

2021



Compliance Manual for Political Committees

Including:
Summary of Requirements
Contribution Limits Chart



New Jersey Election Law Enforcement Commission

609.292.8700 or Toll Free Within NJ 1.888.313.ELEC (3532)

www.elec.nj.gov

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PLEASE READ THIS FIRST

HOW TO USE THIS MANUAL

The “Compliance Manual for Political Committees” is **only** applicable to political committees. A political committee is a group of two or more individuals acting jointly, or any corporation, association, firm, company, or partnership which raises or expends \$3,200 or more in an election to promote the nomination, election or defeat of a candidate or to aid or promote the passage or defeat of a public question.

This Manual is **not** applicable to candidates, joint candidate committees, recall committees, individuals making independent expenditures, continuing political committees, legislative leadership committees, or political party committees. Contact the Commission for information concerning filing by these entities.

NOTE: No candidate or officeholder can establish, authorize the establishment of, maintain, or participate directly or indirectly in the management or control of a political committee.

Throughout this Manual, the following abbreviations apply:

Commission	The New Jersey Election Law Enforcement Commission
The “Act”	“The New Jersey Campaign Contributions and Expenditures Reporting Act” (Citation: <u>N.J.S.A.</u> 19:44A-1 et seq.)
Regulations	The regulations promulgated under the “Act” (Citation: <u>N.J.A.C.</u> 19:25-1 et seq.)

Help with Using This Manual

Any person who wishes to receive clarification concerning any item contained in this Manual should contact the Commission at (609) 292-8700, or toll free within New Jersey at: 1 (888) 313-ELEC (3532), or by writing to the:

**New Jersey Election Law Enforcement Commission
P.O. Box 185
Trenton, New Jersey 08625-0185**

This manual is not intended to supersede the act and regulations, and in the event of any inconsistency, the act and regulations prevail. Accordingly, it is recommended that treasurers obtain a copy of the act and regulations.

Definition of a Political Committee

A political committee is a group of two or more individuals acting jointly, or any corporation, association, firm, company, or partnership which raises or expends \$3,200 or more in an election to promote the nomination, election or defeat of a candidate or to aid or promote the passage or defeat of a public question.

A political committee exists in one or two elections. If a political committee expects to raise or expend funds in two or more successive elections, the treasurer may apply to the Commission to be certified as a continuing political committee. **Note: No candidate or officeholder can establish, authorize the establishment of, maintain, or participate directly or indirectly in the management or control of a political committee.**

The following entities are **not** political committees:

- **Candidate Committees and Joint Candidates Committees**
- **Political Party Committees and Legislative Leadership Committees**
- **Continuing Political Committees** - Continuing political committees are ongoing in nature.
- **Recall or Recall Defense Committees** - Committees formed to recall an officeholder, or to defend the recall of an officeholder.
- **Municipal or County Charter Study Commission** - A municipal or county charter study commission (or its members) is not a political committee with respect to the subject matter of the charter study commission at any time prior to the filing of its report. Thereafter, the charter study commission or any two or more of its members may constitute a political committee for the resulting public question.
- **A Contributor Not Involved in Fundraising** - A contributor not involved in fundraising (that is, not soliciting or accepting contributions to aid or promote candidates, or the passage or defeat of public questions) and not conducting other election-related activity other than making contributions from its own funds does not become a political committee by making a contribution.

Making the Expenditure	Amount	File
Two or more individuals, corporation, association, firm, company, or partnership.	Raises/Expend less than \$3,200	Nothing
Two or more individuals, corporation, association, firm, company, or partnership.	Raises/Expend \$3,200 or more	Form PC, R-1, and possibly Forms DX and 48-HR

Topic I: Appointing a Campaign Treasurer

A. Qualifications of a Campaign Treasurer

Any competent person 18 years of age or older may serve as a campaign treasurer or deputy treasurer. To serve as a treasurer, the person should maintain a resident address within the State of New Jersey. For information concerning the appointment of a treasurer who lives outside of New Jersey, contact the Compliance staff.

A campaign treasurer may appoint a deputy campaign treasurer. If a deputy treasurer is appointed, the treasurer is required to file, no later than five days after the appointment, a "Designation of Deputy Treasurer and/or Additional Depository" (Form DX) with the Commission.

Note that no person serving as a chairperson of a political party committee or a legislative leadership committee shall be eligible to be appointed to or serve as:

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

The Commission conducts a number of training seminars for candidates, treasurers, and other interested persons throughout the year. Training is available on the website and can be completed by taking an online test or by attending a seminar or webinar. For information concerning treasurer training, contact the Compliance staff at (609) 292-8700 or toll free within N.J. at 1 (888) 313-ELEC (3532), or visit ELEC's website at www.elec.nj.gov.

B. Resignation, Removal, or Death of a Treasurer

The committee shall notify the Commission in the case of the resignation, removal, or death of a campaign treasurer or deputy campaign treasurer within ten days of its occurrence. The committee shall appoint a successor as soon as practicable, but in no case more than 20 days after the death, resignation, or removal of the campaign treasurer or deputy campaign treasurer. Within three days of the appointment of the successor, the successor's name and address must be filed on the appropriate form (Form PC) with the Commission.

Topic II: Establishing a Campaign Depository

A. Campaign Depository

A “campaign depository” means a bank account, whether checking, savings, or other, established by a political committee treasurer to receive contributions and make expenditures to aid or promote the nomination, election, or defeat of a candidate(s), or to support or oppose a public question. Any bank authorized by law to transact business in New Jersey and maintaining a branch or office in New Jersey may be designated for the purpose of establishing a campaign depository.

The name of the political committee must be the sole name under which the committee receives contributions, makes expenditures, provides political identification, and otherwise does business. It is recommended that the name of the campaign depository should be the same as the committee name.

B. Additional Campaign Depositories

A campaign treasurer may designate additional depositories. Note that if the additional depository is for the limited purposes of investing campaign funds, a recognized investment institution authorized by law to transact business in New Jersey may be designated as a separate depository. Further, the invested funds are not to be used to benefit any person or enterprise in which the campaign official has an economic interest. If a committee establishes this type of depository for the investment of its funds, this investment account must be separate from, **and in addition to**, the campaign depository.

If an additional depository is established, the treasurer is required to file a “Designation of Deputy Treasurer and/or Additional Depository” (Form DX) no later than five days after the designation. The treasurer is required to file an amended Form DX within ten days of the occurrence of any change in the information concerning the additional depository. **A committee that establishes multiple campaign depositories must file a Form DX for every additional depository and must report financial activity relevant to all campaign depositories on a single Form R-1.**

C. Tax Implications

Committees are required to comply with federal and state laws concerning the payment of taxes. For information concerning federal tax laws, contact the Internal Revenue Service, 1111 Constitution Avenue NW, Washington, DC 20224. Also, you may review the information found at the website of the Internal Revenue Service, which has been linked, for your convenience, to the Commission’s website.

For information concerning the payment of taxes in New Jersey, contact the New Jersey Department of the Treasury, Division of Taxation, 50 Barrack Street, P.O. Box 240, Trenton, NJ 08625-0240.

Topic III: Establishment of a Political Committee

A. Naming a Political Committee

A political committee may select any name that is not already in use by another political committee. If, after selecting a name, the committee wishes to abbreviate the name or use an acronym for the purposes of filing reports or political identification statements, the committee must apply to the Commission for approval. If approved, the committee must use the abbreviation or acronym on all reports filed with the Commission.

B. Establishment of a Political Committee

A political committee is established by appointing a treasurer and establishing a depository no later than the date the political committee first receives any contribution or makes or incurs any expenditure that, when combined with other contributions received in an election or expenditures made or incurred in an election, totals \$3,200 or more.

Topic IV: Reporting

A. What Period of Time Does an Election Cover?

For reporting purposes and for the purpose of computing contribution limits, an “election” begins with the receipt of the first contribution or the making of the first expenditure and concludes on the 17th day following the election. The primary and general elections are two separate elections. Accordingly, reports must be filed for each election.

B. Reporting by a Political Committee

1) Form PC

No later than ten days after a political committee is established, the political committee is required to file a “Political Committee Registration Statement and Designation of Campaign Treasurer and Depository” (Form PC). A political committee must file a Form PC for each election in which it raises or expends \$3,200 or more to aid or promote the nomination, election, or defeat of a candidate or candidates, or the passage or defeat of a public question. If any of the information contained on the Form PC changes, the committee must file an amendment no later than three days after the change.

2) Form R-1

The treasurer of a political committee receiving or expending \$3,200 or more in an election is required to begin filing reports with the Commission on a date which depends upon when the financial activity commences. In the event the committee is established within 5 months or less of the due date of the 29-day pre-election report for the election in which the political committee is participating, the treasurer is required to file a 29-day pre-election report as the initial election fund report (Form R-1). However, if the committee is established more than 5 months prior to the due date of the 29-day pre-election report for the election in which the political committee is participating, the committee shall file a quarterly report as its initial election fund report (Form R-1). Quarterly reports are due for filing on April 15 for activity from January 1 through March 31; on July 15 for activity from April 1 through June 30; on October 15 for activity from July 1

through September 30; and on January 15 for activity from October 1 through December 31.

The initial election fund report must always begin with the reporting of the first contribution received or expenditure made in the election.

After an election, the treasurer of a political committee shall file quarterly reports until the committee terminates its reporting. However, if a political committee expects to raise or expend funds in each of two or more successive elections, the treasurer should contact the staff of the Commission to discuss certifying the political committee as a continuing political committee.

3) Form DX, if Applicable

A political committee treasurer who appoints a deputy treasurer or who establishes multiple campaign depositories must file the "Designation of Deputy Treasurer and/or Additional Depository," (Form DX). All financial activity relevant to all campaign depositories must be reported on a single Form R-1.

4) Form 48-HR (48-Hour Notices for Contributions), If Applicable

If a contribution in excess of \$1,900 in the aggregate from one source is received starting with the 13th day before the election up to and including the day of the election, the contributor's name and address, the date of receipt, and amount of the contribution, along with the name of the recipient committee, must be reported in writing within 48 hours of its receipt (48-hour contribution notice). If the contributor is an individual, report the contributor's occupation and the name and address of his or her employer. To report the contribution, Form 48-HR must be filed through the ELEC eFile program. The treasurer must certify the report.

5) Form 48-HR (48-Hour Notices for Expenditures), If Applicable

If a committee makes, incurs, or authorizes an expenditure to support or defeat a candidate or public question in excess of \$1,900, starting with the 13th day before the election up to and including the day of the election, a "48-hour expenditure notice" (Form 48-HR) must be filed. The notice must contain the following information:

- a) The name of the political committee;
- b) The name and mailing address of the person, firm, or recipient, or the organization to whom or which the expenditure was paid or given; and,
- c) The amount and purpose of the expenditure.

Note that the committee's 20-day post-election report must contain all expenditures reported on the 48-hour expenditure notice.

C. Termination of Reporting

A treasurer of a political committee must certify its 20-day post-election report or its first quarterly post-election report as its final report for an election. In order to terminate further reporting for an election, the following conditions must be met:

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

Note: Before a committee can be terminated, a final "Report of Contributions and Expenditures" (Form R-1) must be certified and filed with the "Declaration of Final Report" completed.

Topic V: Contributions

A. *What is a Contribution?*

A contribution is a transfer of money or other thing of value, made to, or on behalf of, a candidate or committee. Included in the definition of a contribution are loans, gifts, subscriptions, real property, and personal property. A contribution may be in the form of currency, check, or other negotiable instrument. A contribution may also be a non-monetary or “in-kind” contribution. A convenient chart for determining those limits can be found at the end of this section on “Contributions.”

A written record of all contributions (currency, monetary, in-kind, and loans) must be made and maintained, regardless of amount.

A separate section of this Manual addresses record keeping requirements for contributions; consult the "Record Keeping" section for guidance.

B. *Types of Contributions – Monetary or In-Kind*

1) Monetary Contributions

a) Contributions by Currency

A committee may accept currency contributions from a contributor of up to \$200 per election. When contributing currency, the contributor must simultaneously submit a written record to the treasurer containing the date and amount of the contribution, the name, mailing address and signature of the contributor, and, if the contributor is an individual, the name and mailing address of the contributor’s employer, along with the contributor’s occupation. All currency contributions must be reported in detail, regardless of the amount. Currency contributions must be reported on the Form R-1.

b) Contributions by Check or Other Negotiable Instrument

Contributions of greater than \$200 during an election must be made by check or other negotiable instrument (hereafter, collectively referred to as “check”). When a contribution is received by check, the contributor must be identified as follows:

- 1) The individual signing the check is the contributor when a check is drawn on a **single or joint account** which that individual owns. If, on a joint account, both owners of the account sign the check, and no other written instructions accompany the check, the amount of the check is attributed half to each person signing the check. If written instructions signed by each of the joint account owners specify a different allocation of the funds, the specified allocation applies. For example, assume a treasurer receives a check drawn on the account of “John and Mary Smith” in the amount of \$1,200, and John Smith signs the check. The treasurer must report that he or she received a \$1,200 contribution from John Smith. If, in the same example, both John and Mary Smith sign the check, the treasurer must report receiving a \$600 contribution from John Smith and a \$600 contribution from Mary Smith. Again, in the same example, if both John and Mary Smith sign the check, and accompany the check with

written instructions, signed by both, indicating that \$500 should be allocated to John Smith and \$700 to Mary Smith, the treasurer must report a \$500 contribution from John Smith and a \$700 contribution from Mary Smith. Note: Occupation and employer information is required for both John and Mary Smith in this case.

- 2) If the check is signed by an authorized representative of a **corporation, labor organization, group, or association**, the contributor is the corporation, labor organization, group, or association. The person signing the check (i.e., the bookkeeper, or the accountant) is not the contributor. Similarly, if a check is received from a candidate committee, joint candidates committee, political party committee, continuing political committee, legislative leadership committee, or political committee, the contributor is the respective committee and not the treasurer who signed the check.
 - 3) If the check is drawn on an account of an individual, but signed by the individual's **trustee or guardian**, the contributor is the individual, not the trustee or guardian.
 - 4) If the check is drawn on an account of a sole proprietor that is an **unincorporated business**, the contributor is the individual who is the sole proprietor and the sole proprietor's signature must appear on the check, or on some other supporting written document. A sole proprietorship can not be a contributor.
 - 5) If the check is drawn on an account of a **partnership, limited liability partnership or of a limited liability company**, consult the section of this Manual on "Contributing by Partnerships, Limited Liability Partnerships, and Limited Liability Companies" for detailed guidance.
- c) Contributions by Electronic Transfer of Funds

A committee may receive a contribution made by means of an electronic transfer of funds, including a credit card, provided that:

- 1) The date of receipt of the contribution is the date on which the account owner or credit card owner gives authorization that the contribution may be charged to the owner's account or credit card;
- 2) The amount of the contribution is the total amount that the account owner or credit card owner authorizes to be charged to the account;
- 3) The account used to make the contribution must be owned by the individual contributor or other entity making the contribution; and,
- 4) The campaign treasurer must make and maintain all required records (see section of this Manual on "Record Keeping").

A committee must follow instructions set forth in Advisory Opinions 04-2001, 02-2660 and 01-2020. Note that any fees imposed on the committee arising out of contributions by electronic transfer of funds or credit card must be reported as expenditures to the

financial institution assessing the fees. Contributions received by an electronic transfer of funds or credit card must be deposited within ten days of receipt directly into a campaign depository.

- 2) In-Kind Contributions: An “In-kind” contribution is a contribution of goods or services contributed to a candidate or committee.

A contribution received in the form of goods is reported in an amount equal to the fair market value of the goods to the candidate or committee receiving them. For example, assume that a printer donates bumper stickers with a fair market value of \$700 to the political committee. The committee must report the receipt of an in-kind contribution from the printer in the amount of \$700.

A contribution in the form of “paid personal services” is required to be reported in an amount equal to the amount of salary, compensation, or consideration for the services paid by the contributor to the individual performing the services. Paid personal services means personal, clerical, administrative, or professional services that are not paid for by the committee benefiting from the services. Upon receipt of a contribution in the form of “paid personal services,” the treasurer shall obtain a written statement, from the person contributing the “paid personal services,” setting forth the amount of compensation paid by the contributor to the individual performing the services.

Personal services provided on an unpaid, voluntary basis do not constitute a reportable contribution.

The following example may help explain reporting of personal services. “CPA” is a certified public accountant. “CPA” voluntarily sets up the books and records for the political committee. “CPA” employs several accountants, bookkeepers, and clerical personnel who perform some of the work required to maintain the financial records for the committee. The services of “CPA” do not constitute a contribution to the committee since they are voluntary and uncompensated personal services. The value of the services of the accountants and other employees of “CPA” must be reported as a contribution, subject to the contribution limits, to the political committee.

C. Contributions Must Be Deposited Into the Campaign Depository within 10 Days

All funds received by a committee must be deposited by the treasurer in the campaign depository within 10 days of the date of receipt. The date of receipt is the date on which a campaign treasurer, or any other authorized person, receives funds on behalf of the committee. Accordingly, the date of deposit should not be substituted for the date of receipt, unless the funds are received and deposited on the same day.

D. Contributions from Out-Of-State Candidates or Committees

If a contribution is received from an organization or entity that is filing campaign finance reports with the Federal Election Commission, or filing campaign finance reports in another state (and not filing reports with the Commission), the contribution limit is the same as the limit for a group or association. Similarly, if a contribution is received from a candidate committee of a candidate for Federal elected office, or for elected office in another state, the contribution limit is the same as the limit for an association or group.

E. Contributions from an Estate

A contribution drawn on an account of an estate is attributable to the decedent, and the contribution limit applicable to an individual must be used. In order for the contribution to be accepted, the contribution check must be drawn on an account of an estate that has been admitted to probate, and the will of the decedent must provide a specific bequest authorizing the contribution to the recipient committee.

F. Contributions from a Minor

A minor is any person under the age of 18 years. A contribution by a minor is attributed to the legal guardian(s) of the minor unless:

- 1) The minor is 14 years of age or older;
- 2) The contribution is made from funds comprised of the minor's earned income; and,
- 3) Sworn statements made by the minor and by the minor's legal guardian(s) are submitted with the contribution which state that the decision to contribute was solely that of the minor and that the funds used to make the contribution were comprised solely of the minor's earned income.

G. Contributions from a Partnership, a Limited Liability Partnership, or a Limited Liability Company

A partnership, a limited liability partnership (LLP), or a limited liability company (LLC) may not make contributions as an entity. A contribution drawn on the account of a partnership, limited liability partnership, or limited liability company must be signed by a partner(s) or member(s) and is a contribution from the partner or member who has signed the check or written instrument. In the case of a currency contribution, the partner or member who makes the contribution will be considered to be the contributor.

If it is the intent of the contributor that any portion of the contribution drawn on the account of a partnership, limited liability partnership, or a limited liability company is to be attributed to a partner or individual who did not sign the check or written instrument, the following written information must be received and maintained by the treasurer:

- 1) Written instructions concerning the allocation of the contribution amount to a contributing partner, or among contributing partners; and
- 2) A signed acknowledgment of the contribution from each contributing partner who has not signed the contribution check or written instrument; and
- 3) Contributor information for each contributing partner (see the "Record Keeping" section in this Manual).

H. Contributions from an Affiliated Corporation, Association, or Labor Organization

If a committee receives a contribution from a corporation, association, or labor organization, the committee must aggregate the amount of that contribution with any other contribution(s) received from the subsidiary, affiliate, branch, division, department, or local unit of that corporation, association, or labor organization. For more information on contributions received from affiliated corporations, associations, or labor organizations, review the regulations at N.J.A.C. 19:25-11.9.

I. Political Communications

A political communication is any written statement, pamphlet, advertisement, or other printed or broadcast matter meeting certain conditions. Costs of communications to voters containing an explicit appeal for votes to elect or to defeat a candidate are generally reportable as political communication expenditures. An example of an explicit appeal for votes is "Vote for Candidate Smith" or "Defeat Candidate Jones." Under certain circumstances, communications made or circulated within 90 days of an election may be subject to reporting as political communications even in the absence of an explicit appeal for votes to elect or defeat a candidate. To determine whether or not a political communication is reportable, consult the regulations at N.J.A.C. 19:25-10.10 and 10.11.

The cost incurred by others to make a political communication coordinated with a candidate is a reportable "in-kind" contribution to that candidate, and the person incurring the cost of the "in-kind" contribution must give written notice to the candidate.

J. Anonymous Contributions or Contributions in the Name of Another

Anonymous contributions are not permitted to be made by the contributor or accepted by the treasurer. A group contribution (a contribution made collectively by persons who are members of a contributing group) is not considered to be an anonymous contribution by any individual member of the group.

Any anonymous contribution received by a committee cannot be used or expended, but is required to be returned to the donor if his, her, or its identity is known. If no donor is found, the contribution shall escheat to the State. This procedure may be accomplished by depositing the funds in the campaign account, drawing a check made payable to "Treasurer, State of New Jersey," and forwarding the check to the Commission.

Similarly, contributions made in the name of another, or in a fictitious name, are not permitted to be made or accepted. A person is not permitted to contribute funds or property that does not actually belong to him or her, or to contribute funds that were furnished to him or her by any other person or group for the purpose of making a contribution.

A contribution is not anonymous if the identity of the contributor was known to the treasurer at the time the contribution was received, but unknown at a later time due to the loss or destruction of records. Note that the failure to keep proper records is a violation of the Act for which penalties may be imposed.

K. Prohibited Contributions

Banks, insurance corporations, public utilities, cable television corporations, as well as certain casino interests are prohibited contributors under provisions of the law outside the Commission's jurisdiction. For additional information concerning whether or not an industry or entity is a prohibited contributor, please contact the Compliance staff of the Commission.

Federal law prohibits foreign nationals from making contributions to any candidate and prohibits candidates from accepting such contributions; see 2 U.S.C., Sec. 441e. Questions concerning this prohibition should be addressed to the Federal Election Commission, 999 E Street, N.W., Washington, DC 20463, (800) 424-9530.

L. Restrictions on Contributions by Certain Businesses

Contributions by certain business entities that have or are seeking New Jersey government contracts, a practice known as “Pay-to-Play,” are subject to restrictions. A contribution made prior to the award of a contract may disqualify a business entity from receiving a contract, and making certain reportable contributions during the term of a contract is prohibited. These restrictions apply to contracts at the State, Legislative, county, and municipal levels of government. In general, regulation of these contributions is a matter of government procurement law; therefore, for additional information, visit the Department of the Treasury’s website at www.state.nj.us/treasury/ or the pertinent Legislative, county or municipal government entity for contract information. Contact the Commission at (609) 292-8700 or toll free within New Jersey at 1 (888) 313-ELEC (3532) for information concerning the reporting of a contribution. Also, certain business entities must comply with a “Pay-to-Play” disclosure law. This law requires that prior to entering into a contract that is not publicly advertised with a government entity of more than \$17,500, a business entity must disclose to that government entity certain contributions made during the past year. Further, business entities that have received \$50,000 or more in a calendar year through government contracts must file with the Commission an annual disclosure form on March 30th to report information for the previous year. For additional information, contact the Compliance Staff of the Commission.

M. Loans

A loan received by a committee is a contribution, until repaid, and must be reported as a contribution from the person or entity making the loan and as an outstanding obligation. A loan is reported as a contribution at the time it is received and must be reported as an outstanding obligation for as long as it remains unpaid. Since a loan is a contribution, it is subject to contribution limits.

However, when the lender is a bank or lending institution, and the loan has been guaranteed by some third-party person or entity, in the ordinary course of business, the banking or lending institution is not the contributor. Rather, the co-signer of the loan, or the person who otherwise guarantees repayment, becomes the contributor. If a loan is made by a banking or lending institution and is not guaranteed, the loan is a contribution by the bank or lending institution. Please review the section in this Manual on “Prohibited Contributions” for additional relevant information.

When a loan exceeds \$300 in the aggregate from one source during an election, or if the loan is made in currency in any amount, the loan must be disclosed on the "Report of Contributions and Expenditures" (Form R-1).

An obligation by a contributor to pay for goods or services, which obligation is expected to be reimbursed by the committee, is reported as a contribution (subject to contribution limits) and as an outstanding obligation of the committee.

N. Reporting of a Contribution that is More Than \$300 in the Aggregate from One Source

A contribution which is more than \$300 in the aggregate from one source in an election must be reported on the "Report of Contributions and Expenditures" (Form R-1). This applies to a contribution, which, on its face is more than \$300, or when combined with another contribution from that same source, during an election, is more than \$300. For example, a contributor may give \$275 by check to a campaign during an election and a few days later, during that same election, give another \$100 by check. The contributor has given, in the aggregate, more than \$300. When a contributor gives more than \$300 in an election, the following information must be reported:

- 1) The date the contribution was received;
- 2) The amount of the contribution;
- 3) The total amount of all contributions received from that contributor in the election, to date;
- 4) The name and mailing address of the contributor; and,
- 5) The occupation of the contributor, along with the name and address of the contributor's employer, if the contributor is an individual.

When reporting occupation information, a description of the contributor's source of income must be provided, such as "florist," "attorney," "doctor," "custodian," or "electrician." **Descriptions such as "self-employed," "owner," or "sole proprietor" do not identify occupation and are insufficient.** If the contributor does not have a source of livelihood, a description such as "retired," "student," or "none" shall be reported, but in all cases, some written description shall be provided and the information shall not be left blank.

When reporting the employer information, report the legal or trade name under which the employer does business. In the case in which a contributor's source of income is his or her own business or corporation, the employer must be reported as the legal or trade name under which the contributor does business. For example, if Joe Smith owns his own plumbing business called "Smith's Plumbing," the name of the employer is "Smith's Plumbing." The employer's mailing address is always the address from which the business is operated. For a contributor who does not earn a source of livelihood and for which a description such as "retired," "student," or "none" was entered for the occupation, no employer address is required.

Once a contributor gives more than \$300 in the aggregate during an election, all subsequent contributions by that contributor are required to be disclosed in detail as described above.

A contribution may not be “netted out” to cover the costs of a fundraising event. For example, if a dinner ticket costs \$350 and the caterer will receive \$75 of that amount for the cost of the dinner, the contribution is still \$350.

O. Reporting of Contributions of \$300 or Less

A contribution that is \$300 or less in the aggregate from one source in an election, **except for a currency contribution**, does not have to be reported by disclosing the contributor’s name, address, etc. However, records must be made and maintained of every contribution (see the section in this Manual on “Record Keeping”).

If a committee accepts a currency contribution in **any** amount, detailed contributor information must be reported. Note that a committee cannot accept more than \$200 in currency in an election from a contributor.

P. Reporting of a Contribution of More Than \$1,900 from One Source Received Just Before the Election or on Election Day

If a contribution in excess of \$1,900 in the aggregate from one source is received starting with the 13th day before the election up to and including the day of the election, the contributor’s name and address, the date of receipt, and amount of the contribution, along with the name of the recipient committee, must be reported in writing within 48 hours of its receipt (48-hour contribution notice). If the contributor is an individual, report the contributor’s occupation and the name and address of his or her employer. A “48-hour contribution notice” must be reported by filing the Form 48-HR electronically through the ELEC eFile system. The Form 48-HR must be certified by the treasurer.

The contributions reported on the 48-hour contribution notice are reportable again on the 20-day postelection report.

Q. Contribution Limits

All candidates and committees are subject to contribution limits, with the exception of political committees organized to support or oppose a public question. A contribution limits chart has been designed to assist treasurers with determining the amount of contributions that may be accepted as well as the amount that may be made. The chart is found at the end of this section on “Contributions.”

R. What if a Contribution Exceeded the Limit?

All committees must observe the contribution limits and must not knowingly accept a contribution in excess of the stated amounts.

A committee that receives a contribution in an amount exceeding the contribution limit must return that portion of the contribution that exceeds the limit within 48 hours of receipt. A written record must be made, and maintained, which includes the following:

- 1) The date the contribution was received;
- 2) The name and mailing address of the contributor;
- 3) If the contributor is an individual, the occupation of the individual and the name and mailing address of the individual's employer;
- 4) The amount of the contribution;
- 5) The amount of the contribution that exceeds the applicable contribution limit;
- 6) A photocopy of the check or written instrument received as a contribution; and,
- 7) A photocopy of the refund check issued by the committee.

A committee who refunds a contribution in whole or part shall report the refund transaction on the Form R-1 report required for the reporting period in which the refund was made. If a committee does not return an excessive contribution, it may result in the finding of a knowing violation of the contribution limits.

S. Contribution Limits for Public Question Committees

A political committee which is organized to aid or promote the passage or defeat of a **public question** in an election may accept a contribution without limit from a contributor. A political committee which is organized to aid or promote the passage or defeat of a **public question** in an election may make contributions without limit to another political committee or to a continuing political committee.

Contribution Limits Chart for Candidates and Committees							
Entities Making Contributions	Entities Receiving Contributions						
	Candidate Committee*	Political Committee**	Continuing Political Committee	Legislative Leadership Committee	State Political Party Committee	County Political Party Committee	Municipal Political Party Committee
Individual to:	\$2,600 per election	\$7,200 per election	\$7,200 per year	\$25,000 per year	\$25,000 per year	\$37,000 per year	\$7,200 per year
Corporation or Union to:	\$2,600 per election	\$7,200 per election	\$7,200 per year	\$25,000 per year	\$25,000 per year	\$37,000 per year	\$7,200 per year
Association or Group to:	\$2,600 per election	\$7,200 per election	\$7,200 per year	\$25,000 per year	\$25,000 per year	\$37,000 per year	\$7,200 per year
Candidate Committee to:	\$8,200 per election	\$7,200 per election	\$7,200 per year	\$25,000 per year	\$25,000 per year	\$37,000 per year	\$7,200 per year
Political Committee to:	\$8,200 per election	\$7,200 per election	\$7,200 per year	\$25,000 per year	\$25,000 per year	\$37,000 per year	\$7,200 per year
Continuing Political Committee to:	\$8,200 per election	\$7,200 per election	\$7,200 per year	\$25,000 per year	\$25,000 per year	\$37,000 per year	\$7,200 per year
Legislative Leadership Committee to:	-	-	-	NO LIMITS	-	-	-
State Political Party Committee to:	-	-	-	NO LIMITS	-	-	-
County Political Party Committee to:	No limits, but from January 1 st through June 30 th of each year, a county political party committee is prohibited from making a contribution to another county political party committee and a county political party committee is prohibited from accepting a contribution from another county political party committee. A county political party committee is subject to other restrictions; see <u>N.J.A.C. 19:25-11.7</u> .						
Municipal Political Party Committee to:	-	-	-	NO LIMITS	-	-	-
National Political Party Committee to:	\$8,200 per election	\$7,200 per election	\$7,200 per year	\$25,000 per year	\$72,000 per year	\$37,000 per year	\$7,200 per year
<p><i>A National Political Party Committee is the principal organization supporting election activities of a State political party committee, which activities include making contributions to that State political party committee pursuant to <u>N.J.S.A. 19:44A-11.4a(2)</u>. There shall be no more than a single national political party committee of a political party for each State political party committee.</i></p> <p><i>*NOTE: The contribution limit to a gubernatorial candidate is \$4,900 per election.</i></p> <p><i>**Public Question Political Committee and Independent Expenditure only committees may receive unlimited contributions.</i></p>							

Topic VI: Expenditures

A. Definition of an Expenditure

An expenditure includes actual disbursements made and outstanding obligations incurred, but not yet paid, by the committee. The term “expenditure” includes every transfer of money or other thing of value, any pledge, commitment, or the assumption of liability to transfer money or other thing of value. For reporting purposes, the date of the expenditure is the date when the commitment is made or when the liability is assumed, which is not necessarily the date of the disbursement.

B. Limitations on Expenditures

There are no limits on the amount of expenditures which a committee can make in an election.

C. All Expenditures Required to be made through the Treasurer and Campaign Depository

All expenditures are required to be made through the campaign treasurer or deputy campaign treasurer of the committee. Furthermore, all expenditures are required to be made through the campaign depository. Payment of expenditures by currency is permissible if the payment is made from the proceeds of a petty cash fund, as discussed later in this Manual.

D. Disclosure of Expenditures

Committees must disclose all expenditures, regardless of amount. An expenditure shall be reported by providing the following information:

- 1) The date the expenditure was made, incurred and disbursed;
- 2) The full name and address of the payee;
- 3) The purpose of the expenditure (describe the specific election-related reason for the expenditure, such as “newspaper advertising,” “postage,” “printing of campaign fliers,” “headquarter rental,” “telephone expense,” etc.; generic, non-informative descriptions such as “operations,” “petty cash,” “expenses,” or “reimbursement” are not permitted);
- 4) The amount of the expenditure; and,
- 5) The check number, if applicable.

E. Making an Expenditure of More than \$1,900 Just Before the Election or on Election Day

If a committee makes, incurs, or authorizes an expenditure to support or defeat a candidate or public question, in excess of \$1,900, starting with the 13th day before the election up to and including the day of the election, a “48-hour expenditure notice” must be filed.

A “48-hour expenditure notice” must be reported by electronically filing the Form 48-HR, within 48 hours of the making, incurring, or authorizing of the expenditure. The notice must contain the name and mailing address of the person, firm, or organization to whom

or which the expenditure was paid and the amount and purpose of the expenditure. The treasurer must certify the notice.

The 20-day postelection report must contain all expenditures reported on the 48-hour expenditure notice.

F. Petty Cash Fund

A committee may expend \$100 in an election to establish a petty cash fund. The petty cash fund may be used for occasional and incidental expenses of the campaign. Also, an expenditure of \$100 or less may be made in an election to reimburse a campaign worker who has personally incurred an occasional and incidental expense on behalf of the committee. A written record of all petty cash funds must be made and maintained. See "Record Keeping" in this Manual.

G. Expenditures Made By Debit Card

A debit card that is owned by and issued in the name of a political committee may be used to make an expenditure provided that the debit card draws against funds in a campaign depository. A debit card expenditure transaction is reported by providing the following information:

- 1) The name and address of the vendor from whom the purchase was made;
- 2) The date of the purchase;
- 3) A description of the purpose of the purchase, including a specific itemization of the goods or services acquired;
- 4) The amount of the purchase; and,
- 5) The use of the term "debit card" on reports filed with the Commission in place of a check number for the transaction.

H. Expenditures Made by Credit Card

If a credit card is established in the name of the political committee, the committee shall report the following information for each charge:

- 1) The name of the lending institution that issued the credit card account;
- 2) The check number, payment date, and the amount of the check issued to the credit card company;
- 3) For each purchase itemized on the credit card statement, report the following:
 - a) The name and address of the vendor from whom the purchase was made;
 - b) The date and amount of the purchase; and,

- c) A description of the purpose of the purchase, including a description of the specific election-related information (i.e., “newspaper advertising,” “handbills,” “postage,” etc.), along with an itemization of the goods or services acquired.

Note that if a credit card expenditure is made on behalf of a committee and the credit card account is **not** established in the name of the reporting committee, the owner of the card (person or entity liable for any debt charged against the card) is deemed to have made an in-kind contribution to the committee. If the contributor is reimbursed an adjustment can be reported as a refund of the contribution.

I. Street Money

Expenditures made to individuals to aid or promote a candidate or committee in an election or to promote or encourage the participation of voters in an election is commonly referred to as street money.

All street money expenditures must be paid by **check** drawn on the designated depository of the committee making the payment, regardless of the amount paid, and the check must be made payable to the recipient. **Payment of street money cannot be made in currency.**

Street money must be paid by check to the individual who actually performs the services. In the event that a campaign makes payment to a vendor, group, or association for the purpose of making street money disbursements, the committee retains responsibility for reporting the identity of each individual who receives any street money payment from the vendor, group, or association. The payment to the vendor, group, or association must be made by check.

Every street money expenditure must be reported as follows:

- 1) The date the expenditure was made;
- 2) The check number;
- 3) The name and address of the recipient individual (payee) who is performing the services (please **do not report** the social security number of the recipient); and, the name and address of the vendor, group, association or other entity which further distributes street money to other individuals. If a vendor, group, association, or other entity further distributes street money to other individuals, the vendor, group, or association must make all payments by check and the name and address of every individual receiving street money, the date street money was received, and the amount of street money is required to be reported by the reporting entity that provided the street money funds;
- 4) The purpose of the expenditure, including an itemization of the specific services provided by the recipient individual (payee); and,
- 5) The amount of the expenditure.

J. Coordinated Expenditures

Whenever a committee makes an expenditure on behalf of a candidate, with the candidate's cooperation, or prior consent, or in consultation with or at the request or

suggestion of the candidate, or any person acting on behalf of that candidate, the committee is required to provide immediate written notification to the affected candidate's committee(s). This type of expenditure is a "coordinated expenditure."

Note that "immediate written notification" means a written notice which is delivered to the candidate or the committee within 48 hours of the making or authorizing of the expenditure. The notice shall contain the following:

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

K. Labeling of Political Communications ("Paid for By")

All committees subject to the Act are required to label all political communications with a political identification statement ("paid for by" language).

The term political communication includes a press release, pamphlet, flyer, form letter, sign, billboard, paid advertisement printed in any newspaper or other publication or broadcast on radio or television, or telephone call featuring a recorded message, or delivered or accessed by electronic means, including, but not limited to, the Internet, or any other form of advertising directed to the electorate.

The following items are exempt from the labeling requirement:

- 1) A bona fide news item or editorial contained in any publication of bona fide general circulation;
- 2) Small, tangible items of de minimis value commonly used in election campaigns to convey a political message, including, but not limited to, buttons, combs, and nail files; and,
- 3) Advertising space costing no more than \$50 in a political program book purchased by a committee and distributed at a fundraising event, provided that the payment for the advertising space is subject to reporting under the Act.

The "paid for by" language must contain the name and business or residence address of the committee and clearly state that the committee financed or "paid for" the communication. Note that the name and address information of a committee must be the same information that appears on the Form PC filed by the committee. The following is an example of a political identification statement:

"PAID FOR BY THE ABC COMMITTEE, 123 MAIN STREET, ANYTOWN, NJ"

Topic VII: Record Keeping

The treasurer or deputy treasurer of a committee is required to make and maintain a written record of all funds and contributions received, and all expenditures made by the

committee, including non-monetary contributions. The political committee chairperson is required to take all necessary steps to ensure that proper records are maintained.

All records must be maintained for a period of **four years** after the date of the election to which they are relevant, or a period of four years after the transaction to which the records relate occurred, whichever is longer.

A. Record Keeping of Contributions

A written record of all funds and contributions, including non-monetary contributions, regardless of the amount, is required to be made and maintained. This requirement includes the name and address of the contributor; the amount of the contribution; the date the contribution was received; the name of the account on which the contribution check is drawn; and, if the contributor is an individual, the occupation of the individual and the name and mailing address of the individual's employer.

A partnership or limited liability entity is prohibited from making contributions in New Jersey. Therefore, if a contribution check is received from a partnership entity or from a limited liability entity, the following written information must be received and maintained by the campaign treasurer:

- 1) Written instructions concerning the allocation of the contribution amount to a contributing partner(s) or member(s);
- 2) A signed acknowledgment of the contribution from each contributing partner or member who has not signed the contribution check or other written instrument; and,
- 3) Contributor information for each contributing partner or member (see above).

B. Record Keeping of Expenditures

A written record of all expenditures, regardless of amount, is required to be made and maintained. This requirement includes the name and address of the recipient, the amount and date of the expenditure, and the purpose of the expenditure. The treasurer shall include as part of the record of each expenditure, a receipt, invoice, bill, or other documentation for each expenditure made from each campaign or additional depository.

C. Record Keeping for Credit Card Transactions

A committee purchasing goods or services by use of a credit card is required to make and maintain a record of the following information:

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

Topic VIII: Filing and Other Information

A. How to File a Report

Electronic Filing is mandatory for all candidates. Short forms can be filed directly on ELEC's website. Form R-1 must be filed electronically using ELEC eFile.

B. Filing Electronic Reports

All reports must be filed electronically and must be received by the Commission by 5:00 P.M. on the filing due date to be filed timely.

C. Reporting by Fax

Effective January 1, 2021, ELEC regulations require all individuals and entities to file reports electronically. Filing reports by facsimile (fax) is not accepted.

D. Other Information

- 1) **Questions About the Requirements** - If you have a question about the requirements of the Act or about anything contained in this Manual, please contact the Compliance Staff of the Commission any business day, from 9:00 A.M. to 5:00 P.M. at (609) 292-8700, or toll free within New Jersey at: 1 (888) 313-ELEC (3532). You may also visit the Commission's website to obtain forms, filing dates, compliance manuals, advisory opinions, an unofficial text of the Commission's regulations, and other important information. The website address is: www.elec.nj.gov
- 2) **Formal Treasurer Training** - The Commission conducts a number of training seminars for candidates, treasurers, and other interested persons throughout the year. Training is available on the Commission's website or by attending a seminar or webinar. For information concerning treasurer training, contact the Compliance staff at (609) 292-8700 or toll free within New Jersey at 1 (888) 313-ELEC (3532), or visit ELEC's website at www.elec.nj.gov.
- 3) **Public Inspection of Documents** - Reports may be viewed on ELEC's website or any person may, upon completion of the "Open Public Records Act" form, request to receive or examine a photocopy of a public document filed with the Commission.

A photocopier is available for use by the public in the Commission's public records room. The first 50 pages of photocopying are provided free of charge. Thereafter, a reasonable fee for photocopying will be charged for photocopies or computer-generated data and is payable in advance of receipt of the documents.

Beginning in May of 1999, the Commission began to disclose reports on its website. Accordingly, most campaign reports filed from May of 1999 to the present will be available for viewing by visiting the Commission's website (www.elec.nj.gov). If you do not have access to the Internet, the Commission maintains several Internet-ready stations in its public records room. The public records room is open from 9:15 a.m. to 4:45 p.m., Monday through Friday. There is no charge to use the Internet stations. Up to 50 pages may be printed from the

Commission's website free of charge; thereafter, there is a reasonable fee for each page printed.

Note that the Commission maintains a database of reportable contributors that can be easily searched. Simply key in the name of an individual, business, or political entity, and a list of all reportable contributions made by the donor will appear. This database covers certain time periods and elections. Check the website for further information.

- 4) Enforcement - Each reporting transaction (i.e., receipt of a contribution, making of an expenditure, or the occurrence of any other event which is subject to reporting requirements) that is not reported in the manner, or not filed on the date established for reporting or filing, constitutes an offense pursuant to the Act and subject to the penalties provided at N.J.S.A. 19:44A-22. Similarly, each record keeping transaction (i.e., receipt of a contribution, making of an expenditure, or the occurrence of any other event which is subject to record keeping requirements) that is not made or maintained in the manner required for record keeping constitutes an offense pursuant to the Act and subject to the penalties provided at N.J.S.A. 19:44A-22. Also, contribution limits, political identification, public financing, and other requirements of the Act must be observed, and violations of those requirements are subject to penalties pursuant to N.J.S.A. 19:44A-22 and other civil penalty provisions in the Act. The Commission is empowered to conduct investigations, subpoena records and testimony of individuals, hold hearings, and impose monetary fines for each offense. Criminal penalties for certain willful violations are also specified in the Act.
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