Election Code applies to a report required to be filed under this section. An out-of-state political committee that files reports electronically in another jurisdiction may comply with §254.1581 of the Election Code by sending a letter to the Commission within the time prescribed by that section specifying in detail where the electronic report may be found on the website of the agency with which the out-of-state political committee is required to file its reports. An out-of-state political committee that does not file reports electronically in another jurisdiction may comply with §254.1581 of the Election Code by sending to the Commission a copy of the cover sheets of the report and a copy of each page on which the committee reports a contribution or expenditure accepted or made in connection with a state or local election in Texas.*

*(b) A political committee must determine if it is an "out-of-state political committee" each time the political committee makes a political expenditure in Texas (other than an expenditure in connection with a campaign for a federal office or an expenditure for a federal officeholder). The determination is made as follows.*

*(1) When making the expenditure (other than an expenditure in connection with a campaign for a federal office or an expenditure for a federal officeholder), the committee must calculate its total political expenditures made during the 12 months immediately*

*preceding the date of the expenditure. This total does not include the political expenditure triggering the calculation requirement.*

*(2) If 80% or more of the total political expenditures are in connection with elections not voted on in Texas, the committee is an out-of-state committee.*

*(3) If less than 80% of the total political expenditures are in connection with elections not voted on in Texas, the committee is no longer an out-of-state committee.*

*(c) An out-of-state political committee planning an expenditure in connection with a campaign for federal office voted on in Texas is not required to make the determination required by §20.14 of this chapter (relating to Information About Out-of-State Committees). However, an expenditure in connection with a campaign for federal office voted on in Texas must be included in the calculation for an out-of-state committee making an expenditure in connection with a non-federal campaign voted on in Texas.*

**§20.14. Information About Out-of-State Committees.**

*(a) A person who files a report with the Commission by electronic transfer and who accepts political contributions from an out-of-state political committee required to file its statement of organization with the Federal Election Commission shall either:*

*(1) enter the out-of-state committee's federal PAC identification number in the appropriate place on the report; or*

*(2) timely file a certified copy of the out-of-state committee's statement of organization that is filed with the Federal Election Commission.*

*(b) A person who files a report with the Commission by electronic transfer and who accepts political contributions from an out-of-state political committee that is not required to file its statement of organization with the Federal Elections Commission shall either:*

*(1) enter the information required by §253.032(a)(1) or (e)(1), Election Code, as applicable, on the report filed by electronic transfer; or*

*(2) timely file a paper copy of the information required by §253.032(a)(1) or (e)(1), Election Code, as applicable.*

*(c) Except as provided by subsection (d) of this section, §251.007, Election Code, applies to a document filed under subsection (a)(2) or (b)(2) of this section.*

*(d) A document filed under subsection (a)(2) or (b)(2) of this section for a pre-election report is timely filed if it is received by the Commission no later than the report due date. A pre-election report includes reports due 30-days and 8-days before an election, reports due before a runoff election, and special reports due before an election.*

**§20.16. Notices by Electronic Mail.**

(a) A person required to file reports electronically with the Commission shall provide to the Commission an electronic mail address to which notices regarding filing requirements under Title 15 of the Election Code may be sent.

(b) A person required to file reports with the Commission and who qualifies for an exemption from electronic filing may provide to the Commission an electronic mail address to which notices regarding filing requirements under Title 15 of the Election Code may be sent.

**§20.21. Due Dates on Holidays and Weekends.**

If the deadline for a report falls on a Saturday, Sunday, or a legal state or national holiday, the report is due on the next regular business day.

**§20.33. Termination of Campaign Treasurer Appointment by Commission.**

(a) The Commission may terminate the campaign treasurer appointment of an inactive candidate or an inactive political committee.

(b) For purposes of subsection (a) of this section and §252.0131, Election Code, a candidate becomes “inactive” if the candidate files a campaign treasurer appointment with the Commission and more than one year has lapsed since the candidate has filed any required campaign finance reports with the Commission.

(c) For purposes of subsection (a) of this section and §252.0131, Election Code, a political committee becomes “inactive” if the political committee files a campaign treasurer appointment with the Commission and more than one year has lapsed since the campaign treasurer of the political committee has filed any required campaign finance reports with the Commission.

(d) This section does not apply to a candidate who holds an office specified by §§252.005(1) or (5), Election Code.

**§20.35. Notice of Proposed Termination of Campaign Treasurer Appointment.**

(a) Before the Commission may consider termination of a campaign treasurer appointment under §20.33 of this chapter (relating to Termination of Campaign Treasurer Appointment by Commission) and §252.0131, Election Code, the Commission shall send written notice to the affected candidate or political committee.

(b) The written notice must be given at least 30 days before the date of the meeting at which the Commission will consider the termination of campaign treasurer appointment and must include:

(1) The date, time, and place of the meeting;

(2) A statement of the Commission’s intention to consider termination of the campaign treasurer;

(3) A reference to the particular sections of the statutes and rules that give the Commission the authority to consider the termination of the campaign treasurer; and

(4) *The effect of termination of the campaign treasurer appointment.*

### **Subchapter B. GENERAL REPORTING RULES**

#### **§20.50. Total Political Contributions Maintained.**

(a) *For purposes of Election Code §254.031(a)(8) and §254.0611(a)(1), the total amount of political contributions maintained in one or more accounts includes the following:*

(1) *The balance on deposit in banks, savings and loan institutions and other depository institutions;*

(2) *The present value of any investments that can be readily converted to cash, such as certificates of deposit, money market accounts, stocks, bonds, treasury bills, etc.; and*

(3) *The balance of political contributions accepted and held in any online fundraising account over which the filer can exercise control by making a withdrawal, expenditure, or transfer.*

(b) *For purposes of Election Code §254.031(a)(8) and §254.0611(a)(1), the total amount of political contributions maintained includes personal funds that the filer intends to use for political expenditures only if the funds have been deposited in an account in which political contributions are held as permitted by Election Code §253.0351(c).*

(c) *For purposes of Election Code §254.031(a-1), the difference between the total amount of political contributions maintained that is disclosed in a report and the correct amount is a de minimis error if the difference does not exceed:*

(1) *\$7,500; or*

(2) *the lesser of 10% of the amount disclosed or \$20,000.*

#### **§20.51. Value of In-Kind Contribution.**

(a) *For reporting purposes, the value of an in-kind contribution is the fair market value.*

(b) *If an in-kind contribution is sold at a political fundraiser, the total amount received for the item at the fundraiser must be reported. This reporting requirement is in addition to the requirement that the fair market value of the in-kind contribution be reported.*

(c) *If political advertising supporting or opposing two or more candidates is an in-kind contribution, each person benefiting from the contribution shall report the amount determined by dividing the full value of the political advertising by the number of persons benefited by the political advertising.*

#### **§20.52. Description of In-Kind Contribution for Travel.**

*The description of an in-kind contribution for travel outside of the state of Texas must provide the following:*

- (1) *The name of the person or persons traveling on whose behalf the travel was accepted;*
- (2) *The means of transportation;*
- (3) *The name of the departure city or the name of each departure location;*
- (4) *The name of the destination city or the name of each destination location;*
- (5) *The dates on which the travel occurred;*
- (6) *The campaign or officeholder purpose of the travel, including the name of a conference, seminar, or other event.*

**§20.54. Reporting a Pledge of a Contribution.**

- (a) *The date of a pledge of a contribution is the date the pledge was accepted, regardless of when the pledge is received.*
- (b) *Except as provided by subsection (c) of this section, a pledge of a contribution shall be reported on the appropriate pledge schedule for the reporting period in which the pledge was accepted and shall be reported on the appropriate receipts schedule for the reporting period in which the pledge is received.*
- (c) *A pledge of a contribution that is received in the reporting period in which the pledge was accepted, shall be reported on the contribution schedule or the loan schedule, as applicable, and in accordance with subsection (a) of this section.*

**§20.55. Time of Accepting Contribution.**

*For the purposes of §254.034 of the Election Code, a determination to refuse a political contribution is a distinct act from returning a political contribution and may occur at a different time.*

**§20.56. Expenditures to Vendors.**

- (a) *A political expenditure made by a vendor for a candidate, officeholder, political committee, or other filer, with the intent to seek reimbursement from the filer, shall be reported by the filer in accordance with this chapter as though the filer made the expenditure directly.*
- (b) *A vendor of a candidate, officeholder, or specific-purpose committee may not, in providing goods or services for the candidate, officeholder, or committee, make an expenditure that, if made by the candidate, officeholder, or committee, would be prohibited by §§253.035, 253.038, or 253.041, Election Code.*
- (c) *A candidate, officeholder, or specific-purpose committee may not use political contributions to pay or reimburse a vendor for an expenditure that, if made by the candidate, officeholder, or committee, would be prohibited by §§253.035, 253.038, or 253.041, Election Code.*

**§20.58. Disclosure of Political Expenditure.**

*(a) An expenditure that is not paid during the reporting period in which the obligation to pay the expenditure is incurred shall be reported on the Unpaid Incurred Obligations Schedule for the reporting period in which the obligation to pay is incurred.*

*(b) The use of political contributions to pay an expenditure previously disclosed on an Unpaid Incurred Obligations Schedule shall be reported on the appropriate disbursements schedule for the reporting period in which the payment is made.*

*(c) The use of personal funds to pay an expenditure previously disclosed on an Unpaid Incurred Obligations Schedule shall be reported on the Political Expenditure Made from Personal Funds Schedule for the reporting period in which the payment is made.*

**§20.59. Reporting Expenditure by Credit Card.**

*(a) A report of an expenditure charged to a credit card must be disclosed on the Expenditures Made to Credit Card Schedule and identify the vendor who receives payment from the credit card company.*

*(b) A report of a payment to a credit card company must be disclosed on the appropriate disbursements schedule and identify the credit card company receiving the payment.*

*(c) A political expenditure by credit card made during the period covered by a report required to be filed under §§254.064(b) or (c), 254.124(b) or (c), or 254.154(b) or (c) of the Election Code, must be included in the report for the period during which the charge was made, not in the report for the period during which the statement from the credit card company was received.*

*(d) A political expenditure by credit card made during a period not covered by a report listed under subsection (c) of this section, must be included in the report for the period during which:*

*(1) the charge was made; or*

*(2) the person receives the credit card statement that includes the expenditure.*

**§20.60. Reporting Political Expenditures for Processing Fees.**

*(a) Multiple political expenditures made to a single payee during a reporting period for fees to process political contributions may be itemized as a single expenditure, in an amount equal to the combined total amount of the expenditures, if all the expenditures are made to a single payee for the same purpose.*

*(b) The purpose of an expenditure reported under subsection (a) of this section must include the dates of the first and last of the multiple expenditures made to a single payee during the reporting period.*

*(c) For reporting purposes, the date of an expenditure reported under subsection (a) of this section is the date of the first expenditure made to the payee during the reporting period.*

**§20.61. Purpose of Expenditure.**

*(a) For reporting required under §254.031 of the Election Code, the purpose of an expenditure means:*

*(1) A description of the category of goods, services, or other thing of value for which an expenditure is made. Examples of acceptable categories include:*

- (A) advertising expense;*
- (B) accounting/banking;*
- (C) consulting expense;*
- (D) contributions/donations made by candidate/officeholder/political committee;*
- (E) event expense;*
- (F) fees;*
- (G) food/beverage expense;*
- (H) gifts/awards/memorials expense;*
- (I) legal services;*
- (J) loan repayment/reimbursement;*
- (K) office overhead/rental expense;*
- (L) polling expense;*
- (M) printing expense;*
- (N) salaries/wages/contract labor;*
- (O) solicitation/fundraising expense;*
- (P) transportation equipment and related expense;*
- (Q) travel in district;*
- (R) travel out of district;*
- (S) other political expenditures; and*

*(2) A brief statement or description of the candidate, officeholder, or political committee activity that is conducted by making the expenditure and an additional indication if the expenditure is an officeholder expenditure for living in Austin, Texas. The brief statement or description must include the item or service purchased and must be sufficiently specific, when considered within the context of the description of the category, to make*

*the reason for the expenditure clear. Merely disclosing the category of goods, services, or other thing of value for which the expenditure is made does not adequately describe the purpose of an expenditure.*

*(3) For purposes of this section, “consulting” means advice and strategy. “Consulting” does not include providing other goods or services, including without limitation media production, voter contact, or political advertising.*

*(b) An expenditure other than a reimbursement to a person, including a vendor, for more than one type of good or service must be reported by the filer as separate expenditures for each type of good or service provided by the person in accordance with this rule.*

*(c) The description of a political expenditure for travel outside of the state of Texas must provide the following:*

*(1) The name of the person or persons traveling on whose behalf the expenditure was made;*

*(2) The means of transportation;*

*(3) The name of the departure city or the name of each departure location;*

*(4) The name of the destination city or the name of each destination location;*

*(5) The dates on which the travel occurred; and*

*(6) The campaign or officeholder purpose of the travel, including the name of a conference, seminar, or other event.*

**§20.62. Reporting Staff Reimbursement.**

*(a) Political expenditures made out of personal funds by a staff member of an officeholder, a candidate, or a political committee with the intent to seek reimbursement from the officeholder, candidate, or political committee that in the aggregate do not exceed the threshold amount as specified in §18.31 of this title (regarding adjustments to reporting thresholds) during the reporting period may be reported as follows IF the reimbursement occurs during the same reporting period that the initial expenditure was made:*

*(1) the amount of political expenditures that in the aggregate exceed the threshold amount and that are made during the reporting period, the full name and address of the persons to whom the expenditures are made and the dates and purposes of the expenditures; and*

*(2) included with the total amount or a specific listing of the political expenditures of the threshold amount or less made during the reporting period.*

*(b) Except as provided by subsection (a) of this section, a political expenditure made from personal funds by a staff member of an officeholder, a candidate, or a political committee with the intent to seek reimbursement from the officeholder, candidate, or political committee must be reported as follows:*

- (1) the aggregate amount of the expenditures made by the staff member as of the last day of the reporting period is reported as a loan to the officeholder, candidate, or political committee;*
- (2) the expenditure made by the staff member is reported as a political expenditure by the officeholder, candidate, or political committee; and*
- (3) the reimbursement to the staff member to repay the loan is reported as a political expenditure by the officeholder, candidate, or political committee.*

**§20.63. Reporting the Use and Reimbursement of Personal Funds.**

- (a) A candidate is required to report a campaign expenditure from his or her personal funds.*
- (b) An officeholder is not required to report an officeholder expenditure from his or her personal funds unless he or she intends to be reimbursed from political contributions.*
- (c) A candidate or officeholder must report a political expenditure from his or her personal funds using one of the following methods:*
  - (1) As a political expenditure made from personal funds reported on the political expenditure made from personal funds schedule;*
  - (2) As a loan without depositing the personal funds in an account in which political contributions are held. The amount reported as a loan may not exceed the total amount spent in the reporting period. A political expenditure made from these funds must also be reported as a political expenditure made from political funds, not as made from personal funds; or*
  - (3) If the candidate or officeholder deposits personal funds in an account in which political contributions are held, he or she must report that amount as a loan with an indication that personal funds were deposited in that account. A political expenditure made from an account in which political contributions are maintained must be reported as a political expenditure made from political funds, not as made from personal funds.*
- (d) A candidate or officeholder who makes political expenditures from his or her personal funds may reimburse those personal funds from political contributions only if:*
  - (1) the expenditures were fully reported using one of the methods in subsection (c) of this section on the report covering the period during which the expenditures were made; and*
  - (2) if the method in subsection (c)(1) of this section was used, the report disclosing the expenditures indicates that the expenditures are subject to reimbursement.*
- (e) A candidate's or officeholder's failure to comply with subsection (d) of this section may not be cured by filing a corrected report after the report deadline has passed.*
- (f) A candidate or officeholder who has complied with subsection (d) of this section and whose personal funds have been reimbursed from political contributions must report the amount of the*

*reimbursement as a political expenditure in the report covering the period during which the reimbursement was made.*

*(g) Section 253.042 of the Election Code sets limits on the amount of political expenditures from personal funds that a statewide officeholder may reimburse from political contributions.*

**§20.64. Reporting the Forgiveness of a Loan or Settlement of a Debt.**

*(a) The forgiveness of a loan to a candidate, officeholder, or political committee is a reportable in-kind political contribution unless the loan does not constitute a contribution under §251.001(2) of the Election Code, and the forgiveness of the loan was made in the due course of business.*

*(b) The settlement of a debt owed by a candidate, officeholder, or political committee is a reportable in-kind political contribution unless the creditor is a commercial vendor that has treated the settlement in a commercially reasonable manner that reflects the usual and normal practice of the industry, and is typical of the terms the commercial vendor offers to political and non-political persons alike.*

**§20.65. Reporting No Activity.**

*(a) As a general rule, a candidate or officeholder must file a report required by Subchapter C of this chapter (relating to Reporting Requirements) or Subchapter D of this chapter (relating to Reporting Requirements for an Officeholder Who Does Not Have a Campaign Treasurer Appointment on File) even if there has been no reportable activity during the period covered by the report.*

*(b) This general rule does not apply to:*

*(1) special pre-election reports;*

*(2) special session reports; or*

*(3) a local officeholder who does not have a campaign treasurer appointment on file and who does not accept more than the threshold amount in political contributions or make more than the threshold amount in political expenditures during the reporting period.*

*(c) If a required report will disclose that there has been no reportable activity during the reporting period, the filer shall submit only those pages of the report necessary to identify the filer and to swear to the lack of reportable activity.*

**§20.66. Discounts.**

*(a) A discount to a candidate, officeholder, or political committee is an in-kind political contribution unless the terms of the transaction reflect the usual and normal practice of the industry and are typical of the terms that are offered to political and non-political persons alike, or unless the discount is given solely in order to comply with §253.041 of the Election Code.*

*(b) The value of an in-kind contribution in the form of a discount is the difference between the fair market value of the goods or services at the time of the contribution and the amount charged.*

**§20.67. Reporting after the Death or Incapacity of a Filer.**

(a) *The responsibility to file reports required by this title survives the death or incapacity of a candidate or officeholder.*

(b) *The legal representative or the estate of a candidate or officeholder who has died, or the legal representative of a candidate who is incapacitated, shall file any reports due under Subchapter C of this chapter (relating to Reporting Requirements) or Subchapter D of this chapter (relating to Reporting Requirements for an Officeholder Who Does Not Have a Campaign Treasurer Appointment on File).*

**Subchapter C. REPORTING REQUIREMENTS**

**§20.201. Definitions.**

*In this subchapter “filer” means a candidate, an officeholder with an active campaign treasurer appointment, a general-purpose committee, or a specific-purpose committee.*

**§20.203. Required Appointment of Campaign Treasurer.**

*A candidate must file a campaign treasurer appointment before accepting any campaign contributions or making or authorizing any campaign expenditures, including campaign expenditures from personal funds.*

**§20.205. Modified Reporting.**

(a) *To file under the modified schedule, a candidate must file the declaration required under §254.182 of the Election Code no later than the 30th day before the first election to which the declaration applies. A declaration is valid for one election cycle only.*

**§20.207. Reporting Political Contributions to a Business in Which the Candidate or Officeholder Has a Participating Interest.**

*Reports must include the following information for each expenditure from political contributions made to a business in which the candidate or officeholder has a participating interest of more than 10%, holds a position on the governing body of the business, or serves as an officer of the business:*

- (1) the full name of the business to which the expenditure was made;*
- (2) the address of the person to whom the expenditure was made;*
- (3) the date of the expenditure;*
- (4) the purpose of the expenditure; and*
- (5) the amount of the expenditure.*

**§20.209. Reporting Contributions.**

*Reports must include for each person from whom the candidate accepted a political contribution (other than a pledge, loan, or a guarantee of a loan) of more than the threshold amount in value or political contributions (other than pledges, loans, or guarantees of loans) that total more than the threshold amount in value during the reporting period:*

- (1) the full name of the person making the contribution;*
- (2) the address of the person making the contribution;*
- (3) the total amount of contributions;*
- (4) the date each contribution was accepted; and*
- (5) a description of any in-kind contribution.*

**§20.211. Reporting Pledges.**

*Each report must include for each person from whom the candidate accepted a pledge or pledges to provide more than the threshold amount in money or goods or services worth more than the threshold amount:*

- (1) the full name of the person making the pledge;*
- (2) the address of the person making the pledge;*
- (3) the amount of each pledge;*
- (4) the date each pledge was accepted; and*
- (5) a description of any goods or services pledged; and*
- (6) the total of all pledges accepted during the period for the threshold amount and less from a person.*

**§20.213. Reporting Loans.**

*(a) Each report must include for each person making a loan or loans to the candidate for campaign purposes if the total amount loaned by the person during the reporting period is more than the threshold amount:*

- (1) the full name of the person or financial institution making the loan;*
- (2) the address of the person or financial institution making the loan;*
- (3) the amount of the loan;*
- (4) the date of the loan;*
- (5) the interest rate;*

(6) the maturity date;

(7) the collateral for the loan, if any; and

(8) if the loan has guarantors:

(A) the full name of each guarantor;

(B) the address of each guarantor;

(C) the principal occupation of each guarantor;

(D) the name of the employer of each guarantor; and

(E) the amount guaranteed by each guarantor.

(b) the total amount of loans accepted during the period for the threshold amount and less from persons other than financial institutions engaged in the business of making loans for more than one year, except for a loan reported under paragraph (a) of this section.

**§20.215. Reporting Expenditures of Personal Funds.**

Each report must include for each political expenditure of any amount made out of personal funds for which reimbursement from political contributions is intended:

(1) the full name of the person to whom each expenditure was made;

(2) the address of the person to whom the expenditure was made;

(3) the date of the expenditure;

(4) the purpose of the expenditure;

(5) a declaration that the expenditure was made out of personal funds;

(6) a declaration that reimbursement from political contributions is intended; and

(7) the amount of the expenditure.

**§20.220. Additional Disclosure for the Texas Comptroller of Public Accounts.**

(a) For purposes of this section and §2155.003(e) of the Government Code, the term “vendor” means:

(1) a person who, during the comptroller’s term of office, bids on or receives a contract under the comptroller’s purchasing authority that was transferred to the comptroller by §2151.004 of the Government Code; and

(2) an employee or agent of a person described by paragraph (a)(1) of this section who communicates directly with the chief clerk, or an employee of the Texas Comptroller of

*Public Accounts who exercises discretion in connection with the vendor's bid or contract, about a bid or contract.*

*(b) Each report filed by the comptroller or a specific-purpose committee created to support the comptroller, shall include:*

*(1) for each vendor whose aggregate campaign contributions equal or exceed the threshold amount during the reporting period, a notation that:*

*(A) the contributor was a vendor during the reporting period or during the 12-month period preceding the last day covered by the report; and*

*(B) if the vendor is an individual, includes the name of the entity that employs or that is represented by the individual; and*

*(2) for each political committee directly established, administered, or controlled by a vendor whose aggregate campaign contributions equal or exceed \$610 during the reporting period, a notation that the contributor was a political committee directly established, administered, or controlled by a vendor during the reporting period or during the 12-month period preceding the last day covered by the report.*

*(c) The comptroller, or a specific-purpose committee created to support the comptroller, is in compliance with this section if:*

*(1) each written solicitation for a campaign contribution includes a request for the information required by subsection (b) of this section; and*

*(2) for each contribution that is accepted for which the information required by this section is not provided, at least one oral or written request is made for the missing information. A request under this subsection:*

*(A) must be made not later than the 30th day after the date the contribution is received;*

*(B) must include a clear and conspicuous statement requesting the information required by subsection (b) of this section;*

*(C) if made orally, must be documented in writing; and*

*(D) may not be made in conjunction with a solicitation for an additional campaign contribution.*

*(d) The comptroller, or a specific-purpose committee created to support the comptroller, must report the information required by subsection (b) of this section that is not provided by the person making the political contribution and that is in the comptroller's or committee's records of political contributions or previous campaign finance reports required to be filed under Title 15 of the Election Code filed by the comptroller or committee.*

*(e) If the comptroller, or a specific-purpose committee created to support the comptroller, receives the information required by this section after the filing deadline for the report on which*

*the contribution is reported, the comptroller or committee must include the missing information on the next required campaign finance report.*

**§20.221. Special Pre-Election Report by Certain Candidates.**

*(a) If, during the reporting period for special pre-election contributions, a candidate receives additional contributions from a person whose previous contribution or contributions have triggered the requirement to file a special pre-election report during that period, the candidate must file an additional special pre-election report for each such contribution. Except as provided in subsection (b) of this section, each such special pre-election report must be filed so that it is received by the Commission no later than the first business day after the candidate accepts the contribution.*

*(b) A candidate must file a special pre-election report that is exempt from electronic filing under §254.036(c), Election Code, so that the report is received by the Commission no later than 5 p.m. of the first business day after the candidate accepts a contribution from a person that triggers the requirement to file the special pre-election report.*

*(c) A candidate must file a special pre-election report for each person whose contribution or contributions made during the reporting period for special pre-election reports exceeds the threshold for special pre-election reports.*

*(d) A candidate must also report contributions reported on a special pre-election report on the next semiannual, pre-election, or runoff report filed, as applicable.*

**§20.223. Form and Contents of Special Pre-Election Report.**

*(a) A special pre-election report shall be filed electronically as required by §254.036, Election Code, unless the report is exempt from electronic filing. A special pre-election report that is exempt from electronic filing under §254.036(c), Election Code, is not required to be on a form prescribed by the Commission.*

*(b) In this subsection “filer” means the candidate, general-purpose committee, or specific-purpose committee filing the report.*

*(c) A special pre-election report shall include the following information:*

*(1) the name of the filer;*

*(2) either:*

*(A) the office sought by the filer; or*

*(B) the full name of the campaign treasurer;*

*(3) the name of the person making the contribution or contributions that triggered the requirement to file a special pre-election report;*

*(4) the address of the person making the contribution or contributions;*

- (5) *the amount of each contribution;*
- (6) *the date each contribution was accepted; and*
- (7) *a description of any in-kind contribution.*

*(d) A general-purpose committee making direct campaign expenditures must also include:*

- (1) the full name and address of the person or persons to whom each direct campaign expenditure is made;*
- (2) the date of each direct campaign expenditure;*
- (3) a description of the goods or services for which each direct campaign expenditure was made; and*
- (4) the identification of the candidates or group of candidates benefiting from the direct campaign expenditure.*

**§20.225. Special Session Reports for Candidates and Certain Officeholders.**

*(a) A special session report is a report of contributions only, not expenditures. Expenditures made during the period covered by a special session report are required to be reported in the next applicable sworn report of contributions and expenditures.*

*(b) Contributions reported in a special session report are required to be reported in the next applicable sworn report of contributions and expenditures.*

*(c) A contribution that is refused under §254.0391(b) of the Election Code must be returned no later than the 30th day after the date of final adjournment. A contribution not returned by that date will be deemed accepted.*

**§20.227. Contents of Special Session Report.**

*A special session report shall include the following information:*

- (1) the filer's name;*
- (2) the filer's address;*
- (3) either:*
  - (A) the office sought by the filer; or*
  - (B) the full name of the campaign treasurer*
- (4) if the filer is a specific-purpose committee:*
  - (A) for each candidate supported or opposed by the specific-purpose committee:*
    - (i) the full name of the candidate;*

(ii) the office sought by the candidate; and

(iii) an indication of whether the committee supports or opposes the candidate;

(B) for each officeholder supported or opposed by the committee:

(i) the full name of the officeholder;

(ii) the office held by the officeholder; and

(iii) an indication of whether the committee supports or opposes the officeholder;

(5) the date each contribution was accepted;

(6) the full name of each person making a contribution;

(7) the address of each person making a contribution;

(8) the amount of each contribution accepted during the reporting period;

(9) a description of any in-kind contribution accepted during the reporting period; and

(10) an affidavit, executed by the candidate, stating: "I swear, or affirm, that the accompanying report is true and correct and includes all information required to be reported by me under Title 15, Election Code."

### **§20.235. Contents of Annual Report.**

*In addition to the information required by §254.202 of the Election Code, an annual report of unexpended contributions shall include the following information:*

(1) for each payment made by the candidate from unexpended political contributions, unexpended interest or other income earned from political contributions, or assets purchased with political contributions or interest or other income earned from political contributions during the previous year:

(A) the full name of each person to whom a payment was made;

(B) the address of each person to whom a payment was made;

(C) the date of each payment;

(D) the nature of the goods or services for which the payment was made; and

(E) the amount of each payment;

(2) the full name of each person to whom a payment from unexpended political contributions, unexpended interest or other income earned from political contributions,

*or assets purchased with political contributions or interest or other income earned from political contributions was made.*

**§20.243. Contribution of Unexpended Political Contributions to Candidate or Political Committee.**

*(a) A former candidate who has filed a final report and who contributes unexpended political contributions, unexpended interest or other income earned from political contributions, or assets purchased with political contributions or interest or other income earned from political contributions to a candidate or political committee must report the contribution on an annual report of unexpended contributions or on a report of final disposition of unexpended contributions, as applicable. The former candidate must also report the contribution under subsection (b) of this section.*

*(b) A former candidate who has filed a final report and who contributes unexpended political contributions, unexpended interest or other income earned from political contributions, or assets purchased with political contributions or interest or other income earned from political contributions to a candidate or political committee must report each contribution to the filing authority with whom the candidate or political committee receiving the contribution files reports.*

*(1) The contribution must be reported on the form used for reports of contributions and expenditures by a specific-purpose committees.*

*(2) The report should be filed by the due date for the report in which the candidate or political committee receiving the contribution must report the receipt of the contribution.*

**Subchapter D. REPORTING REQUIREMENTS FOR AN OFFICEHOLDER WHO DOES NOT HAVE A CAMPAIGN TREASURER APPOINTMENT ON FILE**

**§20.271. Officeholders Covered.**

*An officeholder who has a campaign treasurer appointment on file is a candidate for filing purposes and shall file under Subchapter C of this chapter (relating to Reporting Requirements) rather than under this subchapter.*

**§20.295. Contribution of Unexpended Political Contributions to Candidate or Political Committee.**

*(a) A former officeholder who contributes unexpended political contributions, unexpended interest or other income earned from political contributions, or assets purchased with political contributions or interest or other income earned from political contributions to a candidate or political committee must report the contribution on an annual report of unexpended contributions or on a report of final disposition of unexpended contributions, as applicable. The former officeholder must also report the contribution under subsection (b) of this section.*

*(b) A former officeholder who contributes unexpended political contributions, unexpended interest or other income earned from political contributions, or assets purchased with political contributions or interest or other income earned from political contributions to a candidate or*

*political committee must report each contribution to the filing authority with whom the candidate or political committee receiving the contribution files reports.*

*(1) The former officeholder must report such contributions on the form used for reports of contributions and expenditures by a specific-purpose committee.*

*(2) The former officeholder must file the report by the due date for the report in which the candidate or political committee receiving the contribution must report the receipt of the contribution.*

### **Subchapter E. REPORTS BY A GENERAL-PURPOSE OR SPECIFIC-PURPOSE COMMITTEE**

#### **§20.303. Appointment of Campaign Treasurer.**

*(a) A committee may appoint a campaign treasurer at any time before exceeding the thresholds described in §253.031(b) of the Election Code.*

*(b) After a committee appoints a campaign treasurer, the campaign treasurer must comply with all the requirements of this subchapter, even if the committee has not yet exceeded the threshold in political contributions or expenditures.*

*(c) With the exception of the campaign treasurer appointment, the individual named as a committee's campaign treasurer is legally responsible for filing all reports of the committee, including a report following the termination of his or her appointment as campaign treasurer.*

#### **§20.305. Appointing an Assistant Campaign Treasurer.**

*(a) The assistant campaign treasurer has the same authority as the campaign treasurer. However, if the campaign treasurer appointment is terminated the assistant campaign treasurer no longer has authority to act as the campaign treasurer.*

*(b) The campaign treasurer, not the assistant campaign treasurer, is liable for any penalties assessed by the Commission for late reports or incomplete reports or for failure to file a report.*

#### **§20.307. Name of Specific-Purpose Committee.**

*The name of a specific-purpose committee that supports a candidate for or an officeholder of an office specified by §252.005(1), Election Code, must include the full name of that candidate or officeholder.*

#### **§20.308. Name of General-Purpose Committee.**

*(a) For the purposes of §252.003(d) of the Election Code, a corporation, labor organization, or other association or legal entity that “directly establishes, administers, or controls” a general-purpose committee is one that has:*

*(1) the authority to actively participate in determining to whom the general-purpose committee makes political contributions or for what purposes the general-purpose committee makes political expenditures; or*

(2) the authority to designate a person to a position of authority with the general-purpose committee, including that of an officer or director of the general-purpose committee.

**§20.311. Updating Certain Information on the Campaign Treasurer Appointment.**

(a) Except as provided by subsection (b) of this section, if any of the information required to be included in the committee's treasurer appointment changes, excluding changes in the campaign treasurer's address, the campaign treasurer shall file a corrected appointment with the Commission no later than the 30th day after the date the change occurs.

(b) If a candidate supported or opposed by a specific-purpose committee changes their office sought, or the committee changes the candidates that they support or oppose, the campaign treasurer must report that change within 24 hours of the change occurring.

**§20.313. Converting to a Different Committee Type.**

(a) A specific-purpose committee that changes its operation and becomes a general-purpose committee is subject to the requirements applicable to a general-purpose committee as of the date it files its campaign treasurer appointment as a general-purpose committee with the Commission.

(b) The notice required under §254.129 of the Election Code is in addition to the requirement that the new general-purpose committee file a campaign treasurer appointment with the Commission before it exceeds the threshold for registration as a general-purpose committee.

(c) A general-purpose committee that changes its operation and becomes a specific-purpose committee is subject to the requirements applicable to a specific-purpose committee as of the date it files its campaign treasurer appointment as a specific-purpose committee.

(d) As provided by §253.031(b)-(c) of the Election Code, a new specific-purpose committee involved in an election supporting or opposing a candidate for a statewide office, the state legislature, the State Board of Education, or a multi-county district office in a primary or general election may not accept political contributions exceeding the threshold and may not make or authorize political expenditures exceeding the threshold unless the committee's campaign treasurer appointment as a specific-purpose committee has been on file at least 30 days before the applicable election day.

**§20.319. Notice to Candidate or Officeholder.**

(a) This section does not apply to a committee that has not appointed a campaign treasurer in accordance with §20.303(b) of this chapter (relating to Appointment of Campaign Treasurer).

(b) The notice required by §254.128 of the Election Code shall be in writing and shall include:

- (1) the full name of the committee;
- (2) the address of the committee;
- (3) the full name of the committee's campaign treasurer;

- (4) the address of the committee's campaign treasurer;
- (5) a statement that indicates that the committee is a political action committee; and
- (6) a statement that the committee has accepted political contributions or has made political expenditures on behalf of the candidate or officeholder.

**§20.333. Special Pre-Election Report by Certain Specific-Purpose Committees.**

(a) If, during the reporting period for special pre-election contributions, a committee receives additional contributions from a person whose previous contribution or contributions have triggered the requirement to file a special pre-election report, the campaign treasurer for the committee must file an additional special pre-election report for each such contribution. Each such special pre-election report must be filed so that it is received by the Commission no later than the first business day after the committee accepts the contribution.

(b) The campaign treasurer of a specific-purpose committee must file a special pre-election report for each person whose contribution or contributions made during the period for special pre-election reports exceeds the threshold for special pre-election reports.

(c) A campaign treasurer of a specific-purpose committee must also report contributions reported on a special pre-election report on the next semiannual, pre-election, or runoff report filed, as applicable.

**§20.343. Contents of Dissolution Report.**

A dissolution report must contain:

- (1) the information described in §254.121 of the Election Code; and
- (2) the following sworn statement, signed by the specific-purpose committee's campaign treasurer, and properly notarized: "I, the undersigned campaign treasurer, do not expect the occurrence of any further reportable activity by this specific-purpose committee for this or any other campaign or election for which reporting under the Election Code is required. I declare that all of the information required to be reported by me has been reported. I understand that designating a report as a dissolution report terminates the appointment of campaign treasurer. I further understand that a specific-purpose committee may not make or authorize political expenditures or accept political contributions without having an appointment of campaign treasurer on file."

**§20.403. Reporting Requirements for Certain General-Purpose Committees.**

(a) A general-purpose committee that is the principal political committee of a political party is subject to Subchapter F of this chapter (relating to Rules Applicable to a Principal Political Committee of a Political Party). Subchapter F of this chapter prevails over this subchapter in the case of conflict.

(b) A general-purpose committee that is established by a political party's county executive committee is subject to Subchapter H of this chapter (relating to Rules Applicable to a Political

Party's County Executive Committee). Subchapter H of this chapter prevails over this subchapter in the case of conflict.

(c) A general-purpose committee that supports or opposes a candidate for state chair of a political party is subject to Subchapter I of this chapter (relating to Reports by a Candidate or a Committee Supporting or Opposing a Candidate for State or County Party Chair). Subchapter I of this chapter prevails over this subchapter in the case of conflict.

**Subchapter F. RULES APPLICABLE TO A PRINCIPAL POLITICAL COMMITTEE OF A POLITICAL PARTY**

**§20.503. Exceptions from Certain Notice Requirements.**

(a) The principal political committee for a political party in the state or in a county is exempted from complying with §20.319 of this chapter (relating to Notice to Candidate or Officeholder).

(b) The principal political committee for a political party in the state or in a county is not required to report a direct campaign expenditure that it makes on behalf of a slate of two or more nominees of the party.

**Subchapter G. RULES APPLICABLE TO A POLITICAL PARTY ACCEPTING CONTRIBUTIONS FROM CORPORATIONS AND/OR LABOR ORGANIZATIONS**

**§20.523. Separate Account Required.**

(a) Interest and other income earned from contributions authorized by Chapter 253, Subchapter D of the Election Code must be maintained in an account separate from other contributions accepted by a political party.

(b) Proceeds from the sale or rent of assets purchased either with contributions authorized by Chapter 253, Subchapter D of the Election Code or with interest or other income earned from such contributions must be maintained in an account separate from other contributions accepted by a political party.

**§20.527. Form of Report.**

(a) The report required by this subchapter is separate from any other report a political party is required to file under this title.

(b) The report is filed by the chair of the state party or county executive committee, as applicable, and not by the treasurer of a general-purpose committee. Contributions and expenditures required to be reported under this subchapter should not be included on a report filed in accordance with Subchapter E of this chapter (relating to Reports by a General-Purpose or Specific-Purpose Committee).

(c) Except as provided by §254.036(c) of the Election Code, each report filed with the Commission under this subchapter and Chapter 257 of the Election Code must be filed by electronic transfer, using computer software provided by the Commission or computer software that meets Commission specifications for a standard file format.

**§20.529. Reporting Schedule for Political Party Accepting Corporate and/or Labor Organization Contributions.**

*A political party that has accepted a contribution from a corporation and/or labor organization shall file the following reports until the political party is no longer accepting corporate and/or labor organization contributions and the acceptance and expenditure of all such funds has been reported.*

- (1) A report shall be filed not earlier than July 1 and not later than July 15, covering the period that begins on either January 1 or the day after the last day included in a primary election report filed under paragraph (3) of this section, as applicable, and ends on June 30.*
- (2) A report shall be filed not earlier than January 1 and not later than January 15, covering the period that begins on either July 1 or the day after the last day included in a general election report filed under paragraph (4) of this section, as applicable, and ends on December 31.*
- (3) A report shall be filed for each primary election held by the political party. The report shall be filed not later than the eighth day before the primary election, covering the period that begins on January 1 and ends on the 10th day before the primary election.*
- (4) A report shall be filed for the general election for state and county officers. The report shall be filed not later than the 50th day before the general election, covering the period that begins on July 1 and ends on the 61st day before the general election for state and county officers.*

**Subchapter H. RULES APPLICABLE TO A POLITICAL PARTY'S COUNTY EXECUTIVE COMMITTEE**

**§20.555. County Executive Committee Accepting Contributions or Making Expenditures That Exceed Certain Amount.**

- (a) A county executive committee described by subsection (b) of this section is subject to the requirements of Subchapter E of this chapter (relating to Reports by a General-Purpose or Specific-Purpose Committee), except where those rules conflict with this subchapter. In the case of conflict, this subchapter prevails over Subchapter E of this chapter.*
- (b) A county executive committee that accepts political contributions or that makes political expenditures that, in the aggregate, exceeds the threshold in a calendar year shall file:
  - (1) a campaign treasurer appointment with the Commission no later than the 15th day after the date that amount is exceeded; and*
  - (2) the reports required by Subchapter E of this chapter. The first report filed must include all political contributions accepted and all political expenditures made before the county executive committee filed its campaign treasurer appointment.**

*(c) Contributions accepted from corporations and/or labor organizations under §253.104 of the Election Code and reported under Subchapter G of this chapter (relating to Rules Applicable to a*

*Political Party Accepting Contributions From Corporations and/or Labor Organizations) do not count against the thresholds described in subsection (b) of this section.*

*(d) A county executive committee that filed a campaign treasurer appointment may file a final report, which will notify the Commission that the county executive committee does not intend to file future reports unless it exceeds one of the thresholds. The final report may be filed:*

*(1) beginning on January 1 and by the January 15 filing deadline if the committee has exceeded one of the thresholds in the previous calendar year; or*

*(2) at any time if the committee has not exceeded one of the thresholds in the calendar year.*

**§20.557. Exceptions from Certain Restrictions.**

*A county executive committee is excepted from complying with §253.031(b)-(c) of the Election Code).*

**§20.559. Exception from Notice Requirement.**

*A county executive committee that accepts political contributions for or makes political expenditures on behalf of a candidate or officeholder is exempted from complying with §20.319 of this chapter (relating to Notice to Candidate or Officeholder).*

**§20.561. County Executive Committee Accepting Contributions from Corporations and/or Labor Organizations.**

*(a) A county executive committee that accepts contributions from corporations and/or labor organizations authorized by §253.104 of the Election Code is subject to the provisions set out in Subchapter G of this chapter (relating to Rules Applicable to a Political Party Accepting Contributions from Corporations and/or Labor Organizations).*

*(b) The chair of a county executive committee that accepts contributions from a corporation and/or labor organization must file the report required by §257.003 of the Election Code (regarding a county executive committee reporting contributions from corporations and/or labor organizations).*

**Subchapter I. REPORTS BY A CANDIDATE OR A COMMITTEE SUPPORTING OR OPPOSING A CANDIDATE FOR STATE OR COUNTY PARTY CHAIR**

**§20.571. Definitions.**

*The following terms, when used in this subchapter, shall have the following meaning, unless the context clearly indicates otherwise:*

*(1) Candidate for state chair of a political party--A person who seeks election to serve as the chair of the state executive committee of a political party with a nominee on the ballot in the most recent gubernatorial general election. Candidacy may be evidenced by any one or more of the following actions:*

(A) declaring candidacy;

(B) soliciting or accepting a campaign contribution or making or authorizing a campaign expenditure; or

(C) appointing a campaign treasurer as a candidate for state chair.

(2) Filer--Candidate for state or county chair, or a committee supporting or opposing a candidate for state or county chair.

**§20.577. Reporting Schedule for a Candidate for State Chair.**

(a) A filer is required to file only the reports listed in this section and is not required to file any other reports required by candidates for public office under Subchapter C of this chapter (relating to Reporting Requirements).

(b) A filer is required to file semiannual reports as provided by this subsection.

(1) One semiannual report is due no earlier than July 1 and no later than July 15.

(A) The period covered by a report under this paragraph begins on the later of the following dates, as applicable:

(i) January 1;

(ii) the first day after the period covered by the last report required by this subchapter; or

(iii) the day the state chair's campaign treasurer appointment was filed, if this is the first report filed under this subchapter.

(B) The period covered by the report under this paragraph ends on June 30.

(2) One semiannual report is due no earlier than January 1 and no later than January 15.

(A) The period covered by a report under this paragraph begins on the later of the following dates, as applicable:

(i) July 1;

(ii) the first day after the period covered by the last report required by this subchapter; or

(iii) the day the state chair's campaign treasurer appointment was filed, if this is the first report filed under this subchapter.

(B) The period covered by the report under this paragraph ends on December 31.

(3) One pre-election report not earlier than the 39th day before the convening of the state convention and not later than the 30th day before the convening of the state convention.

*The report shall cover the period that begins on either the day the filer filed a campaign treasurer appointment with the Commission or the first day after the period covered by the last report required to be filed, as applicable, and ends on the 40th day before the convening.*

*(4) One pre-election report not earlier than the ninth day before the convening of the state convention and not later than the eighth day before the convening of the state convention. The report must cover the period that begins on either the day after the filer filed a campaign treasurer appointment with the Commission or the first day after the period covered by the last report required to be filed, as applicable, and ends on the 10th day before the convening.*

*(c) A candidate for state chair of a political party who expects no further reportable activity in connection with his or her candidacy may file a final report at any time in accordance with §254.125 of the Election Code.*

*(d) A former candidate for state chair of a political party who retains unexpended political contributions, unexpended interest or other income from political contributions, or assets purchased with political contributions at the time of filing a final report is subject to the requirements of §254.065 of the Election Code.*

*(e) Except as provided by §254.036(c), Election Code, each report filed with the Commission under this section must be filed by electronic transfer, using computer software provided by the Commission or computer software that meets Commission specifications for a standard file format.*

**§20.579. Candidates and Committees Supporting or Opposing Candidates for County Chair in Certain Counties.**

*(a) In addition to the semiannual reports due to be filed with the Commission by January 15 and July 15 under §20.577(b) of this chapter (relating to Reporting Schedule for a Candidate for State Chair), a candidate for county chair covered by this section who has an opponent on the ballot in an election, or a committee supporting or opposing a candidate for county chair, shall file the following two reports with the Commission for each primary election except as provided by subsection (d).*

*(1) The first report shall be filed not later than the 30th day before primary election day. The report covers the period beginning the day the candidate's campaign treasurer appointment is filed or the first day after the period covered by the last report required to be filed under this subchapter, as applicable, and continuing through the 40th day before primary election day.*

*(2) The second report shall be filed not later than the eighth day before election day. The report covers the period beginning the 39th day before primary election day and continuing through the 10th day before primary election day.*

*(b) A candidate who has declared the intention to file reports in accordance with §20.205 of this chapter (relating to Modified Reporting) and who remains eligible to file under the modified schedule is not required to file special pre-election reports.*

(c) *In addition to other required reports, a filer covered by this section who is in a runoff election shall file one report with the Commission for the runoff election. The runoff election report shall be filed not later than the eighth day before runoff election day. The report covers the period beginning the ninth day before primary election day and continuing through the tenth day before runoff election day.*

(d) *Except as provided by §254.036(c) of the Election Code, each report filed with the Commission under this section must be filed by electronic transfer, using computer software provided by the Commission or computer software that meets Commission specifications for a standard file format.*

### **Subchapter J. REPORTS BY A LEGISLATIVE CAUCUS**

#### **§20.601. Reporting Obligations Imposed on Caucus Chair.**

*The caucus chair may designate a party responsible for filing reports required under §254.0311 of the Election Code.*

#### **§20.602. Reporting Schedule for a Legislative Caucus.**

(a) *A legislative caucus is required to file only the reports listed in this section.*

(b) *A caucus is required to file semiannual reports as provided by this subsection.*

(1) *One semiannual report is due no earlier than July 1 and no later than July 15.*

(A) *The period covered by a report under this paragraph begins on the later of the following dates, as applicable:*

(i) *January 1;*

(ii) *the first day after the period covered by the last report required by this subchapter; or*

(iii) *the day the state chair's campaign treasurer appointment was filed, if this is the first report filed under this subchapter.*

(B) *The period covered by the report under this paragraph ends on June 30.*

(2) *One semiannual report is due no earlier than January 1 and no later than January 15.*

(A) *The period covered by a report under this paragraph begins on the later of the following dates, as applicable:*

(i) *July 1;*

(ii) *the first day after the period covered by the last report required by this subchapter; or*

*(iii) the day the state chair's campaign treasurer appointment was filed, if this is the first report filed under this subchapter.*

*(B) The period covered by the report under this paragraph ends on December 31.*

*(c) A caucus chair for a legislative caucus who expects no further reportable activity, may terminate the caucus at any time by:*

*(1) sending written notice to the Commission that the caucus is terminating; and*

*(2) filing a final report in accordance with §254.125 of the Election Code.*

*(d) Except as provided by §254.036(c), Election Code, each report filed with the Commission under this section must be filed by electronic transfer, using computer software provided by the Commission or computer software that meets Commission specifications for a standard file format.*

## CHAPTER 22. RESTRICTIONS ON CONTRIBUTIONS AND EXPENDITURES

### **§22.1. Certain Campaign Treasurer Appointments Required before Political Activity Begins.**

(a) A candidate or officeholder must file a campaign treasurer appointment with the proper authority upon becoming a candidate before accepting a campaign contribution or making or authorizing a campaign expenditure.

### **§22.7. Contribution from Out-of-State Committee.**

(a) A candidate, officeholder, or political committee that:

(1) receives contributions covered by §253.032(a) of the Election Code from the same out-of-state committee in successive reporting periods; and

(2) complies with §253.032(a) of the Election Code before accepting the first contribution, triggering §253.032(a), may comply with §253.032(e) in successive reporting periods by submitting a copy of the certified document obtained before accepting the first contribution triggering §253.032(a), rather than by obtaining and submitting an original certified document for each reporting period, provided the document has not been amended since the last submission.

(b) A candidate, officeholder, or political committee that accepts a contribution or contributions totaling the amount specified in Tex. Elec. Code §253.032(e), as amended by Figure 1 in 1 TAC §18.31 or less from an out-of-state political committee shall include as part of the report covering the reporting period in which the contribution or contributions are accepted either:

(1) a copy of the out-of-state committee's statement of organization filed as required by law with the Federal Election Commission and certified by an officer of the out-of-state committee; or

(2) the following information:

(A) the full name of the committee, and, if the name is an acronym, the words the acronym represents;

(B) the address of the committee;

(C) the telephone number of the committee;

(D) the name of the person appointing the campaign treasurer; and

(E) the following information for the individual appointed campaign treasurer and assistant campaign treasurer:

(i) the individual's full name;

(ii) the individual's residence or business street address; and

(iii) the individual's telephone number.

**§22.9. Cash Contributions Exceeding \$100 Prohibited.**

For the purposes of §253.033 of the Election Code, “cash” is defined as paper currency and coinage.

**§22.13. Contributions in the Capitol Prohibited.**

In §253.039 of the Election Code, the term “Capitol” includes the Capitol Building and the Capitol Extension, and any office that is being used as the official capitol office for a member of the legislature, the governor, the lieutenant governor, or the secretary of state.

**§22.17. Prohibition on Personal Use of Political Contributions.**

An asset purchased with political contributions is not converted to personal use if the political contributions are fully reimbursed during the reporting period in which the use occurred in an amount that reasonably reflects the value of the use.

**§22.19. General Restrictions on Reimbursement of Personal Funds.**

(a) If a candidate makes political expenditures from the candidate's personal funds, he or she may reimburse those personal funds from political contributions only if the expenditure is reported and the candidate states his or her intent to reimburse personal funds pursuant to §20.219(16) of this title (relating to Content of Candidate's Sworn Report of Contributions and Expenditures).

(b) If an officeholder who does not have a campaign treasurer appointment on file makes political expenditures from the officeholder's personal funds, he or she may reimburse those personal funds from political contributions only if the expenditure is reported and the officeholder states his or her intent to reimburse personal funds pursuant to §20.279(12) of this title (relating to Contents of Officeholder's Sworn Report of Contributions and Expenditures).

(c) A candidate or officeholder may reimburse personal funds from political contributions for the use of personal assets for political purposes provided that the reimbursement is reported as a political expenditure.

(d) A candidate or officeholder who makes political expenditures from his or her personal funds may reimburse those personal funds from political contributions only if:

(1) the expenditures were fully reported as political expenditures on the report covering the period during which the expenditures were made; and

(2) the report disclosing the expenditures indicates that the expenditures were made from the candidate's or officeholder's personal funds and are subject to reimbursement.

(e) A candidate's or officeholder's failure to comply with subsection (d) of this section may not be cured by filing a corrected report after the report deadline has passed.

(f) A candidate or officeholder who has complied with subsection (d) of this section and whose personal funds have been reimbursed from political contributions must report the amount of the

reimbursement as a political expenditure in the report covering the period during which the reimbursement was made.

**§22.23. Restrictions on Certain Payments.**

(a) A payment made from a political contribution to a business described by §253.038 of the Election Code that is not prohibited by that section may not exceed the amount necessary to reimburse the business for actual expenditures made by the business.

(b) A discount given by a corporation to conform with subsection (a) of this section does not constitute a political contribution from the corporation.

**§22.29. Activity after Death or Incapacity of Candidate or Officeholder.**

The legal representative of a candidate or officeholder who has died or become incapacitated may accept political contributions and make or authorize expenditures only for the following purposes:

- (1) payment of debts or expenses in connection with a campaign or in connection with officeholder duties and activities;
- (2) payments to the political party with which the person was affiliated when the person's name last appeared on a ballot;
- (3) political contributions to a candidate or political committee;
- (4) donations to the Comptroller of Public Accounts for deposit in the state treasury;
- (5) refunds of contributions to one or more persons from whom political contributions were received, not to exceed the total amount contributed by each person within the last two years;
- (6) donations to a charity recognized by the Internal Revenue Service as tax-exempt;
- (7) donations to a public or private post-secondary educational institution or an institution of higher education as defined by the Education Code, §61.003(8) (concerning Definitions), solely for the purpose of assisting or creating a scholarship program; or
- (8) payment of federal income taxes due on interest and other income earned on political contributions.

**§22.31. Restrictions on Foreign Nationals.**

Federal law prohibits contributions from foreign nationals who have not been granted permanent residence in the United States. See United States Code, Title 2, §441(e).

**§22.35. Corporate Contributions to Certain Political Committees.**

(a) A political committee that accepts a monetary political contribution from a corporation or labor organization shall maintain the contribution in a separate account for political contributions from corporations and labor organizations.

(b) A political committee that accepts a political contribution from a corporation or labor organization shall not use the contribution to make a political contribution to:

(1) a candidate for elective office;

(2) an officeholder; or

(3) a political committee other than a hybrid committee, a direct campaign expenditure-only committee, or a political committee that supports or opposes measures exclusively.

**§22.37. Virtual Currency Contributions.**

(a) Virtual currency contributions are considered “in-kind” contributions.

(b) A candidate, officeholder, or political committee must report a gain from the sale of virtual currency contributions on the appropriate schedule if the gain exceeds the reporting threshold set by §254.031(9) of the Election Code and amended by §18.31 of this title (relating to Adjustments to Reporting Thresholds).

(c) The value of a virtual currency contribution shall be reported as the fair market value of the virtual currency upon receipt.

**CHAPTER 24. RESTRICTIONS ON CONTRIBUTIONS AND EXPENDITURES  
APPLICABLE TO CORPORATIONS AND LABOR ORGANIZATIONS**

**§24.1. Corporations and Certain Associations Covered.**

(a) This chapter applies to:

(1) labor organizations;

(2) corporations that are organized under the Texas Business Corporation Act, the Texas For-Profit Corporation Law, the Texas Non-Profit Corporation Act, the Texas Non-Profit Corporation Law, federal law, or the laws of another state or nation; and

(3) the following associations, whether incorporated or not, for purposes of this chapter are considered to be corporations covered by this chapter:

(A) banks;

(B) trust companies;

(C) savings and loan associations or companies;

(D) insurance companies;

(E) reciprocal or interinsurance exchanges;

(F) railroad companies;

(G) cemetery companies;

(H) government-regulated cooperatives;

(I) stock companies; and

(J) abstract and title insurance companies.

(b) For purposes of this chapter, members of a corporation that does not have stockholders and members of an association listed in subsection (a)(3) of this section are considered to be stockholders.

(c) This chapter does not apply to a political committee that incorporates for liability purposes only in accordance with subsection (d) of this section, provided that the sole principal purpose of the committee is accepting political contributions and making political expenditures.

(d) A political committee may incorporate to limit its liability by providing in its official incorporation documents that it is a political committee that is incorporating for liability purposes only, and that its only principal purpose is to accept political contributions and make political expenditures.

**§24.15. Payments to a Corporation of the Candidate or Officeholder.**

(a) If a corporation charges a candidate, officeholder, or specific-purpose committee for supporting or assisting a candidate or officeholder less than fair market value for goods or services in order to comply with §253.041(b) of the Election Code, the discount is not a prohibited corporate contribution.

(b) If the discount is greater than is necessary to comply with §253.041(b) of the Election Code, the discount is a prohibited corporate contribution if the discount is not otherwise authorized by this chapter.

**§24.17. Corporate Expenditures for Get-Out-the-Vote Campaigns Permitted.**

(a) An expenditure to finance a voter registration or get-out-the-vote drive is not a political expenditure if the drive encourages voting in general but does not encourage voting for or against a measure, candidate, officeholder, or political party.

(b) A corporation or labor organization is permitted to make an expenditure described in subsection (a) of this section.

(c) A corporate or labor organization expenditure described by subsection (a) of this section is not reportable.

**§24.18. Designation of Contribution for Administrative Purposes.**

(a) Any of the following will serve to designate a political expenditure in the form of a political contribution made by a corporation or labor organization as restricted to the establishment, administration, maintenance, or operation of a general-purpose committee:

(1) A contemporaneous written instruction that the contribution is restricted to the administration, maintenance, or operation of the committee accepting the contribution;

(2) The negotiable instrument conveying the contribution contains language indicating that the entity is a corporation, including but not limited to "Inc.," "Incorporated," "Corp.," or "Corporation;"

(3) The general-purpose committee accepting the contribution reports the contribution as monetary contribution or monetary support from a corporation or labor organization on the committee's campaign finance report; or

(4) The general-purpose committee accepting the contribution deposits the contribution into a separate segregated account for political contributions from corporations and labor organizations.

(b) Subsection (a) of this section shall not be read to restrict a hybrid committee, a direct campaign expenditure-only committee, or a political committee that supports or opposes measures exclusively from using a contribution from a corporation or labor organization to make a direct campaign expenditure.

**§24.19. Affidavit Required by a Political Committee Making a Direct Campaign Expenditure from a Political Contribution Accepted from a Corporation or Labor Organization.**

A political committee, including a direct campaign expenditure-only committee, must include in its campaign treasurer appointment the affidavit described by section 252.003(a)(4) (relating to contents of a general-purpose committee's campaign treasurer appointment) or 252.0031(a)(2) (relating to contents of a specific-purpose committee's campaign treasurer appointment) of the Election Code, as applicable, before using a political contribution from a corporation or labor organization to make a direct campaign expenditure in connection with a campaign for an elective office.

**CHAPTER 26. POLITICAL AND LEGISLATIVE ADVERTISING**

**§26.1. Disclosure Statement.**

(a) A disclosure statement that is required by §255.001, Election Code, must contain the words "political advertising" or any recognizable abbreviation, and must:

- (1) appear on one line of text or on successive lines of text on the face of the political advertising; or
- (2) be clearly spoken in the political advertising if the political advertising does not include written text.

(b) A disclosure statement is not required on political advertising printed on letterhead stationery if the letterhead contains the full name of one of the following:

- (1) the person who paid for the political advertising;
- (2) the political committee authorizing the political advertising; or
- (3) the candidate authorizing the political advertising.

(c) A disclosure statement is not required on:

(1) campaign buttons, pins, or hats, or on objects whose size makes printing the disclosure impractical;

(2) political advertising posted or re-posted on an Internet website, as long as the person posting or re-posting the political advertising:

(A) is not an officeholder, candidate, or political committee;

(B) did not make an expenditure exceeding \$100 in a reporting period for political advertising beyond the basic cost of hardware messaging software and bandwidth; and

(C) did not post or re-post the political advertising in return for consideration.

(3) the Internet social media profile webpage of a candidate or officeholder, provided the webpage clearly and conspicuously displays the full name of the candidate or officeholder; or

(4) political advertising posted or re-posted by a person on an Internet website, provided the advertising is posted with a link to a publicly viewable Internet webpage that:

(A) contains the disclosure statement; or

(B) is exempt from containing the disclosure statement under Subsection (c)(3).

(d) For the purposes of Subsection (c), an “Internet social media profile webpage” is an Internet webpage on a website where members of the public may, for no charge, connect electronically with other members of the public and share text, images, videos, and similar forms of communications.

### **§26.2. Newsletter of Public Officer of a Political Subdivision.**

For purposes of §255.003 of the Election Code, a newsletter of a public officer of a political subdivision is not political advertising if:

- (1) It includes no more than two pictures of a public officer per page and if the total amount of area covered by the pictures is no more than 20 percent of the page on which the pictures appear;
- (2) It includes no more than eight personally phrased references (such as the public officer’s name, “I”, “me”, “the city council member”) on a page that is 8 ½” x 11” or larger, with a reasonable reduction in the number of such personally phrased references in pages smaller than 8 ½” x 11”; and
- (3) When viewed as a whole and in the proper context:
  - (A) is informational rather than self-promotional;
  - (B) does not advocate passage or defeat of a measure; and
  - (C) does not support or oppose a candidate for nomination or election to a public office or office of political party, a political party, or a public officer.

### **§26.3. Legislative Advertising.**

Political advertising as defined by the Election Code, Section 251.001(16) (concerning Definitions), does not constitute legislative advertising under the Government Code, Section 305.027 (concerning Required Disclosure on Legislative Advertising).

### **§26.5. Code of Fair Campaign Practices.**

A candidate or political committee that has filed a copy of the Code of Fair Campaign Practices as provided by the Election Code, Chapter 258, may indicate that fact on political advertising by including the following or a substantially similar statement: (Name of the candidate or political committee, as appropriate) subscribes to the Code of Fair Campaign Practices.

### **§26.7. Use of the Term “Reelect” in Political Advertising.**

A person or candidate may, in the event of redistricting, use the term “reelect” in a campaign for elective office only if the candidate is the elected incumbent of an office that represented any part of the new or renumbered district prior to the redistricting.

## CHAPTER 28. REPORTS BY A CANDIDATE FOR SPEAKER OF THE HOUSE OF REPRESENTATIVES

### §28.1. Definitions.

The following words and terms, when used in this Chapter 28, shall have the following meanings, unless the context clearly indicates otherwise:

Campaign funds--For purposes of the Government Code, Chapter 302 (concerning Speaker of the House of Representatives), “campaign funds” as defined in §302.011 (concerning Definitions) shall include “interest earned” and shall include “interest paid.”

### §28.5. Information To Report.

Each report required to be filed with the commission pursuant to the Government Code, §302.013 (concerning Filing of Statement of Contributions, Loans, and Expenditures), shall set forth the total amount of interest earned during the reporting period.

### §28.7. Permitted Expenditures.

As required by the Government Code, §302.020 (concerning Permitted Expenditures), a speaker candidate shall not expend campaign funds for any purpose other than those permitted by §302.020 (concerning Permitted Expenditures), and then only if those expenditures are directly related to the speaker candidacy; provided, that this section is not intended to prohibit the payment from campaign funds of federal income taxes due on campaign funds.

### §28.9. Segregation of Campaign Funds.

All contributed campaign funds shall be maintained in accounts separate and apart from any other accounts.

## CHAPTER 34. REGULATION OF LOBBYISTS

### Subchapter A. GENERAL PROVISIONS

#### §34.1. Definitions.

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

- (1) Communicates directly with, or any variation of that phrase--In Government Code, Chapter 305, and in this chapter includes communication by facsimile transmission.
- (2) Expenditure--In Government Code, Chapter 305, and in this chapter does not include a payment of less than \$200 that is fully reimbursed by the member of the legislative or executive branch who benefits from the expenditure if the member of the legislative or executive branch fully reimburses the person making the payment before the date the person would otherwise be required to report the payment.
- (3) Lobby activity--Direct communication with and preparation for direct communication with a member of the legislative or executive branch to influence legislation or administrative action.
- (4) Registrant--In Government Code, Chapter 305, and in this chapter means a person who is required to register as well as a person who has registered regardless of whether that person's registration was required.

#### §34.3. Compensation for Preparation Time.

Compensation a person receives for preparing to communicate directly with a member of the legislative or executive branch to influence legislation or administrative action is included in calculating compensation for purposes of the registration and reporting requirements in Government Code, Chapter 305, and this chapter. Examples of preparation for lobby communications include participation in strategy sessions, review and analysis of legislation or administrative matters, research and communication with the employer/client. A person who does not directly communicate with a member of the legislative or executive branch to influence legislation or administrative action is not required to register because of compensation received for preparing to do so.

#### §34.5. Certain Compensation Excluded.

(a) Compensation received for the following activities is not included for purposes of calculating the registration threshold under Government Code §305.003(a)(2) and this chapter:

- (1) requesting a written opinion that interprets a law, regulation, rule, policy, practice, or procedure administered by a state office or agency;
- (2) preparation or submission of an application or other written document that merely provides information required by law, statute, rule, regulation, order, or subpoena, or that responds to a document prepared by a state agency;

(3) communicating merely for the purpose of demonstrating compliance with an audit, inspection, examination of a financial institution, or government investigation to interpret and determine compliance with existing laws, rules, policies, and procedures;

(4) communicating for the purpose of achieving compliance with existing laws, rules, policies, and procedures, including communications to show qualification for an exception of general applicability that is available under existing laws, rules, policies, and procedures;

(5) providing to a member of the legislative or executive branch information consisting of facts or data that the member requested in writing regarding legislation or administrative action, when the request was not solicited by or on behalf of the person providing the information;

(6) communicating to an agency's legal counsel, an administrative law judge, or a hearings examiner concerning litigation or adjudicative proceedings to which the agency is a party, or concerning adjudicative proceedings of that agency;

(7) providing testimony, making an appearance, or any other type of communication documented as part of a public record in a proceeding of an adjudicative nature of the type authorized by or subject to the Administrative Procedure Act, Government Code, Chapter 2001, whether or not that proceeding is subject to the Open Meetings Law;

(8) providing oral or written comments, making an appearance, or any other type of communication, if documented as part of a public record in an agency's rule-making proceeding under the Administrative Procedure Act, Government Code, Chapter 2001, or in public records kept in connection with a legislative hearing; or

(9) providing only clerical assistance to another in connection with the other person's lobbying (for example, a person who merely types or delivers another person's letter to a member).

(b) Subsection (a) of this section does not apply to a registrant. A registrant's activity described by subsection (a) is subject to disclosure under Chapter 305 of the Government Code and this title.

#### **§34.7. Reimbursement for Office Expenses.**

Reimbursement received for the following office expenses is not included in calculating reimbursement for purposes of the registration and reporting requirements in Government Code, Chapter 305, and this chapter.

(1) long distance telephone charges;

(2) delivery charges;

(3) photocopy expenses;

(4) facsimile expenses;

- (5) office supplies;
- (6) postage; and
- (7) dues and subscriptions.

#### **§34.9. Taxes and Tips.**

Taxes and tips are not included in determining the amount of an expenditure for purposes of Government Code, Chapter 305, and this chapter.

#### **§34.11. Attribution of Expenditure to More Than One Person; Reimbursement of Lobby Expenditure.**

- (a) Except as provided by Government Code, §305.0021, a lobby expenditure made on a person's behalf and with the person's consent or ratification is an expenditure by that person for purposes of registration and reporting under Government Code, Chapter 305, and this chapter.
- (b) Payment of reimbursement to a registrant is not included for purposes of calculation of the registration threshold under Government Code, §305.003(a)(1), and is not required to be reported if the registrant receiving the reimbursement reports the expenditure on a lobby activity report.
- (c) A registrant is not required to report a lobby expenditure attributable to more than one person if another registrant has reported the expenditure.

#### **§34.13. Incidental Expenditures for Transportation.**

Government Code, §305.024(a)(3), does not prohibit an expenditure for transportation of incidental value such as transportation in the form of a ride of short duration in a personal car or taxi.

#### **§34.14. Expenditures for Fact-Finding Trips.**

- (a) For purposes of §305.025(3), Government Code, an expenditure for transportation or lodging provided to a member of the legislative or executive branch is for a fact-finding trip only if:
  - (1) the expenditure is necessary for the member to obtain information that directly relates to the member's official duties;
  - (2) the member cannot reasonably obtain the information without the expenditure; and
  - (3) the expenditure is not for the member's attendance at a merely ceremonial event or pleasure trip.
- (b) If an expenditure made for transportation or lodging for a fact-finding trip is required to be disclosed on a lobby activities report by §305.0061(a), Government Code, the purpose of the transportation or lodging must include a description of the information that the expenditure was necessary to obtain under subsection (a) of this section.

**§34.15. Reporting Subject Matter.**

(a) A registrant reporting subject matter under Government Code, §305.005(f)(4), (f)(5)(B), or §305.006(d), of this chapter, shall report subject matter by marking the appropriate subject matter categories.

(b) A registrant reporting the subject matter of communications to influence administrative action shall also report, if known or reasonably available to the registrant, the docket number or other administrative designation of any administrative action that is the subject of the registrant's direct communication with a member of the executive branch, and the name of the agency or department at which the administrative action is pending.

**§34.17. Satisfaction of Presence Requirement by Entity.**

An entity may satisfy the presence requirement in Government Code §305.006(f), and §305.024(a)(7), by the presence of:

- (1) an individual registrant who represents the entity; or
- (2) a person whose position, authority, or conduct on behalf of the entity could support an award of exemplary damages against the entity.

**§34.19. Courtesy Notices by Electronic Mail.**

(a) A person required to register as a lobbyist may provide to the commission an electronic mail address to which courtesy notices regarding filing requirements under Chapter 305 of the Government Code may be sent.

(b) The commission is not obligated to send notices regarding filing requirements to a person required to register as a lobbyist who does not provide to the commission an electronic mail address.

(c) Failure to receive a notice regarding filing requirements does not constitute an excuse for failing to comply with any filing deadline.

**Subchapter B. REGISTRATION REQUIRED**

**§34.41. Expenditure Threshold.**

(a) A person must register as a lobbyist under chapter 305 of the Texas Government Code, if the person makes total expenditures of more than the amount specified in Tex. Gov't Code §305.003(a)(1), as amended by Figure 2 in 1 TAC §18.31 in a calendar quarter, not including expenditures for the person's own travel, food, lodging, or membership dues, on activities described in Government Code §305.006(b) to communicate directly with one or more members of the legislative or executive branch to influence legislation or administrative action.

(b) An expenditure made by a member of the judicial, legislative, or executive branch of state government or an officer or employee of a political subdivision of the state acting in his or her

official capacity is not included for purposes of determining whether a person is required to register under Government Code, §305.003(a)(1).

(c) An expenditure made in connection with an event to promote the interests of a designated geographic area or political subdivision is not included for purposes of determining whether a person has crossed the registration threshold in Government Code, §305.003(a)(1), if the expenditure is made by a group that exists for the limited purpose of sponsoring the event or by a person acting on behalf of such a group.

#### **§34.43. Compensation and Reimbursement Threshold.**

(a) A person must register as a lobbyist under chapter 305 of the Texas Government Code if the person receives, or is entitled to receive under an agreement under which the person is retained or employed, more than the amount specified in Tex. Gov't Code §305.003(a)(2), as amended by Figure 2 in 1 TAC §18.31 in a calendar quarter in compensation and reimbursement, not including reimbursement for the person's own travel, food, lodging, or membership dues, from one or more other persons to communicate directly with a member of the legislative or executive branch to influence legislation or administrative action.

(b) For purposes of Government Code, §305.003(a)(2), and this chapter, a person is not required to register if the person spends not more than 40 hours for which the person is compensated or reimbursed during a calendar quarter engaging in lobby activity, including preparatory activity as described by §34.3 of this title.

(c) For purposes of Government Code, §305.003(a)(2), and this chapter, a person shall make a reasonable allocation of compensation between compensation for lobby activity and compensation for other activities.

#### **§34.45. Entity Registration.**

(a) An entity that is required to register under Government Code, §305.003, and this chapter may nonetheless avoid registration if all activity otherwise reportable by the entity is reported by one or more individual registrants in accordance with §34.65 and §34.85 of this title (relating to Compensation Reported by Lobby Firm Employee and Individual Reporting Expenditure by Entity).

(b) An entity that avoids registration under subsection (a) of this section becomes subject to Government Code, §305.024 on the earlier of the date the entity makes the expenditure that would have required the entity to register as a lobbyist or the date the entity receives, or is entitled to receive compensation or reimbursement that would have required the entity to register as a lobbyist.

(c) Registration by an entity does not relieve any individual of the requirement to register if that individual meets one of the registration thresholds in Government Code, §305.003.

### Subchapter C. COMPLETING THE REGISTRATION FORM

#### §34.63. Assistants.

(a) For purposes of Government Code, §305.005(f)(5), a person “employed or retained by the registrant for the purpose of assisting in direct communication” includes any person who provides administrative or research assistance to the registrant but does not include a person who provides only clerical or secretarial help.

(b) An individual employed by the same employer as the registrant and who assists the registrant at the direction of the registrant is “employed or retained” by the registrant for purposes of Government Code, §305.005(f)(5).

(c) A person listed by a registrant as an assistant under Government Code, §305.005(f)(5), is required to register if the assistant meets one of the registration thresholds under Government Code, §305.003, and this chapter.

#### §34.65. Compensation Reported by Lobby Firm Employee.

(a) An individual registrant employed, reimbursed, or retained by a business entity that receives compensation and/or reimbursement for lobby activity is required to report all compensation and/or reimbursement paid to the entity for lobby activity by that individual.

(b) An individual registrant employed, reimbursed, or retained by a business entity that receives compensation and/or reimbursement for lobby activity may also report compensation and/or reimbursement paid to the entity for lobby activity by one or more other persons if the entity requests that the individual do so in order for the entity to avoid registration.

(c) The individual registrant shall report the compensation by the date on which the entity, if registered, would have been required to report it. The individual registrant shall indicate on a registration or amended registration, as applicable, that he has reported compensation and/or reimbursement paid to an entity for lobby activity by one or more persons other than the registrant.

#### §34.67. Paid, Earned, and Prospective Compensation.

(a) For purposes of Government Code, §305.005, and this chapter, compensation may be reported in any one of the following three ways:

(1) compensation actually paid for lobby activity during the year of registration as of the date the registration form or amended registration form is filed;

(2) compensation earned for lobby activity during the year of registration as of the date the registration form or amended registration form is filed, regardless of whether paid; or

(3) promised compensation for lobby activity during the year of registration, regardless of whether earned or paid on the date the registration form or amended registration form is filed.

(b) A registrant shall indicate on a registration form or amended registration form whether compensation is reported under subsection (a)(1), (2), or (3) of this section.

**§34.69. Subject Matter.**

A registrant shall report the subject matter of lobby activity, in accordance with Government Code, §305.005(f)(4), with respect to each person who reimburses, retains, or employs the registrant to engage in lobby activity.

**§34.71. Amending a Registration Form.**

(a) A change with respect to a docket number or other administrative designation is not required to be reported on an amended registration unless the docket number or other administrative designation is related to a subject matter category not previously reported by the registrant.

(b) Except as necessary to report changed information, a registrant shall not report information about subject matter on an amended registration form that the registrant reported on the registration form or on a previous amended registration form.

(c) A registrant is not required to report on an amended registration form reimbursement received for a lobby expenditure that the registrant will report on a lobby activity report.

**§34.75. Reporting of Commission or Fee Paid by State Agency.**

(a) In addition to the contents required by §305.005 of the Government Code and this chapter, a registration filed by a person who is paid a sales commission or such fee by a state agency must;

- (1) disclose the state agency as a client;
- (2) indicate that the client is a state agency;
- (3) provide a description of the subject matter for which the person is paid a sales commission or such fee; and
- (4) disclose the amount of the sales commission or such fee.

(b) If the amount of the sales commission or such fee is not known at the time of the reporting, the registration must disclose a reasonable estimate of the maximum amount of the sales commission or such fee and the method under which that amount will be computed.

**§34.77. Disclosure of Registration under Foreign Agents Registration Act.**

The registration of any person who has also filed an active registration statement under the Foreign Agents Registration Act of 1938, as amended (22 U.S.C. §611 et seq.), must include the registration number assigned to the registration statement by the United States Attorney General until the registration statement is terminated.

## Subchapter D. LOBBY ACTIVITY REPORTS

### §34.81. Election to File Annually.

A registrant who is eligible to file an annual lobby activity report under Government Code, §305.0063, may elect to do so at any time during the registration year.

### §34.82. Modified Reporting Threshold.

For purposes of section 305.0063(d) of the Texas Government Code, expenditures shall include all expenditures reportable under section 305.006, including all expenditures that are required to be reported under subsections 305.006(b) and 305.006(c).

### §34.83. Time of Expenditure.

For reporting purposes, an expenditure is not made until the amount of the expenditure is readily determinable by the person making the expenditure. If the normal business practice of a vendor or service provider is to make the amount charged known by sending a bill after expenses are incurred, the date of the expenditure, for reporting purposes, is the date the person billed receives the bill.

### §34.85. Individual Reporting Expenditure by Entity.

(a) An individual registrant may report an expenditure made by a lobby entity if the entity requests that the individual do so in order for the entity to avoid registration; and

(1) the entity makes the expenditure in order for the individual to act on the entity's behalf to communicate directly with a member of the legislative or executive branch to influence legislation or administrative action; or

(2) the entity compensates or reimburses the individual to act on behalf of the entity or on behalf of the entity's clients to communicate directly with a member of the legislative or executive branch to influence legislation or administrative action.

(b) The individual registrant shall report the expenditure by the date on which the entity, if registered, would have been required to report it. The individual registrant shall indicate on a lobby activity report that he or she has reported expenditures made by an entity and indicate the specific amount reported on behalf of the entity.

(c) For purposes of Government Code, §305.0021(b), an expenditure made by an entity under subsection (a) of this section, is not a joint expenditure for purposes of Government Code, §305.0021(b) if the entity makes the entirety of the expenditure at issue.

(d) In this provision "lobby entity" means a corporation, association, firm, partnership, committee, club, organization, or other group of persons voluntarily acting in concert that meets one of the registration thresholds in Government Code, §305.003.

**Subchapter E. ELECTRONIC FILING**

**§34.91. Exemptions from Electronic Filing.**

(a) A registrant is required to file each report electronically by using the Internet to transmit the report, by using the web-based filing application provided by the commission, unless the registrant files with the commission an affidavit stating that:

- (1) the registrant does not use a computer or mobile device, including a tablet or smartphone with access to the Internet;
- (2) no person acting as an agent or consultant of the registrant and no person with whom the registrant contracts uses a computer or mobile device, including a tablet or smartphone with access to the Internet;
- (3) the registrant does not intend to be compensated or reimbursed for lobby activity in the calendar year covered by the registration;
- (4) the registrant was not compensated for lobby activity in either of the previous two calendar years;
- (5) the registrant does not intend to make lobby expenditures during the calendar year covered by the registration; and
- (6) the registrant did not make lobby expenditures in either of the previous two calendar years.

(b) The commission has the discretion to exempt from the electronic filing requirement a registrant who is not eligible to file under subsection (a) of this section if a registrant submits an affidavit to the commission stating the basis for the inability to filing electronically.

(c) A registrant who is eligible to file under subsection (a) of this section must file an affidavit under subsection (a) of this section with each report filed under Chapter 305 of the Government Code and this chapter.

(d) A registrant who during a calendar year becomes ineligible to file on paper based on the criteria listed in subsection (a) of this section must file electronically beginning on the date on which the next report is due under §305.007 of the Government Code.

(e) For purposes of this section, “lobby expenditure” means expenditures required to be reported under Chapter 305 of the Government Code and this chapter.

(f) For purposes of this section, a “report” includes any document required to be filed by a registrant under Chapter 305 of the Government Code and this chapter except that it does not include notices and statements required to be filed under §305.028 of the Government Code.

(g) For purposes of this section, a “report” includes the confidential social security information required to be filed by a lobbyist in compliance with §231.302(c)(1) of the Family Code.

## CHAPTER 40. FINANCIAL DISCLOSURE FOR PUBLIC OFFICERS

### §40.1. Financial Statement.

(a) The Texas Ethics Commission adopts by reference the financial statement form prescribed by the commission on January 13, 1992. This form is available from the Texas Ethics Commission, P.O. Box 12070, Austin, Texas 78711-2070.

(b) The form adopted under subsection (a) of this section may be revised by the executive director under §18.1 of this title (relating to Adoption and Revision of Forms), and if so revised shall be deemed to have been adopted by the commission under this section.

### §40.2. Disclosure of Financial Activity.

For purposes of §572.023 of the Government Code, a filer's personal financial statement must include:

- (1) the filer's financial activity in which the filer held an ownership interest, including but not limited to community property; and
- (2) the financial activity of the filer's spouse and dependent children if the filer exercised any degree of factual control over the activity, notwithstanding a partition agreement.

### §40.3. PFS Required for Each Year of Service.

(a) A state officer who serves for any portion of a calendar year must file a PFS the following year covering financial activity that occurred during the portion of the year the state officer held office.

(b) A member of the legislature who retires at the end of the member's term in January is not required to file a PFS covering the calendar year of service in which member retires.

(c) Comments:

(1) For example, under subsection 40.3(a) of this section, if a state officer ceases to be a state officer in October 2024, the state officer is required to file a PFS in by the deadline provided by §572.026(a) of the Government Code in calendar year 2025, covering financial activity that occurred through October 2024, provided the state officer does not holdover.

(2) Under subsection 40.3(b) of this section, a member of the legislature who retires at the end of the member's term in January 2025 is required to file a PFS in 2025 covering calendar year 2024. The member is not required to file a PFS in calendar year 2026 covering calendar year 2025 by virtue of service from January 1 to January 6 of 2025, before the member's successor is sworn into office.

### §40.9. Exchange Traded Funds and Real Estate Investment Trusts.

Ownership interests in exchange-traded funds and real estate investment trusts shall be reported under §572.023(b)(2) of the Government Code as though they were shares of stock.

**§40.11. Publicly Traded Corporation as Source of Income.**

For purposes of §572.023(b)(4), Government Code, a publicly traded corporation is identified as a source of income by disclosing its full name in addition to the category of the amount of income.

**§40.13. Beneficial Interest in Real Property Includes Real Property Held in a Trust.**

(a) Except as provided in subsection (b), a filer must disclose real property held in a trust for the benefit of the filer as a beneficial interest in real property under §572.023(b)(6) of the Government Code.

(b) A filer is not required to disclose real property held in a blind trust that complies with §572.023(c) of the Government Code only if the filer does not have actual knowledge of the property held in a trust for the filer's benefit.

**§40.15. Identification of the Source of Rents Derived from Rental Property.**

An identification of the source of rents derived from a rental property must include the name of the lessee and the address of the rental property.

## CHAPTER 45. CONFLICTS OF INTEREST

### §45.1. Application.

This chapter applies to §2152.064 and §2155.003 of the Government Code.

### §45.3. Definitions.

(a) Section 2155.003 of the Government Code applies to:

- (1) the chief clerk; and
- (2) an employee who exercises discretion in connection with a contract, payment, claim, or other pecuniary transaction under the comptroller's purchasing authority.

(b) Under §2155.003 of the Government Code the following words and terms shall have the following meanings:

- (1) “Chief clerk” and “employee” includes the spouse or dependent child of the chief clerk or employee.
- (2) “Have an interest in” or “in any manner be connected with,” is limited to the purchasing authority that was transferred to the comptroller by §2151.004 of the Government Code, and means a right, share, equitable or legal claim to, or pecuniary interest in, a contract or bid.
- (3) “Value,” “reward,” and “compensation” includes anything with a monetary value of \$5 or more.

(c) Section 2155.003 of the Government Code does not apply to the ownership of stock the value of which does not exceed the lesser of \$25,000 or 5% in any one company, or ownership of shares in a publicly traded mutual fund or similar investment vehicle in which the person does not exercise any discretion regarding the investment of the assets of the fund or other investment vehicle.

### §45.5. Definitions.

(a) Section 2152.064 of the Government Code applies to:

- (1) a commission member and appointee; and
- (2) to an employee who exercises discretion in connection with a contract, payment, claim, or other pecuniary transaction under §2152.064 of the Government Code, or in connection with state surplus or salvage property.

(b) Under §2152.064 of the Government Code the following words and terms shall have the following meanings:

- (1) “Commission member,” “appointee,” and “employee” includes the spouse or dependent child of a commission member, appointee, or employee.

(2) “Have an interest in” or “in any manner be connected with,” means a right, share, equitable or legal claim to, or pecuniary interest in, a contract or bid, or a recipient of state surplus or salvage property under control of the commission.

(3) “Value,” “reward,” and “compensation” includes anything with a monetary value of \$5 or more.

(c) Section 2152.064 of the Government Code does not apply to the ownership of stock the value of which does not exceed the lesser of \$25,000 or 5% in any one company, or ownership of shares in a publicly traded mutual fund or similar investment vehicle in which the person does not exercise any discretion regarding the investment of the assets of the fund or other investment vehicle.

**§45.7. Rebates.**

(a) The term “rebate” includes a discount, return, or refund of money.

(b) The chief clerk or an employee of the comptroller is not prohibited from accepting a rebate that is offered or given on the same terms to all state employees or to the general public.

**§45.9. Rebates.**

(a) The term “rebate” includes a discount, return, or refund of money.

(b) An employee, appointee, or commission member of the Texas Facilities Commission is not prohibited from accepting a rebate that is offered or given on the same terms to all state employees or to the general public.

## CHAPTER 46. DISCLOSURE OF INTERESTED PARTIES

### §46.1. Application.

- (a) This chapter applies to §2252.908 of the Government Code.
- (b) Section 2252.908 of the Government Code applies only to a contract of a governmental entity or state agency entered into after December 31, 2015, that meets either of the following conditions:
- (1) the contract requires an action or vote by the governing body of the entity or agency;  
or
  - (2) The value of the contract is at least \$1 million.
- (c) A contract does not require an action or vote by the governing body of a governmental entity or state agency if:
- (1) The governing body has legal authority to delegate to its staff the authority to execute the contract;
  - (2) The governing body has delegated to its staff the authority to execute the contract; and
  - (3) The governing body does not participate in the selection of the business entity with which the contract is entered into.

### §46.3. Definitions.

- (a) “Contract” means a contract between a governmental entity or state agency and a business entity at the time it is voted on by the governing body or at the time it binds the governmental entity or state agency, whichever is earlier, and includes an amended, extended, or renewed contract.
- (b) “Business entity” includes an entity through which business is conducted with a governmental entity or state agency, regardless of whether the entity is a for-profit or nonprofit entity. The term does not include a governmental entity or state agency.
- (c) “Controlling interest” means:
- (1) an ownership interest or participating interest in a business entity by virtue of units, percentage, shares, stock, or otherwise that exceeds 10 percent;
  - (2) membership on the board of directors or other governing body of a business entity of which the board or other governing body is composed of not more than 10 members; or
  - (3) service as an officer of a business entity that has four or fewer officers, or service as one of the four officers most highly compensated by a business entity that has more than four officers. This paragraph does not apply to an officer of a publicly held business entity or its wholly owned subsidiaries.

(d) “Interested party” means:

(1) a person who has a controlling interest in a business entity with whom a governmental entity or state agency contracts; or

(2) an intermediary.

(e) “Intermediary,” for purposes of this rule, means, a person who actively participates in the facilitation of the contract or negotiating the contract, including a broker, adviser, attorney, or representative of or agent for the business entity who:

(1) receives compensation from the business entity for the person’s participation;

(2) communicates directly with the governmental entity or state agency on behalf of the business entity regarding the contract; and

(3) is not an employee of the business entity or of an entity with a controlling interest in the business entity.

(f) “Signed” includes any symbol executed or adopted by a person with present intention to authenticate a writing, including an electronic signature.

(g) “Value” of a contract is based on the amount of consideration received or to be received by the business entity from the governmental entity or state agency under the contract.

#### **§46.4. Changes to Contracts.**

(a) Section 2252.908 of the Government Code does not apply to a change made to an existing contract, including an amendment, change order, or extension of a contract, except as provided by subsections (b) or (c) of this section.

(b) Section 2252.908 of the Government Code applies to a change made to an existing contract, including an amendment, change order, or extension of a contract, if a disclosure of interested parties form was not filed for the existing contract; and either:

(1) the changed contract requires an action or vote by the governing body of the entity or agency; or

(2) the value of the changed contract is at least \$1 million.

(c) Section 2252.908 of the Government Code applies to a change made to an existing contract, including an amendment, change order, or extension of a contract, if the business entity submitted a disclosure of interested parties form to the governmental entity or state agency that is a party to the existing contract; and either:

(1) there is a change to the disclosure of interested parties; or

(2) the changed contract requires an action or vote by the governing body of the entity or agency; or

(3) the value of the changed contract is at least \$1 million greater than the value of the existing contract.

**§46.5. Disclosure of Interested Parties Form.**

(a) A disclosure of interested parties form required by §2252.908 of the Government Code must be filed on an electronic form prescribed by the commission that contains the following:

- (1) The name of the business entity filing the form and the city, state, and country of the business entity's place of business;
- (2) The name of the governmental entity or state agency that is a party to the contract for which the form is being filed;
- (3) The name of each interested party and the city, state, and country of the place of business of each interested party;
- (4) The identification number used by the governmental entity or state agency to track or identify the contract for which the form is being filed and a short description of the services, goods, or other property used by the governmental entity or state agency provided under the contract; and
- (5) An indication of whether each interested party has a controlling interest in the business entity, is an intermediary in the contract for which the disclosure is being filed, or both.

(b) The certification of filing and the completed disclosure of interested parties form generated by the commission's electronic filing application must be printed, signed by an authorized agency of the contracting business entity, and submitted to the governmental entity or state agency that is the party to the contract for which the form is being filed.

(c) A governmental entity or state agency that receives a completed disclosure of interested parties form and certification of filing shall notify the commission, in an electronic format prescribed by the commission, of the receipt of those documents not later than the 30<sup>th</sup> day after the date the governmental entity or state agency receives the disclosure.

(d) The commission shall make each disclosure of interested parties form filed with the commission under §2252.908(f) of the Government Code available to the public on the commission's Internet website not later than the seventh business day after the date the commission receives the notice required under subsection (c) of this section.

**CHAPTER 50. LEGISLATIVE SALARIES, PER DIEM, AND EQUITABLE PENSION  
ADJUSTMENTS**

**§50.1. Legislative Per Diem.**

(a) The legislative per diem is \$221. The per diem is intended to be paid to each member of the legislature and the lieutenant governor for each day during the regular session and for each day during any special session.

(b) If necessary, this rule shall be applied retroactively to ensure payment of the \$221 per diem for 2019.

***§50.3 Equitable Adjustments to Pensions.***

*(a) This section applies to equitable adjustments to the dollar amount on which standard service annuity is based under §814.103(a) of the Government Code.*

*(b) The commission shall consider an equitable increase in the dollar amount on which the standard annuity is based beginning August 31, 2030, and every fifth anniversary of that date and increase the dollar amount as the commission considers appropriate.*

*(c) When making an equitable adjustment, the commission shall consider any increase in compensation for elected officials and officers for salaries included in the General Appropriations Act.*