

TEXAS ETHICS COMMISSION

CAMPAIGN FINANCE GUIDE FOR JUDICIAL CANDIDATES AND OFFICEHOLDERS



This guide applies to all candidates for and officeholders in the following offices:

- **chief justice or justice of the Supreme Court;**
- **presiding judge or judge of the Court of Criminal Appeals;**
- **chief justice or justice of a court of appeals;**
- **district judge;**
- **judge of a statutory county court; and**
- **judge of a statutory probate court.**

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**CAMPAIGN FINANCE GUIDE FOR
JUDICIAL CANDIDATES AND OFFICEHOLDERS**

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GENERAL

This guide is a summary of the judicial campaign finance regulations set out in title 15 (chs. 251-285) of the Election Code and in the rules adopted by the Texas Ethics Commission. This guide applies to all candidates for and officeholders in the following offices:

- chief justice or justice of the Supreme Court;
- presiding judge or judge of the Court of Criminal Appeals;
- chief justice or justice of a court of appeals;
- district judge;
- judge of a statutory county court; and
- judge of a statutory probate court.

OFFICEHOLDERS

A judge who has a campaign treasurer appointment on file is a "candidate" for purposes of title 15 and is subject to all the regulations applicable to candidates. A judge who is not a candidate, as defined in Election Code section 251.001(1), is subject to the regulations applicable to officeholders.

POLITICAL COMMITTEES (PACS)

Often a candidate or officeholder chooses to establish a specific-purpose political committee. A political committee is subject to filing requirements separate from the candidate's or officeholder's filing requirements. For purposes of various restrictions applicable to judicial candidates and officeholders, however, activity by a specific-purpose political committee organized to support a judicial candidate or officeholder or to oppose a candidate's opponent is considered to be activity of the judicial candidate or officeholder that the activity benefits.

The Ethics Commission's Campaign Finance Guide For Political Committees explains the general rules applicable to all political committees.

FEDERAL INCOME TAX

This pamphlet does not address the federal tax implications of campaign finance activity. Questions regarding federal tax law should be directed to the Internal Revenue Service.

CODE OF JUDICIAL CONDUCT

This pamphlet does not address campaign restrictions set out in the Code of Judicial Conduct. For information about those restrictions, call the State Commission on Judicial Conduct in Austin at (512) 463-5533.

FILING AUTHORITY

FILING AUTHORITY FOR CAMPAIGN FINANCE DOCUMENTS

Candidates and Officeholders. Candidates for and holders of the judicial offices listed here, as well as specific-purpose political committees supporting such candidates or officeholders, must file periodic campaign finance reports. The appropriate filing authority depends on the office sought or held.

<u>Office Sought or Held</u>	<u>Filing Authority</u>
Supreme Court Justice	Texas Ethics Commission
Judge of the Court of Criminal Appeals	Texas Ethics Commission
Justice of a court of appeals	Texas Ethics Commission
Multi-county district court judge	Texas Ethics Commission
Single-county district court judge	Texas Ethics Commission
Statutory county court judge	County Filing Authority
Statutory probate court judge	County Filing Authority

Specific-Purpose Political Committees. A specific-purpose political committee supporting or opposing a judicial candidate or officeholder files with the same filing authority as the candidate or officeholder. If a specific-purpose political committee supports more than one candidate or officeholder and would be required to file with more than one local authority, the political committee may file with the Ethics Commission and not with any other filing authority.

County Filing Authorities. In most counties, the county clerk is the county filing authority. In some counties there is a county elections administrator, and in those counties the county elections administrator is the county filing authority for campaign finance documents. In a few counties, the county tax assessor-collector is the county filing authority for campaign finance documents.

PERSONAL FINANCIAL STATEMENTS

Judges and judicial candidates must file personal financial statements under either Government Code chapter 572 or Local Government Code chapter 159. Candidates for and holders of the offices of justice of the Supreme Court, judge of the Court of Criminal Appeals, justice of a court of appeals, and district judges are required to file personal financial statements with the Texas Ethics Commission in accordance with Government Code chapter 572. Judges of statutory county courts and statutory probate courts and candidates for those offices file in accordance with Local Government Code chapter 159, subchapter C. A person holding office must file a personal financial statement each year.

JUDICIAL CAMPAIGN TREASURER APPOINTMENT AND DECLARATION OF INTENT REGARDING EXPENDITURE LIMITS

REQUIRED FILINGS

Every candidate must file a campaign treasurer appointment. (Judicial candidates use the Judicial Campaign Treasurer Appointment Form (Form JCTA).) Every candidate for one of the judicial offices covered by this guide must also file a declaration of intent to comply or not to comply with expenditure limits by completing the appropriate part of Form JCTA.

CONSEQUENCES OF FAILURE TO COMPLETE DECLARATION OF INTENT REGARDING EXPENDITURE LIMITS

Order Issued by Executive Director. The Judicial Campaign Fairness Act requires the executive director of the Ethics Commission to issue an order suspending the limits on contributions, expenditures, and reimbursement of personal funds for complying candidates not later than the fifth day after the executive director determines that a person has become a candidate for that office and has failed to complete a declaration of intent regarding expenditure limits. Elec. Code § 253.165(b).

A judicial candidate who fails to complete a declaration of intent regarding expenditure limits is a "noncomplying candidate." A complying candidate for a judicial office is not required to comply with the limits on contributions, expenditures, and reimbursement of personal funds if another person becomes a candidate and fails to file a declaration of intent regarding expenditure limits.

Also, a judicial candidate may not accept a campaign contribution or make a campaign expenditure without first filing a campaign treasurer appointment and completing the declaration of intent regarding expenditure limits. (Both are on Form JCTA.) See "No Campaign Contributions or Expenditures Without Proper Filings," below.

NO CAMPAIGN CONTRIBUTIONS OR EXPENDITURES WITHOUT PROPER FILINGS

A judicial candidate may not accept a campaign contribution or make a campaign expenditure without first filing a campaign treasurer appointment and completing a judicial declaration of intent to comply or not to comply with expenditure limits. (Both are on Form JCTA.) Also, a judicial candidate or officeholder may not accept any campaign or officeholder contributions outside of a specified period. See "Contributions Prohibited Except During Election Period" in this guide.

After a candidate has filed a campaign treasurer appointment, the candidate is responsible for filing periodic reports of contributions and expenditures until the candidate files a final report. (Note: The filing requirement applies to the candidate, not to the candidate's campaign treasurer.) An officeholder is responsible for filing periodic reports of contributions and expenditures regardless of whether the officeholder has a campaign treasurer appointment on file. (Exception: An officeholder who is required to file campaign finance reports only with an authority other than the Ethics Commission *and who does not have a campaign treasurer*

appointment on file is not required to file a report for a period in which the officeholder does not exceed \$500 in contributions or expenditures.)

EFFECTIVE DATE OF FILINGS

A hand-delivered Form JCTA takes effect on the date of delivery. A Form JCTA that is mailed or sent by common carrier takes effect on the date of the post office cancellation mark or common carrier receipt mark.

QUALIFICATIONS OF CAMPAIGN TREASURER

A person is ineligible for appointment as a campaign treasurer if the person is the campaign treasurer of a political committee that has outstanding filing obligations (including outstanding penalties). This prohibition does not apply if the committee in connection with which the ineligibility arose has not accepted more than \$5,000 in political contributions or made more than \$5,000 in political expenditures in any semiannual reporting period. A person who violates this prohibition is liable for a civil penalty not to exceed three times the amount of political contributions accepted or political expenditures made in violation of this provision.

DUTIES OF CAMPAIGN TREASURER

A candidate's campaign treasurer has no legal duties. The candidate, not the campaign treasurer, is responsible for filing reports. (Note: The campaign treasurer of a *political committee* is legally responsible for filing the political committee's campaign finance reports.)

APPOINTMENT BY OFFICEHOLDER

If an officeholder files a campaign treasurer appointment after a period in which he or she did not have a campaign treasurer appointment on file, the officeholder must file a report of contributions and expenditures no later than 15 days after filing the campaign treasurer appointment. (Exception: An officeholder who files with an authority other than the Ethics Commission does not have to file the "15th Day After" report unless the officeholder exceeded \$500 in contributions or expenditures in the period that would be covered by the report. *See* "15th Day After Appointment of Campaign Treasurer by Officeholder Report" in this guide.) An officeholder who merely *changes* campaign treasurers is not required to file this report. (Remember: After filing a campaign treasurer appointment, a judge is a candidate for purposes of the campaign finance laws.)

NONJUDICIAL OFFICEHOLDER SEEKING JUDICIAL OFFICE

The Judicial Campaign Fairness Act imposes campaign finance restrictions and reporting requirements on certain judicial candidates and officeholders that do not apply to nonjudicial candidates and officeholders. Pursuant to Ethics Advisory Opinion No. 465 (2005), a nonjudicial officeholder who becomes a judicial candidate is required to file two campaign finance reports, one reporting nonjudicial activity and the other reporting judicial activity. Alternatively, a nonjudicial officeholder who becomes a judicial candidate may select to file a single report that includes both candidate and officeholder activity if the activity is clearly and properly reported.

Filing Two Reports for Each Deadline. A nonjudicial officeholder who becomes a judicial candidate and files two reports (one on Form C/OH reporting nonjudicial activity and one on Form JC/OH reporting judicial activity) must file both reports with the filing authority with which the candidate's current campaign treasurer appointment is required to be filed. Additionally, *each* report is subject to the filing deadlines and filing penalties applicable to a candidate.

The requirement to file a report disclosing nonjudicial activity continues until the judicial candidate files an "AFFIDAVIT TO CEASE DUAL REPORTING OBLIGATIONS PURSUANT TO ETHICS ADVISORY OPINION NO. 465" form with the proper filing authority stating that he or she: (1) does not maintain unexpended political contributions raised as a nonjudicial candidate or officeholder, (2) does not maintain unexpended interest or income earned from political contributions raised as a nonjudicial candidate or officeholder, (3) does not retain assets purchased with political contributions raised as a nonjudicial candidate or officeholder, and (4) does not retain assets purchased with interest or other income from political contributions raised as a nonjudicial candidate or officeholder.

Filing One Report for Each Deadline. A nonjudicial officeholder who becomes a judicial candidate may select to file a single report that includes both candidate and officeholder activity if: (1) in the description of an expenditure he or she states whether the expenditure is for nonjudicial activity, and (2) the total contributions maintained at the end of the reporting period states the amount attributed to nonjudicial contributions and the amount attributed to judicial contributions.

A nonjudicial officeholder seeking judicial office who files two campaign finance reports and later decides to instead file one campaign finance report combining judicial and nonjudicial activity must submit written notice of that decision to the filing authority with which the candidate's current campaign treasurer appointment is required to be filed before the next applicable deadline.

CODE OF FAIR CAMPAIGN PRACTICES

After a candidate files a campaign treasurer appointment, the filing authority must provide the candidate with a form containing a Code of Fair Campaign Practices. If the candidate chooses to do so, the candidate may pledge to conduct his or her campaign in accordance with the principles and practices set out in the Code. A candidate does so by signing the form and filing it with the proper filing authority with whom the candidate filed his or her campaign treasurer appointment.

CHANGING CAMPAIGN TREASURERS

A candidate may change campaign treasurers at any time by filing an amended campaign treasurer appointment. Filing an appointment of a new treasurer automatically terminates the appointment of the old treasurer.

TERMINATING A CAMPAIGN TREASURER APPOINTMENT

A candidate may terminate a campaign treasurer appointment by filing an amended campaign treasurer appointment or by filing a final report.

A campaign treasurer may terminate his or her own appointment by notifying both the candidate and the filing authority in writing.

If a candidate's campaign treasurer appointment has been terminated and the candidate has not filed a new treasurer appointment, the candidate may not accept a campaign contribution or make a campaign expenditure.

FILING FOR A PLACE ON THE BALLOT

Filing a campaign treasurer appointment and filing for a place on the ballot are two completely separate actions. The Secretary of State can provide guidance about filing for a place on the ballot. Call (512) 463-5650 or toll-free (800) 252-8683.

DECIDING NOT TO RUN

If an individual files a campaign treasurer appointment but never actually enters the race, the campaign treasurer appointment does not simply expire. The individual must file reports of contributions and expenditures until he or she files a final report. (An officeholder must comply with the reporting requirements applicable to officeholders, regardless of whether the officeholder has a campaign treasurer appointment on file.) *See* "Ending a Candidacy" in this guide.

TRANSFERRING A CAMPAIGN TREASURER APPOINTMENT

If a candidate who has filed a campaign treasurer appointment decides to seek a different office that would require the appointment to be filed with another authority, a copy of the appointment certified by the authority with whom it was originally filed must be filed with the other authority in addition to the new campaign treasurer appointment. Elec. Code § 252.010(a).

CONTRIBUTIONS

There are two types of political contributions: campaign contributions and officeholder contributions.

CAMPAIGN CONTRIBUTIONS

A campaign contribution is any transfer or promise to transfer money, goods, services, or any other thing of value made with the intent that it be used in connection with a campaign for elective office.

In order to accept a campaign contribution, a judge or judicial candidate must have on file a campaign treasurer appointment and a declaration of intent to comply or not to comply with expenditure limits. (Both are on Form JCTA.) *See* "No Campaign Contributions Without Proper Forms on File" in this guide.

A judge or judicial candidate may accept a campaign contribution only during a limited period. *See* "Contributions Prohibited Except During Election Period" in this guide. Also there are

limits on the amount a judge or judicial candidate may accept from various sources. *See* “Contribution Restrictions” in this guide.

A contribution of goods or services is an “in-kind” campaign contribution. A loan is considered to be a contribution unless it is from an incorporated financial institution that has been in business for more than a year. You must report all loans made for campaign purposes, including loans that are not “contributions.”

- Donations to a candidate at a fund-raiser are campaign contributions.
- The provision of office space to a candidate is an “in-kind” campaign contribution.
- A promise to give a candidate money is a campaign contribution.
- An item donated to be auctioned at a fund-raiser is an “in-kind” campaign contribution. The purchase of the item at the auction is also a contribution.
- A campaign volunteer is making a contribution in the form of personal services.

OFFICEHOLDER CONTRIBUTIONS

An officeholder contribution to a judge or to a judicial specific-purpose political committee is a contribution intended to defray expenses incurred by the judge in connection with the judge's duties or activities of office if the expenses are not reimbursable with public money.

A judge or judicial candidate is not required to file any documents before accepting an officeholder contribution. However, a judge or judicial candidate may accept an officeholder contribution only during a limited period. *See* "Contributions Prohibited Except During Election Period" in this guide.

IN-KIND CONTRIBUTION

A contribution of goods or services is an "in-kind" contribution.

ACCEPTING CONTRIBUTIONS

A report must include contributions that a filer has *accepted*. Receipt is different from acceptance. A decision to accept or not accept a contribution must be made by the end of the reporting period during which the contribution is received.

New legislation effective September 1, 2009, expands the prohibition on the acceptance of contributions in certain public buildings. *See* “Other Campaign Finance Restrictions” in this guide.

FAILURE TO MAKE A DETERMINATION ABOUT ACCEPTANCE OR REFUSAL

A contribution is deemed to be accepted if the recipient fails to make a determination to accept or refuse the contribution by the deadline for making the decision.

RETURNING REFUSED CONTRIBUTIONS

A political contribution that is received but not accepted must be returned to the contributor not later than the 30th day after the deadline for filing a report for the reporting period during which the contribution is received. A contribution not returned within that time is deemed to be accepted.

If a judicial candidate or officeholder receives a contribution exceeding the applicable limits, the candidate or officeholder must return the contribution by the later of the last day of the reporting period or the fifth day after receiving the contribution.

ACCEPTANCE DURING SPECIAL LEGISLATIVE SESSION

Judges holding and judicial candidates seeking statewide offices are required to file reports in connection with a special session of the legislature if they accept political contributions during the period beginning on the day the governor calls a special session and ending on the day the special session ends. A decision to accept a contribution made during the period covered by a special session report must be made by the third day after the contribution is received.

SEPARATE ACCOUNT REQUIRED

A candidate or officeholder must keep political contributions in one or more accounts that are separate from any other account maintained by the candidate or officeholder. (There is no requirement to keep campaign contributions in a separate account from officeholder contributions.)

CONTRIBUTION RESTRICTIONS

NO CAMPAIGN CONTRIBUTIONS WITHOUT PROPER FORMS ON FILE

A judge or judicial candidate (including a write-in candidate) may not accept a campaign contribution or make a campaign expenditure unless he or she has on file with the appropriate filing authority a Judicial Campaign Treasurer Appointment (Form JCTA) and has completed the part titled "Judicial Declaration of Intent Regarding Expenditure Limits" on that form. The Ethics Commission makes this form available. A write-in candidate may not accept a political contribution or make a political expenditure before appointing a campaign treasurer, filing a declaration of intent regarding expenditure limits, and filing a declaration of write-in candidacy.

CONTRIBUTIONS PROHIBITED EXCEPT DURING ELECTION PERIOD

A judge, judicial candidate, or judicial specific-purpose political committee may accept a political contribution only during a specified period. (This rule applies to both campaign contributions and officeholder contributions.) The period begins 210 days before the judge or judicial candidate is required to file an application to be on the ballot or to file an application for nomination by convention. (If the election is for an unexpired term, the period begins on the later of 210 days before the date an application for a place on the ballot or for nomination by

convention for the office is required to be filed or the date a vacancy in the office occurs.) The period ends 120 days after the election in which the candidate last appeared on the ballot, regardless of whether the candidate has an opponent in that election.

Effective September 1, 2009, the ending date for the period for accepting political contributions does not apply to a political contribution made and accepted with the intent it be used to defray expenses incurred in connection with an election, including the repayment of a debt that is incurred directly by the making of a campaign expenditure during the period beginning on the date the application for a place on the ballot or for the nomination by convention was required to be filed for the election in which the candidate last appeared on the ballot and ending on the date of the election.

Exception for Person Appointed to Fill Vacancy. A person who is appointed to fill a vacancy in a judicial office and who was not a judicial officer at the time of the appointment may accept officeholder contributions during the period that begins on the date the person assumes the duties of the office and ends 60 days later.

CONTRIBUTION LIMITS

A judicial candidate may not accept political contributions from a person that exceed certain limits in connection with an election. The contribution limits are:

- \$5,000 for candidates for statewide judicial offices;
- \$5,000 for candidates for courts of appeals, district courts, statutory county courts, or statutory probate courts if the population of the judicial district is more than one million;
- \$2,500 for candidates for courts of appeals, district courts, statutory county courts, or statutory probate courts if the population of the judicial district is from 250,000 to one million; and
- \$1,000 for candidates for courts of appeals, district courts, statutory county courts, or statutory probate courts if the population of the judicial district is less than 250,000.

These limits apply to total contributions, both monetary and in-kind, from an individual or from an entity in connection with an election.

Meaning of “in Connection with an Election.” A contribution is “in connection with an election” if it is designated in writing for a particular election. If it is not designated in writing for a particular election, it is considered to be “in connection with” the next election for the office occurring after the contribution is made.

Primary and General are Single Election for Certain Candidates and Related Specific-Purpose Political Committees. For purposes of various contribution limits, the primary election and the general election are considered to be a single election if the candidate is unopposed in the primary *or* if the candidate does not have an opponent on the ballot in the general election. Elec. Code § 253.1621. For candidates for whom the primary election and

general election are considered to be one election, the various contribution limits for that “single election” are increased by 25 percent. *Id.* (Note that the 25 percent increase does not apply to reimbursement of personal funds and payment on certain loans.) The amount of that increase may only be used for officeholder expenditures.

Specific-Purpose Political Committees. A contribution to a specific-purpose political committee for supporting a candidate, opposing the candidate's opponent, or assisting the candidate as an officeholder is considered to be a contribution to the candidate or officeholder for purposes of the contribution limits.

Family Members of Contributors. A contribution from the spouse or an unmarried minor child of an individual is considered to be from that individual. In other words, the contribution limits are, in some cases, family limits.

Candidate's Blood Relatives. The contribution limits do not apply to contributions to a judicial candidate from the candidate's parents, children, brothers, sisters, grandparents, or grandchildren.

General-Purpose Political Committees. The limits set out above do not apply to contributions from a general-purpose political committee. Also, there is an aggregate limit on contributions from general-purpose political committees. *See* "Limits on Total Contributions From General-Purpose PACs" below. As a practical matter, the rules regarding third-party limits put a cap on contributions to a judicial candidate or officeholder from any single general-purpose political committee. *See* "Third-Party Limits" in this guide.

Law Firms and Persons Affiliated With Law Firms. There are additional restrictions applicable to contributions from law firms and individuals and entities affiliated with a law firm. *See* "Contributions From Persons Affiliated With Law Firm" in this guide.

Returning Excess Contributions. A person that receives a contribution that exceeds the contribution limits must return the contribution by the later of the last day of the reporting period in which the person received the contribution or the fifth day after the contribution is received.

LIMITS ON TOTAL CONTRIBUTIONS FROM GENERAL-PURPOSE PACS

The Judicial Campaign Fairness Act sets a limit on the total contributions a judicial candidate or officeholder may accept from general-purpose political committees in connection with one election. Also, as a practical matter, the rules regarding third-party limits put a cap on contributions to a judicial candidate or officeholder from any single general-purpose political committee. *See* “Third-Party Limits” in this guide.

Both monetary contributions and in-kind contributions count toward the aggregate limit on contributions from general-purpose political committees. Total political contributions from general-purpose political committees may not exceed:

- \$300,000 for a candidate for a statewide judicial office;
- \$75,000 for a candidate for chief justice or justice of a court of appeals if the population of the judicial district is more than one million;

- \$52,500 for a candidate for chief justice or justice of a court of appeals if the population of the judicial district is one million or less;
- \$52,500 for a candidate for judge of a district court, a statutory county court, or a statutory probate court if the population of the judicial district is more than one million;
- \$30,000 for a candidate for judge of a district court, a statutory county court, or a statutory probate court if the population of the judicial district is 250,000 to one million; and
- \$15,000 for a candidate for judge of a district court, a statutory county court, or a statutory probate court if the population of the judicial district is less than 250,000.

See “Primary and General are Single Election for Certain Candidates and Related Specific-Purpose Political Committees” above.

Remember: The rules regarding third-party limits effectively put a cap on contributions to a judicial candidate or officeholder from any single general-purpose political committee. See "Third-Party Limits" in this guide.

Independent Activity by General-Purpose Political Committee. Under the general campaign finance law, an expenditure by a general-purpose political committee to support a candidate is a contribution to the candidate if the expenditure is made with the prior consent or approval of the candidate. In contrast, an expenditure to support a candidate made without the prior consent or approval of the candidate is a "direct campaign expenditure" by the general-purpose political committee and is not considered to be a contribution to the candidate. (A contribution is something a candidate has an opportunity to accept or refuse.)

The Judicial Campaign Fairness Act appears to treat certain direct campaign expenditures as contributions by providing that "an expenditure by a general-purpose political committee for the purpose of supporting a candidate, for opposing the candidate's opponent, or for assisting the candidate as an officeholder is considered to be a contribution to the candidate unless the campaign treasurer of the general-purpose political committee, in an affidavit filed with the authority with whom the candidate's campaign treasurer appointment is required to be filed, states that the political committee has not directly or indirectly communicated with the candidate's campaign, including the candidate, an aide to the candidate, a campaign officer, a campaign consultant, or a specific-purpose political committee in regard to a strategic matter, including polling data, advertising, or voter demographics, in connection with the candidate's campaign."

Taken alone, that language suggests that expenditures a candidate does not know about can count against the candidate's aggregate limit on contributions from general-purpose political committees. Don't worry. The act limits total contributions "knowingly accepted" from general-purpose political committees. A candidate cannot knowingly accept a contribution he or she doesn't know about. In other words, the affidavit described above may show that a political committee's expenditure is not a contribution to a candidate; the absence of an affidavit does not, however, show that a political committee's expenditure was knowingly accepted as a contribution by the candidate.

Specific-Purpose Political Committees. A contribution to a specific-purpose political committee for supporting a candidate, opposing the candidate's opponent, or assisting the candidate as an officeholder is considered to be a contribution to the candidate or officeholder for purposes of the limits on contributions from general-purpose political committees.

Political Parties. The principal political committees of the political parties' state executive committees and the political parties' county executive committees are general-purpose political committees. An expenditure by a party committee, however, does not count toward the limit on contributions by general-purpose political committees if the expenditure is for a generic get-out-the-vote campaign or for a written list of two or more candidates that:

- (1) identifies the party's candidates by name and office sought, office held, or photograph;
- (2) does not include any reference to the judicial philosophy or positions on issues of the party's judicial candidates; *and*
- (3) is not broadcast, cablecast, published in a newspaper or magazine, or placed on a billboard.

Also, some political party activity may count towards a candidate's expenditure limits. *See* Elec. Code § 253.171.

Returning Excess Contributions. A person that receives an impermissible contribution from a general-purpose political committee must return the contribution by the later of the last day of the reporting period in which the contribution is received or the fifth day after the contribution is received.

CONTRIBUTIONS FROM LAW FIRMS AND PERSONS AFFILIATED WITH LAW FIRMS

The Judicial Campaign Fairness Act places an additional restriction on contributions from law firms and from persons and entities affiliated with law firms. To understand the restriction, it is useful to think in terms of a law firm's "restricted contributor class." *A law firm's restricted contributor class includes the law firm itself.* It also includes any general-purpose political committee established and controlled by a law firm or by members of a law firm; any partner, associate, shareholder, or employee of a law firm; any person designated "of counsel" to the firm or "of the firm"; and any spouse or minor child of one of the members of the group.

The restriction applicable to contributions from a law firm's restricted contributor class is somewhat complicated: In connection with any one election, a judicial candidate or a specific-purpose political committee for supporting or opposing a judicial candidate may not accept a contribution of more than \$50 from a member of a law firm's restricted contributor class if the total of all contributions already accepted from members of the law firm's restricted contributor class exceeds the following limits (or if the contribution would cause the total to exceed the following limits):

- \$30,000 for candidates for statewide judicial offices;

- \$30,000 for candidates for courts of appeals, district courts, statutory county courts and statutory probate courts if the population of the judicial district is more than one million;
- \$15,000 for candidates for courts of appeals, district courts, statutory county courts and statutory probate courts if the population of the judicial district is from 250,000 to one million; and
- \$6,000 for candidates for courts of appeals, district judgeships, statutory county courts and statutory probate courts if the population of the judicial district is less than 250,000.

(Contributions from any member of the law firm's restricted class, including the law firm itself, may not exceed any other applicable restriction. For example, an individual lawyer could contribute no more than \$5000 to a supreme court candidate in connection with a primary election.) See "Primary and General are Single Election for Certain Candidates and Related Specific-Purpose Political Committees" in this guide.

Contributions From Candidate's Blood Relatives. A law firm's restricted contributor class does not include a candidate's parents, children, brothers, sisters, grandparents, or grandchildren.

Specific-Purpose Political Committees. A contribution to a specific-purpose political committee for supporting a candidate, opposing the candidate's opponent, or assisting the candidate as an officeholder is considered to be a contribution to the candidate or officeholder for purposes of the restrictions on contributions from persons affiliated with a law firm.

Returning Excess Contributions. A candidate or specific-purpose political committee that receives an impermissible contribution from a member of a law firm's restricted contributor class must return the contribution by the later of the last day of the reporting period in which the contribution is received or the fifth day after the contribution is received.

CORPORATE CONTRIBUTIONS

The campaign finance law generally prohibits corporate political contributions. This restriction does not apply to contributions from professional corporations. Partnerships that include one or more corporate partners are subject to the prohibition.

LIMITS ON USE OF CONTRIBUTIONS IN CAMPAIGN FOR NONJUDICIAL OFFICE

The following restrictions apply to contributions accepted on or after June 16, 1995.

- (a) A judicial candidate or officeholder, a specific-purpose committee for supporting or opposing a judicial candidate, or a specific-purpose committee for assisting a judicial officeholder may not use a political contribution to make a campaign expenditure for judicial office or to make an officeholder expenditure in connection with a judicial office if the contribution was accepted while the candidate or officeholder:
 - (1) was a candidate for an office other than a judicial office; or

- (2) held an office other than a judicial office, unless the person had become a candidate for judicial office.
- (b) A candidate, officeholder, or specific-purpose committee for supporting, opposing, or assisting the candidate or officeholder may not use a political contribution to make a campaign expenditure for an office other than a judicial office or to make an officeholder expenditure in connection with an office other than a judicial office if the contribution was accepted while the candidate or officeholder:
 - (1) was a candidate for a judicial office; or
 - (2) held a judicial office, unless the person had become a candidate for another office.
- (c) This section does not prohibit a candidate or officeholder from making a political contribution to another candidate or officeholder. (*But see* "Contributions to Others" in this guide.)
- (d) A person who violates this section is liable for a civil penalty not to exceed three times the amount of political contributions used in violation of this section.

Elec. Code § 253.161.

See "Nonjudicial Officeholder Seeking Judicial Office" in this guide for information on reporting judicial and nonjudicial activity.

USE OF POLITICAL FUNDS TO RENT OR PURCHASE REAL PROPERTY

A candidate or officeholder is prohibited from using political funds to purchase real property or to pay the interest on or principal of a note for the purchase of real property.

A candidate or officeholder may not knowingly make or authorize a payment from political funds for the rental or purchase of real property from: (1) a person related to the candidate or officeholder within the second degree of consanguinity or affinity as determined under Chapter 573, Government Code; or (2) a business in which the candidate or officeholder (or a person related to the candidate or officeholder within the second degree of consanguinity or affinity) has a participating interest of more than 10 percent, holds a position on the governing body, or serves as an officer. Elec. Code § 253.038 (a-1). This restriction applies to a payment made from political funds on or after September 1, 2007, without regard to whether the payment was made under a lease or other agreement entered into before that date.

CONTRIBUTIONS FROM OUT-OF-STATE POLITICAL COMMITTEES

Before a candidate or officeholder may accept more than \$500 in a reporting period from an out-of-state political committee, the candidate or officeholder must obtain certain documentation. Before accepting a contribution that causes a candidate or officeholder to exceed this total, he or she must obtain from the out-of-state political committee either (1) a written statement, certified by an officer of the out-of-state political committee, listing the full name and address of each person who contributed more than \$100 to the out-of-state political committee during the 12 months immediately preceding the contribution, *or* (2) a copy of the out-of-state political

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 political committee. A candidate or officeholder must include this documentation with the report of contributions and expenditures for the period in which the contribution was accepted.

If contributions from an out-of-state political committee do not exceed \$500 in a reporting period, there is no requirement to obtain documentation *before accepting* the contribution or contributions. But there is a requirement that certain documentation must be included in the report covering the period in which the contribution or contributions were accepted. The report must include *either* (1) a copy of the out-of-state political 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 political committee, *or* (2) the political committee's name, address, and phone number; the name of the person appointing the political committee's campaign treasurer; and the name, address, and phone number of the political committee's campaign treasurer.

CONTRIBUTIONS DURING REGULAR LEGISLATIVE SESSION

Although other statewide elective offices are subject to a moratorium on political contributions during a regular legislative session, this restriction is not applicable to statewide judicial officers.

EXPENDITURES

There are two types of political expenditures: campaign expenditures and officeholder expenditures.

CAMPAIGN EXPENDITURES

A campaign expenditure is a payment or an agreement to make a payment in connection with a campaign for an elective office or on a measure.

In order to make a campaign expenditure, a judge or judicial candidate must have on file a campaign treasurer appointment and a declaration of intent to comply or not to comply with expenditure limits.

OFFICEHOLDER EXPENDITURES

An officeholder expenditure is an expenditure to defray expenses incurred by an officeholder in connection with the officeholder's duties or activities of office if the expenses are not reimbursable with public money. A judge may make an officeholder expenditure at any time.

EXPENDITURE RESTRICTIONS

PERSONAL USE OF POLITICAL CONTRIBUTIONS

Candidates and officeholders may not convert political contributions to personal use. *See* "Other Campaign Finance Restrictions" in this guide.

CONTRIBUTIONS TO OTHERS

There are restrictions on judicial candidates' and officeholders' use of political contributions to make contributions to other candidates or officeholders or political committees.

Contributions to Other Candidates or Officeholders. A judicial candidate or officeholder or a specific-purpose political committee for supporting or opposing a judicial candidate or assisting a judicial officeholder may not use a political contribution to make political contributions that in the aggregate exceed \$100 in a calendar year to a candidate or officeholder. Elec. Code § 253.1611(a).

Contributions to Political Committee in Connection With Primary Election. A judicial candidate or a specific-purpose political committee for supporting or opposing a judicial candidate may not use a political contribution to make political contributions to a political committee in connection with a primary election. Elec. Code § 253.1611(b).

Contributions to Political Committee in Connection With General Election. A judicial candidate or a specific-purpose political committee for supporting or opposing a judicial candidate may not use a political contribution to make a political contribution to a political committee that, when aggregated with each other political contribution to a political committee in connection with a general election, exceeds \$500. Elec. Code § 253.1611(c).

Contributions in Nonelection Years. A judicial officeholder or a specific-purpose committee for assisting a judicial officeholder may not, in any calendar year in which the office held is not on the ballot, use a political contribution to knowingly make a political contribution to a political committee that, when aggregated with each other political contribution to a political committee in that calendar year, exceeds \$250. Elec. Code § 253.1611(d).

Contributions to Political Party Political Committees. The restrictions on contributions to political committees do not apply to a contribution to the principal political committee of the state executive political committee or to a county executive political committee of a political party if the contribution:

- (1) is made in return for goods or services, including political advertising or a campaign communication, the value of which substantially equals or exceeds the amount of the contribution; or
- (2) is in an amount that is not more than the candidate's or officeholder's pro rata share of the committee's normal overhead and administrative or operating costs.

Elec. Code § 253.1611(e).

A candidate's or officeholder's pro rata share of a political committee's normal overhead and administrative or operating costs is computed by dividing the committee's estimated total expenses for a period by the number of candidates and officeholders to whom the committee reasonably expects to provide goods or services during that period. Elec. Code § 253.1611(f).

MONETARY LIMITS

The Judicial Campaign Fairness Act sets out voluntary limits on political expenditures. The limits apply to each election in which a candidate is involved. A complying candidate may not exceed the following limits:

- \$2 million for a candidate for a statewide judicial office;
- \$500,000 for a candidate for chief justice or justice of a court of appeals if the population of the judicial district is more than one million;
- \$350,000 for a candidate for chief justice or justice of a court of appeals if the population of the judicial district is one million or less;
- \$350,000 for a candidate for a district court, a statutory county court, or a statutory probate court if the population of the judicial district is more than one million;
- \$200,000 for a candidate for a district court, a statutory county court, or a statutory probate court if the population of the judicial district is 250,000 to one million; and
- \$100,000 for a candidate for a district court, a statutory county court, or a statutory probate court if the population of the judicial district is less than 250,000.

DECLARATION OF INTENT REGARDING EXPENDITURE LIMITS

Every candidate for one of the judicial offices covered by this guide must file a declaration of intent to comply or not to comply with expenditure limits by completing the appropriate part of Form JCTA. See "Consequences of Failure to Complete Declaration of Intent Regarding Expenditure Limits" and "No Campaign Contributions or Expenditures Without Proper Filings" in this guide.

Order Issued by Executive Director. The Judicial Campaign Fairness Act requires the executive director of the Ethics Commission to issue an order suspending the limits on contributions, expenditures, and reimbursement of personal funds for complying candidates not later than the fifth day after the executive director determines that a person has become a candidate for that office and has filed a declaration of intent to exceed the expenditure limits. Elec. Code § 253.165(b).

60-DAY RULE

A candidate who files a declaration of intent to comply and who later files a declaration of intent to exceed the expenditure limits may not exceed the expenditure limits before the 60th day after the candidate files the declaration to exceed the limits.

SOME EXPENDITURES BY SPECIFIC-PURPOSE POLITICAL COMMITTEES COUNT TOWARDS CANDIDATE'S EXPENDITURE LIMITS

For purposes of the expenditure limits, an expenditure by a specific-purpose political committee may be considered to be an expenditure by the candidate.

If a candidate has notice of an expenditure by a specific-purpose political committee that exists for the purpose of supporting the candidate, opposing the candidate's opponent, or assisting the candidate as an officeholder, that expenditure counts toward the candidate's expenditure limits unless the candidate, in an affidavit filed with the authority with whom the candidate's campaign treasurer appointment is required to be filed, states that the candidate's campaign (including the candidate, an aide to the candidate, a campaign officer, or a campaign consultant of the candidate) has not directly or indirectly communicated with the political committee in regard to a strategic matter (including polling data, advertising, or voter demographics) in connection with the candidate's campaign.

The affidavit must be filed with the next report due after the candidate receives notice of the expenditure.

SOME POLITICAL PARTY ACTIVITIES COUNT TOWARDS CANDIDATE'S EXPENDITURE LIMITS

Activity on behalf of a judicial candidate (including a contribution to the candidate) by the principal political committee of a political party's state executive political committee or by a political party's county executive political committee counts towards a candidate's expenditure limits, unless the activity is within the exception set out below.

An expenditure by a party committee does not count toward a candidate's expenditure limits if the expenditure is for a generic get-out-the-vote campaign or for a written list of two or more candidates that: (1) identifies the party's candidates by name and office sought, office held, or photograph; (2) does not include any reference to the judicial philosophy or positions on issues of the party's judicial candidates; *and* (3) is not broadcast, cablecast, published in a newspaper or magazine, or placed on a billboard.

CONSEQUENCES OF NONCOMPLIANCE WITH EXPENDITURE LIMITS

Order Issued by Executive Director. Upon notification that a complying candidate has exceeded the expenditure limits, the executive director of the Ethics Commission is required under the Judicial Campaign Fairness Act to issue an order suspending the limits on contributions, expenditures, and reimbursement of personal funds for complying candidates for that office not later than the fifth day after the executive director determines that the expenditure limits have been exceeded. Elec. Code § 253.165(b). The limits on contributions, expenditures, and reimbursement of personal funds may be suspended only by the order issued by the executive director of the Ethics Commission. *See* Ethics Advisory Opinion No. 472 (2006).

Suspension of Limits for Opponents. Although the expenditure limits are voluntary, a noncomplying candidate is subject to certain disadvantages. A complying opponent (or a specific-purpose political committee supporting a complying opponent) of a noncomplying candidate is not required to comply with the limits on contributions, expenditures, or reimbursement of personal funds. The noncomplying candidate remains subject to the limits on contributions and reimbursement of personal funds. The term "noncomplying candidate" includes:

- a candidate who files a declaration of intent to exceed the expenditure limits, as well as a candidate who files a declaration of intent to comply but later exceeds the limits;

- a candidate who fails to file a declaration of intent;
- a candidate who solicits a person to enter a campaign as a noncomplying candidate;
- a candidate who enters into an agreement under which a person enters a campaign as a noncomplying candidate; or
- a candidate who knowingly misrepresents that an opponent is a noncomplying candidate or that an opponent has violated the Judicial Campaign Fairness Act.

Political Advertising. A candidate who files a declaration of intent to exceed the applicable expenditure limits, as well as a specific-purpose political committee supporting such a candidate, must include the following statement on political advertising: "Political advertising paid for by (name of candidate or political committee), (who or which) has rejected the voluntary limits of the Judicial Campaign Fairness Act." (This provision applies only to candidates who file a declaration of intent to exceed the expenditure limits, not to other noncomplying candidates.) For more information about political advertising disclosure requirements, see the Ethics Commission's brochure titled "POLITICAL ADVERTISING What You Need to Know," which is available on the Ethics Commission's website at <http://www.ethics.state.tx.us>.

Benefits of Compliance With Expenditure Limits. Complying candidates benefit if the limits on contributions, expenditures, and reimbursement of personal funds are suspended.

Also, a complying candidate or a specific-purpose political committee supporting the candidate is entitled to state on political advertising that the candidate complies with the Judicial Campaign Fairness Act, even if the limits on contributions, expenditures, and reimbursement of personal funds have been suspended.

A "complying candidate" is a candidate who has filed a declaration of compliance with the expenditure limits, who has not exceeded the expenditure limits, *and* who has not violated the rule against soliciting noncomplying candidates or the rule against misrepresenting that an opponent is a noncomplying candidate.

THIRD-PARTY LIMITS

A person other than a candidate, an officeholder, or the principal political committee of the state executive political committee or a county executive political committee of a political party is subject to limits on expenditures to support a candidate unless the person files a written declaration of intent to exceed those limits.

- For expenditures supporting statewide candidates, the limit is \$25,000.
- For expenditures supporting other candidates, the limit is \$5,000.

The limits apply to a person's total expenditures for supporting a candidate, opposing a candidate's opponent, or assisting a candidate as an officeholder. Expenditures to support a candidate include actual contributions to the candidate as well as any direct (independent) campaign expenditures made to support the candidate. (Expenditures to support more than one candidate or officeholder are allocated among the candidates and officeholders benefited. A political expenditure opposing a candidate benefits each of the candidate's opponents.)

CONTACT WITH MEMBERSHIP

An expenditure by a political committee or other association for costs in contacting membership is not subject to the third-party limits.

FILING AUTHORITY

A declaration of intent to exceed the third-party limits should be filed with the authority with which the candidate benefited by the expenditures files a campaign treasurer appointment. *See* "Filing Authority for Campaign Finance Documents" in this guide.

TIME OF FILING

A person must file the declaration by the date the person exceeds the expenditure limits. A person may not file a declaration after the 60th day before the relevant election.

EFFECT OF THIRD PARTY EXCEEDING LIMITS

Exceeding "third-party" limits does not directly affect the person making the expenditures if the person files the required declaration. Rather, it affects the candidate or candidates that the expenditures support. If a person exceeds the third-party limits, an opponent of the candidate supported by the third party is not required to comply with the limits on contributions, expenditures, and reimbursement of personal funds if the opponent is a complying candidate.

Order Issued by Executive Director. The Judicial Campaign Fairness Act requires the executive director of the Ethics Commission to issue an order suspending the limits on contributions, expenditures, and reimbursement of personal funds for a specific office when the executive director determines that a declaration of intent to exceed the third-party limits in connection with the office has been filed or the executive director is notified and determines that an expenditure has been made that exceeds the third-party limits. The order must be issued not later than the fifth day after the executive director makes the determination. Elec. Code § 253.170(c).

REIMBURSEMENT OF PERSONAL FUNDS AND LOANS

REIMBURSEMENT OF PERSONAL FUNDS

A judicial candidate or officeholder who makes political expenditures from personal funds may report the expenditures either on the reporting schedule for loans or on the reporting schedule for political expenditures from personal funds and may reimburse himself or herself from political contributions if he or she indicates the intention to reimburse at the time of reporting the expenditures. (A report may not be amended after the filing deadline to indicate an intention to reimburse personal funds from political contributions.) There is a limit, however, on the amount of such reimbursement. For each election in which a candidate's name appears on the ballot, the limits are as follows:

- \$100,000 for candidates for or officeholders in statewide judicial offices;

- \$25,000 for candidates for or officeholders on courts of appeals, district courts, statutory county courts, and statutory probate courts if the population of the judicial district is more than one million;
- \$12,500 for candidates for or officeholders on courts of appeals, district courts, statutory county courts, and statutory probate courts if the population of the judicial district is from 250,000 to one million; and
- \$5,000 for candidates for or officeholders on courts of appeals, district courts, statutory county courts, and statutory probate courts if the population of the judicial district is less than 250,000.

For purposes of the limit on reimbursement of personal funds, the general primary election and the general election are considered to be a single election if the candidate is unopposed in the primary election or does not have an opponent in the general election whose name is to appear on the ballot. Elec. Code § 253.1621.

A candidate who is also an officeholder may use personal funds to make both campaign expenditures and officeholder expenditures. Reimbursements for both types of expenditures count toward the limit on personal reimbursement from political contributions.

LOANS FROM RELATIVES

A judicial candidate or officeholder may not use political contributions to repay loans from the candidate's or officeholder's parents, children, brothers, sisters, grandparents, or grandchildren.

REPORTS BY JUDICIAL CANDIDATES AND OFFICEHOLDERS

CONTRIBUTIONS ON HAND

A judicial candidate or officeholder must report the *total* amount of political contributions, including interest or other income, maintained in accounts as of the last day of the reporting period.

A nonjudicial officeholder who becomes a judicial candidate and selects to file one campaign finance report that includes both candidate and officeholder activity must, when reporting the total amount of political contributions maintained as of the last day of the reporting period, state the amount attributed to nonjudicial contributions and the amount attributed to judicial contributions. See “Nonjudicial Officeholder Seeking Judicial Office” in this guide.

ASSETS ON HAND

A report must list each asset valued at \$500 or more on hand as of the last day of the reporting period.

POLITICAL CONTRIBUTIONS

A judicial candidate or officeholder must report all political contributions, including contributions of money as well as in-kind contributions. Contributions from one donor that in the aggregate exceed \$50 in a reporting period must be itemized on a report. In addition to the date and amount of the contribution, the report must include the name and address of the individual or political committee making the contribution. If the contributor is an individual, the report must also list the individual's principal occupation and affiliation with any law firm (even if the affiliation is through a spouse or through a parent of a child). Total contributions of \$50 or less in a reporting period from one contributor may be reported as a lump sum.

TIME OF ACCEPTING CONTRIBUTIONS

A filer must report the date a political contribution was accepted. The date of receipt may be different from the date of acceptance. *See* "Accepting Contributions" in this guide.

PLEDGES

Pledges to transfer money, goods, services, or other things of value are contributions. On reports, pledges are listed separately from other contributions. Once a pledge has been reported, it is not re-reported when actually received. A pledge is not a contribution unless it is accepted.

LOANS DURING REPORTING PERIOD

Loans for candidate or officeholder purposes are reportable. A report must include the amount of the loan, the date the loan is made, the interest rate, the maturity date, the type of collateral, and the name and address of the lender. A report must also include the name, address, principal occupation, and employer of any guarantor and the amount guaranteed by the guarantor.

Although loans are generally considered to be contributions, there is an exception for a loan from an incorporated financial institution that has been in business for more than one year. Because of this exception, a candidate or officeholder may generally accept a bank loan for political purposes without violating the rule prohibiting corporate contributions. Even though most bank loans are not considered contributions, they must be reported.

OUTSTANDING LOANS

A report must include the outstanding loan balance at the end of the reporting period, the name and address of the lender of each outstanding loan, and the name and address of guarantors.

CONTRIBUTIONS FROM OUT-OF-STATE POLITICAL COMMITTEES

If contributions from an out-of-state political committee exceed \$500 in a reporting period, the report for the period in which the contribution or contributions were accepted must include either (1) a written statement, certified by an officer of the out-of-state political committee, listing the full name and address of each person who contributed more than \$100 to the out-of-state political committee during the 12 months immediately preceding the contribution, *or* (2) a copy of the out-of-state political 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 political committee. (*A candidate or officeholder must obtain this documentation before accepting contributions from an out-of-state political committee that exceeds \$500 in a reporting period.*)

If contributions from an out-of-state political committee do not exceed \$500 in a reporting period, the report must include *either* (1) a copy of the out-of-state political 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 political committee, *or* (2) the political committee's name, address, and phone number; the name of the person appointing the political committee's campaign treasurer; and the name, address, and phone number of the political committee's campaign treasurer. (A candidate or officeholder is not required to obtain this documentation before accepting contributions of \$500 or less from an out-of-state political committee during a reporting period. The candidate or officeholder must obtain the documentation in time to include it with the appropriate report.)

POLITICAL EXPENDITURES

A report must include all political expenditures. If aggregate expenditures to a payee exceed \$50 in a reporting period, the report must include the amount of the expenditures, the date of the expenditures, the name and address of the person to whom the expenditures are made, and the purpose of the expenditures. Smaller expenditures may be reported as a lump sum.

EXPENDITURES FOR NONJUDICIAL ACTIVITY

A nonjudicial officeholder who becomes a judicial candidate and selects to file a single campaign finance report that includes both candidate and officeholder activity must, in the description of an expenditure, state whether the expenditure is for nonjudicial activity. *See* "Nonjudicial Officeholder Seeking Judicial Office" in this guide.

TIME OF MAKING EXPENDITURE

For reporting purposes, an expenditure is made when the amount of the expenditure is readily determinable, not when payment is actually made. If a filer cannot determine the amount of an expenditure until a periodic bill, the date of the expenditure is the date the bill is received.

Credit Card Expenditures. For purposes of 30 day and 8 day pre-election reports, the date of an expenditure made by a credit card is the date of the purchase, not the date of the credit card bill. For purposes of other reports, the date of an expenditure made by a credit card is the date of receipt of the credit card statement that includes the expenditure.

CAMPAIGN EXPENDITURES FROM PERSONAL FUNDS

A candidate must report campaign expenditures made from personal funds. In order to reimburse himself or herself for campaign expenditures made from personal funds, a candidate must either indicate the intention to do so on Schedule G of the report covering the period in which the campaign expenditure from personal funds was made or report the transaction as a loan to the candidate's political funds. A report may not be corrected later to permit reimbursement. *See* "Reimbursement of Personal Funds" in this guide.

OFFICEHOLDER EXPENDITURES FROM PERSONAL FUNDS

An officeholder is not required to report *officeholder expenditures* made from personal funds unless he or she intends to be reimbursed from political contributions. This rule applies regardless of whether an officeholder has an appointment of campaign treasurer on file.

If an officeholder intends to seek reimbursement from political contributions for an officeholder expenditure made from personal funds, the officeholder must either indicate the intention to do so on Schedule G of the report covering the period in which the officeholder expenditure from personal funds was made or report the transaction as a loan to the officeholder's political funds. A report may not be corrected later to permit reimbursement. See "Reimbursement of Personal Funds" in this guide.

DIRECT CAMPAIGN EXPENDITURES MADE BY A FILER

A candidate or officeholder must report the names of other candidates or officeholders who benefit from direct (independent) campaign expenditures that the candidate or officeholder makes. A direct campaign expenditure is a campaign expenditure for a candidate incurred without the candidate's prior consent or approval. A candidate or officeholder must also send notice to a person on whose behalf the candidate or officeholder makes an expenditure of more than \$100.

NOTICES RECEIVED FROM INDIVIDUALS

A person who makes a direct (independent) campaign expenditure on a candidate's behalf may be required to give the candidate notice of that fact. A candidate must report the receipt of such a notice on the report covering the period in which the candidate receives the notice.

NOTICES RECEIVED FROM POLITICAL COMMITTEES

A political committee that accepts political contributions or makes political expenditures on a candidate's or officeholder's behalf is required to give the candidate or officeholder notice of that fact. The candidate or officeholder must report the receipt of such a notice on the report covering the period in which the candidate or officeholder receives the notice.

PAYMENTS TO A BUSINESS OF THE CANDIDATE OR OFFICEHOLDER

A candidate or officeholder is required to report payments from political funds to a business in which the candidate or officeholder has a participating interest of more than 10 percent, a position on the governing body of the business, or a position as an officer of the business.

There are limitations on the payments a candidate or officeholder is allowed to make to such a business. A candidate or officeholder may not make a payment from political contributions to such a business if the payment is for personal services rendered by the candidate or officeholder or by the candidate's or officeholder's spouse or dependent children. (Nor may a candidate or officeholder use political contributions to pay himself or herself, his or her spouse, or his or her dependent children for personal services rendered.) A candidate or officeholder may use political contributions to make other payments to such a business only if the payment does not

exceed the amount necessary to reimburse the business for actual expenditures made by the business.

A candidate or officeholder may not make or authorize a payment from political funds for the rental or purchase of real property from such a business. *See* “Use of Political Funds to Rent or Purchase Real Property” in this guide.

NONPOLITICAL EXPENDITURES

A candidate or officeholder must report any expenditure made from political contributions, even if the expenditure is not for a campaign or officeholder purpose. (Remember: Political contributions may not be used for personal purposes.)

INTEREST AND OTHER INCOME

Although a candidate or officeholder is not required to report interest or other income earned from political contributions, interest and income must be included in the report of total contributions on hand. (A candidate or officeholder may not convert interest or income earned on political contributions to personal use.)

The Ethics Commission provides a schedule (Schedule K) on which a candidate or officeholder *may* report detailed information about interest or other income. Filling out this schedule is optional.

SPECIFIC-PURPOSE POLITICAL COMMITTEES

A specific-purpose political committee that supports or opposes a judicial candidate or officeholder must report the information that any specific-purpose political committee is required to report. *See* the Ethics Commission’s “Campaign Finance Guide for Political Committees.” In addition, a specific-purpose political committee that supports or opposes a judicial candidate or officeholder must report information about contributions and assets on hand as well as occupational information about contributors and possibly their spouses and children. Elec. Code §§ 254.1211, 254.0611.

PREPARING REPORTS

ELECTRONIC FILING

Judicial candidates and officeholders must file reports electronically unless the filer is eligible for the exemption from electronic filing. The same electronic filing requirements apply to specific-purpose political committees connected with candidates for or holders of those offices. To claim the exemption from electronic filing, a filer must meet all of the following requirements: 1) neither the filer, an agent of the filer, nor a person with whom the filer contracts uses computer equipment to keep the current records of political contributions, political expenditures, or persons making political contributions to the filer; 2) the filer does not accept more than \$20,000 in political contributions in any calendar year; and 3) the filer does not make more than \$20,000 in political expenditures in any calendar year.

With each report filed on paper, a filer must include an affidavit swearing that he or she is entitled to the exemption from electronic filing. The exemption affidavit form is available on the Ethics Commission's website at <http://www.ethics.state.tx.us>.

FORMS

Judicial candidates and officeholders use Form JC/OH for reporting political contributions and expenditures. The paper form is available on the Ethics Commission's website at <http://www.ethics.state.tx.us> on the Internet.

RECORD KEEPING

A candidate or officeholder must keep records of all information used to prepare reports of contributions and expenditures, including, for example, receipts or ledgers of contributions and expenditures. A candidate or officeholder must maintain the records for two years after the filing deadline for the report to which the records pertain.

NO ACTIVITY

A candidate or officeholder who has no political contributions or political expenditures during a reporting period must nonetheless file a report to cover that period. (An officeholder who files with an authority other than the Ethics Commission *and who does not have a campaign treasurer appointment on file* is not required to file a report for a period in which the officeholder does not exceed \$500 in contributions or expenditures.)

SIGNATURE AND VERIFICATION REQUIRED

A report must be signed and verified.

DEADLINE ON WEEKEND OR HOLIDAY

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

ACTION BY MAIL OR OTHER CARRIER

For most reporting deadlines, a document is considered timely filed if it is properly addressed with postage or handling charges prepaid and bears a postmark or receipt mark of a common or contract carrier indicating a time on or before the deadline.

Pre-Election Reports. A report due 30 days before an election and a report due 8 days before an election must be *received* by the appropriate filing authority no later than the report due date to be considered filed on time.

PENALTIES FOR VIOLATIONS OF FILING REQUIREMENTS

A person who files a report late or fails to file a report is subject to a late-filing penalty. The late-filing penalty in connection with most reports is \$500. For a report due eight days before an

election or for the first semiannual report due after a primary or general election, the late filing penalty is \$500 for the first day the report is late and \$100 a day for each day thereafter that the report is late.

Also, any citizen may file a criminal complaint with the district attorney, a civil complaint with the Ethics Commission, or a civil action against a candidate or officeholder for violations of title 15. Any penalty stemming from such complaints would be assessed against *the candidate or officeholder*, not the campaign treasurer.

REQUIRED REPORTS

SEMIANNUAL REPORTS

Every candidate and every officeholder is required to file reports of contributions and expenditures by January 15 and July 15 of each year. The reports filed on these dates are known as semiannual reports. (Exception: An officeholder who is required to file campaign finance reports only with an authority other than the Ethics Commission *and who does not have a campaign treasurer appointment on file* is not required to file a report for a period in which the officeholder does not exceed \$500 in contributions or expenditures.)

REPORTS DUE 30 DAYS AND 8 DAYS BEFORE AN ELECTION

An *opposed* candidate in an upcoming election must file reports of contributions and expenditures by the 30th day and 8th day before the election. Each of these pre-election reports must be *received* by the appropriate filing authority no later than the report due date. (Exception: A person who has elected modified reporting and who remains eligible for modified reporting is not required to file these reports. *See* "Modified Reporting" in this guide.)

An opposed candidate is a candidate who has an opponent whose name is printed on the ballot. If a candidate's only opposition is a write-in candidate, that candidate is considered unopposed for filing purposes. (Note: A write-in candidate who accepts political contributions or makes political expenditures is subject to the reporting requirements and restrictions in title 15.) The report that is due 30 days before the election covers the period that begins on the first day after the period covered by the last required report and ends the 40th day before the election. If this is a filer's first report, the period covered by the report begins on the day the campaign treasurer appointment was filed.

The report that is due 8 days before the election covers the period that begins on the first day after the period covered by the last required report and ends on the 10th day before the election.

REPORT DUE 8 DAYS BEFORE A RUNOFF ELECTION

A candidate in a runoff election must file a report of contribution and expenditures by the 8th day before the runoff election. A runoff report must be *received* by the appropriate filing authority no later than the report due date. (A candidate who has elected modified reporting and who remains eligible for modified reporting is not required to file this report. *See* "Modified Reporting" below.) This report covers a period that begins either:

- the 9th day before the main election (if the filer filed a report due 8 days before the main election);
- the first day after the period covered by the last required report (if this is not the filer's first report *and* if the filer did not file a report due 8 days before the main election); or
- the day the filer filed a campaign treasurer appointment (if this is the filer's first report).

The period covered by the runoff report ends the 10th day before the runoff election.

MODIFIED REPORTING

On the campaign treasurer appointment form, there is an option to choose modified reporting for the next election cycle. Modified reporting excuses an opposed candidate from filing reports due 30 days and 8 days before an election and 8 days before a runoff election. (Modified reporting does not excuse a filer from filing semiannual reports.) Modified reporting may be chosen only by a candidate who does not intend to exceed either \$500 in contributions or \$500 in expenditures in connection with an election, other than expenditures for a filing fee. A candidate who wishes to file under the modified schedule must indicate the choice on the Form JCTA no later than the deadline for the 30-day-before-election report.

If an opposed candidate selects modified reporting but exceeds a threshold before the 30th day before the election, the candidate automatically goes back to regular reporting. Thus, the candidate must file reports due 30 days and 8 days before the election.

If an opposed candidate selects modified reporting but exceeds a threshold after the 30th day before the election, the candidate must file a report within 48 hours of exceeding the threshold. (The candidate must meet this deadline even if it falls on a weekend or holiday.) At that point, the candidate is no longer eligible to participate in modified reporting and must file according to the regular filing schedule.

"15TH DAY AFTER APPOINTMENT OF CAMPAIGN TREASURER BY AN OFFICEHOLDER" REPORT

An officeholder who has not had a campaign treasurer appointment on file must file this report after appointing a campaign treasurer. An officeholder does not file this report after *changing* campaign treasurers. This report of contributions and expenditures is due no later than 15 days after the campaign treasurer appointment was filed. The report must cover the period that begins the day after the period covered by the officeholder's last report. The period ends on the day before the campaign treasurer appointment was filed.

(Exception: If an officeholder files with a local filing authority and did not exceed \$500 in the period covered by the "15th day after appointment" report, the officeholder does not have to file that report.)

Note: A person who is *appointed* to elective office may not already be filing as a candidate or officeholder; therefore, the report due 15 days after the campaign treasurer appointment is filed

may be the first report the appointed officeholder has had to file. In this case, the beginning date for the report is the date the officeholder took office.

SPECIAL PRE-ELECTION REPORTS

Special pre-election reports (formerly known as telegram reports) are filed by opposed candidates who file with the Ethics Commission and who accept a contribution or contributions from a single source that in the aggregate exceed \$1,000 during the period beginning the 9th day before the election and ending at noon on the day before the election. The same reporting requirement applies to specific-purpose political committees that support or oppose candidates that file with the Ethics Commission.

A special pre-election report must be filed electronically, unless otherwise exempted from electronic filing. A special pre-election report filed electronically must be *received* by the commission no later than midnight of the first business day after the contribution is accepted. A special pre-election report that is filed on paper must be *received* by the commission no later than 5 p.m. of the first business day after the contribution is accepted. A special pre-election report that is exempt from the electronic filing requirement does not have to be on a form prescribed by the Ethics Commission. It may be on regular stationery. Any information reported on a special pre-election report must also be reported on the next contribution and expenditure report. *This is the only instance in which information must be reported twice.*

A special pre-election report must include the amount of the contribution(s), the full name and address of the contributor(s), and the date(s) of the contribution(s).

SPECIAL SESSION REPORT

Judges and judicial candidates who file with the Ethics Commission may be required to file a report after a special session of the legislature.

FINAL REPORT

See "Ending a Candidacy" below.

PERSONAL FINANCIAL DISCLOSURE STATEMENT

In addition to the campaign finance reports required by title 15 of the Texas Election Code, judicial candidates and officeholders are required to file personal financial disclosure statements under either Government Code Chapter 572 or Local Government Code Chapter 159.

ANNUAL REPORT OF UNEXPENDED CONTRIBUTIONS

See "Ending a Candidacy" below.

REPORT OF FINAL DISPOSITION OF UNEXPENDED CONTRIBUTIONS

See "Ending a Candidacy" below.

ENDING A CANDIDACY

FINAL REPORT

If an individual who has a campaign treasurer appointment on file does not expect to accept further political contributions, to make further political expenditures or to take further action to get elected to a public office, the individual may file a final report. To do so, the individual must complete Form JC/OH, mark the report as a final report, and attach Form C/OH-FR. The filing of these two forms terminates the campaign treasurer appointment and relieves the individual from any additional filing obligations *as a candidate*. Officeholders will still be subject to the reporting requirements applicable to officeholders. Individuals who have filed a final report and do not hold office may be required to file reports of unexpended contributions.

Terminating a campaign treasurer appointment does not relieve a filer of responsibility for any delinquent reports or civil penalties that are outstanding.

ANNUAL REPORT OF UNEXPENDED CONTRIBUTIONS

The following individuals must file annual reports of unexpended contributions:

- a former officeholder who did not have a campaign treasurer appointment on file at the time of leaving office and who retained any of the following after filing his or her last report: political contributions, interest or other income from political contributions, or assets purchased with political contributions.
- a former candidate (a person who previously had a campaign treasurer appointment on file) who was not an officeholder at the time of filing a final report and who retained any of the following at the time of filing a final report: political contributions, interest or other income from political contributions, or assets purchased with political contributions.

Annual reports are due not earlier than January 1 and not later than January 15 of each year. An annual report must contain the following information: (1) information about expenditures from or disposition of surplus funds or assets; (2) the amount of interest or other income earned on surplus funds during the previous year; and (3) the total amount of surplus funds and assets at the end of the previous year.

The obligation to file annual reports ends when the former candidate or officeholder files a report of final disposition of unexpended contributions.

REPORT OF FINAL DISPOSITION OF UNEXPENDED CONTRIBUTIONS

A former candidate or former officeholder who has disposed of all surplus funds and assets must file a report of final disposition of unexpended contributions. This report may be filed as soon as all funds have been disposed of.

A former candidate or former officeholder has six years from the date of filing a final report or leaving office (whichever is later) to dispose of surplus funds and assets. The latest possible date for filing a report of unexpended contributions is 30 days after the end of that six-year period.

At the end of the six-year period, a former candidate or officeholder *must* dispose of surplus assets or funds in one of the following ways:

- The former candidate or officeholder may give them to the political party with which he or she was affiliated when last on the ballot;
- The former candidate or officeholder may contribute them to a candidate or a political committee. (This triggers a requirement to file a report of the contribution.);
- The former candidate or officeholder may give them to the comptroller for deposit in the state treasury to be used to finance primary elections;
- The former candidate or officeholder may give them to one or more contributors, but the total returned to any person may not exceed the aggregate amount accepted from that person during the last two years during which the former candidate or officeholder accepted political contributions;
- The former candidate or officeholder may give them to certain charitable organizations; or
- The former candidate or officeholder may give them to a public or private post-secondary educational institution or an institution of higher education as defined by section 61.003(8), Education Code, for the purpose of assisting or creating a scholarship program.

OTHER CAMPAIGN FINANCE RESTRICTIONS

In addition to the restrictions specifically applicable to judges and judicial candidates, chapter 253 of the Election Code contains a number of restrictions applicable to all candidates and officeholders.

CORPORATIONS AND LABOR ORGANIZATIONS

Corporations and labor organizations are generally prohibited from making political contributions. Professional corporations, however, are not subject to this prohibition. Elec. Code § 253.091, *et seq.* Partnerships that include one or more corporate partners are subject to the prohibition.

OUT-OF-STATE POLITICAL COMMITTEES

A candidate, officeholder, or political committee is required to obtain certain documentation in connection with contributions from an out-of-state political committee. Elec. Code § 253.032. See "Contributions From Out-of-State Political Committees" in this guide.

CONTRIBUTIONS IN THE CAPITOL OR A COURTHOUSE

A candidate, officeholder, or political committee may not accept political contributions in the Capitol or in the Capitol Extension. Effective September 1, 2009, a candidate, officeholder, or political committee also may not accept political contributions in a courthouse. "Courthouse" means any building owned by the state, a county, or a municipality, or an office or part of a building leased to the state, a county, or a municipality, in which a justice or judge sits to conduct court proceedings. Elec. Code § 253.039.

CASH CONTRIBUTIONS

A candidate, officeholder, or specific-purpose political committee may not accept more than \$100 cash (coins and currency) in the aggregate from one person in a reporting period. Elec. Code § 253.033.

REAL PROPERTY

A candidate, officeholder, or specific-purpose political committee may not use political contributions to purchase real property. There is also a restriction on the use of political funds to rent or purchase real property from a person related to the candidate or officeholder within the second degree of consanguinity or affinity or from a business in which the candidate or officeholder or such a relative has a participating interest of more than 10 percent, holds a position on the governing body, or serves as an officer. Elec. Code § 253.038.

ANONYMOUS CONTRIBUTIONS

Texas law does not allow anonymous contributions. A filer must keep a record of the name and address of each person who contributes to him or her regardless of the amount of the contribution. Reports must identify the actual source of a contribution, not an intermediary. Elec. Code § 253.001.

PERSONAL USE

A candidate, officeholder, or specific-purpose political committee supporting a candidate or officeholder may not use political contributions for personal purposes. Elec. Code § 253.035.

PERSONAL SERVICES OF CANDIDATE OR FAMILY MEMBER

A candidate, officeholder, or specific-purpose political committee supporting a candidate or officeholder may not use political contributions to pay for personal services rendered by the candidate or officeholder, the candidate's or officeholder's spouse, or the candidate's or officeholder's dependent children. In addition, a candidate or officeholder may not use political contributions to make a payment for services rendered by the candidate or officeholder, the candidate's or officeholder's spouse, or the candidate's or officeholder's dependent children if the services are rendered to a business in which the candidate or officeholder holds a participating interest of more than ten percent, a position on the governing body of the business, or a position as an officer of the business. Elec. Code § 253.041.

BUSINESS OF CANDIDATE

A payment by a candidate, officeholder, or specific-purpose political committee supporting a candidate or officeholder, from political contributions to a business in which the candidate or officeholder holds a participating interest of more than ten percent, a position on the governing body of the business, or a position as an officer of the business may not exceed the amount necessary to reimburse the business for actual expenditures made by the business. Elec. Code § 253.041; *see* Ethics Advisory Opinion No. 35 (1992) (regarding the combined effect of this prohibition and the prohibition on corporate contributions).

PERSONAL REIMBURSEMENT

A candidate or officeholder who makes political expenditures from personal funds may reimburse his or her personal funds from political contributions only if the candidate or officeholder discloses the expenditures on the report for the period in which the expenditures were made and discloses the intent to reimburse personal funds. Elec. Code § 253.035(h). (A candidate or officeholder may do so by reporting the expenditures as a loan to political funds or by using Schedule G of Form JC/OH.) A candidate or officeholder may not correct a report after the filing deadline to show such an intention. (Note: Judicial candidates and officeholders are subject to limits on reimbursement for political expenditures from personal funds.)

FOREIGN CONTRIBUTORS

Federal law generally prohibits the acceptance of contributions from foreign sources. Contact the Federal Election Commission at (800) 424-9530 or go to the FEC's website at <http://www.fec.gov> for more detailed information.

POLITICAL ADVERTISING

The law requires that certain information be disclosed on most political advertising. For more information, see the Ethics Commission's brochure titled "POLITICAL ADVERTISING What You Need To Know" which is available on the commission's website at <http://www.ethics.state.tx.us>.

SEPARATE ACCOUNT

A candidate or officeholder must keep political contributions in one or more accounts that are separate from any other account maintained by the candidate or officeholder. (There is no requirement to keep campaign contributions in a separate account from officeholder contributions.)