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Sequence Number: 01-04-24
Rule ID(s): 10001
File Date: 1/8/2024
Effective Date: 4/7/2024

Proposed Rule(s) Filing Form

Proposed rules are submitted pursuant to Tenn. Code Ann. §§ 4-5-202, 4-5-207, and 4-5-229 in lieu of a rulemaking hearing. It is the intent of the Agency to promulgate these rules without a rulemaking hearing unless a petition requesting such hearing is filed within ninety (90) days of the filing of the proposed rule with the Secretary of State. To be effective, the petition must be filed with the Agency and be signed by ten (10) persons who will be affected by the amendments, or submitted by a municipality which will be affected by the amendments, or an association of ten (10) or more members, or any standing committee of the General Assembly. The agency shall forward such petition to the Secretary of State.

Pursuant to Tenn. Code Ann. § 4-5-229, any new fee or fee increase promulgated by state agency rule shall take effect on July 1, following the expiration of the ninety (90) day period as provided in § 4-5-207. This section shall not apply to rules that implement new fees or fee increases that are promulgated as emergency rules pursuant to § 4-5-208(a) and to subsequent rules that make permanent such emergency rules, as amended during the rulemaking process. In addition, this section shall not apply to state agencies that did not, during the preceding two (2) fiscal years, collect fees in an amount sufficient to pay the cost of operating the board, commission or entity in accordance with § 4-29-121(b).

Agency/Board/Commission:	Bureau of Ethics and Campaign Finance
Division:	Registry of Election Finance
Contact Person:	Lauren Topping, General Counsel
Address:	WRS Tennessee Tower, 26 th Floor, 312 Rosa L. Parks Ave, Nashville, TN
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Revision Type (check all that apply):

☐ Amendment
☐ New
☒ Repeal

Rule(s) (ALL chapters and rules contained in filing must be listed here. If needed, copy and paste additional tables to accommodate multiple chapters. Please make sure that ALL new rule and repealed rule numbers are listed in the chart below. Please enter only ONE Rule Number/Rule Title per row.)

Chapter Number	Chapter Title
0530-1-1	Campaign Financial Disclosure Rules
Rule Number	Rule Title
0530-1-1-.07	PAC Annual Fee

Chapter Number	Chapter Title
Rule Number	Rule Title

Place substance of rules and other info here. Please be sure to include a detailed explanation of the changes being made to the listed rule(s). Statutory authority must be given for each rule change. For information on formatting rules go to

<https://sos.tn.gov/products/division-publications/rulemaking-guidelines>.

The Bureau of Ethics and Campaign Finance, specifically the Registry of Election Finance, hereby seeks to repeal Tenn. Comp. R. & Regs. 0530-1-1-.07, relating to the PAC Annual Fee, due to the repeal of the underlying statute, Tenn. Code Ann. 2-10-121, pursuant to Public Chapter 108, § 12, effective April 4, 2023. This fee is no longer required by law and, therefore, this rule is obsolete and unenforceable.

* If a roll-call vote was necessary, the vote by the Agency on these rules was as follows:

Board Member	Aye	No	Abstain	Absent	Signature (if required)

I certify that this is an accurate and complete copy of proposed rules, lawfully promulgated and adopted by the Registry of Election Finance on 06/15/2023 and is in compliance with the provisions of T.C.A. § 4-5-222. The Secretary of State is hereby instructed that, in the absence of a petition for proposed rules being filed under the conditions set out herein and in the locations described, he is to treat the proposed rules as being placed on file in his office as rules at the expiration of ninety (90) days of the filing of the proposed rule with the Secretary of State.

Date: 11/17/23

Signature: William E. Young

Name of Officer: William E. Young

Title of Officer: Executive Director

Agency/Board/Commission: Registry of Election Finance

Rule Chapter Number(s): Tenn. Comp. R. & Regs. 0530-1-1-.07

All proposed rules provided for herein have been examined by the Attorney General and Reporter of the State of Tennessee and are approved as to legality pursuant to the provisions of the Administrative Procedures Act, Tennessee Code Annotated, Title 4, Chapter 5.

Jonathan Skrametti
Jonathan Skrametti
Attorney General and Reporter

12-21-2023

Date

Department of State Use Only

Filed with the Department of State on: 1/8/2024

Effective on: 4/7/2024

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Secretary of State
Division of Publications

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Secretary of State

Regulatory Flexibility Addendum

Pursuant to T.C.A. §§ 4-5-401 through 4-5-404, prior to initiating the rule making process, all agencies shall conduct a review of whether a proposed rule or rule affects small business.

The Registry of Election Finance asserts that this change will have no direct impact on small business.

Impact on Local Governments

Pursuant to T.C.A. §§ 4-5-220 and 4-5-228, "On any rule and regulation proposed to be promulgated, the proposing agency shall state in a simple declarative sentence, without additional comments on the merits or the policy of the rule or regulation, whether the rule or regulation may have a projected financial impact on local governments. The statement shall describe the financial impact in terms of increase in expenditures or decrease in revenues."

The Registry of Election Finance asserts that this change will have no direct impact on local governments.

Additional Information Required by Joint Government Operations Committee

All agencies, upon filing a rule, must also submit the following pursuant to T.C.A. § 4-5-226(i)(1).

- (A)** A brief summary of the rule and a description of all relevant changes in previous regulations effectuated by such rule;

The rule to be repealed required the payment of an annual PAC registration fee. The Bureau of Ethics and Campaign Finance, specifically the Registry of Election Finance, hereby seeks to repeal Tenn. Comp. R. & Regs. 0530-1-1-.07, relating to the PAC Annual Fee, due to the repeal of the underlying statute, Tenn. Code Ann. 2-10-121, pursuant to Public Chapter 108, § 12, effective April 4, 2023. This fee is no longer required by law and, therefore, this rule is obsolete and unenforceable.

- (B)** A citation to and brief description of any federal law or regulation or any state law or regulation mandating promulgation of such rule or establishing guidelines relevant thereto;

N/A

- (C)** Identification of persons, organizations, corporations or governmental entities most directly affected by this rule, and whether those persons, organizations, corporations or governmental entities urge adoption or rejection of this rule;

This rule primarily impacts registered "political campaign committees" as defined by law. However, the repeal of this rule is intended to remove a rule that is no longer supported by law. The Registry received a Petition to repeal this rule from one such committee and has granted the petition. The Registry is unaware of any opposition to this proposed repeal.

- (D)** Identification of any opinions of the attorney general and reporter or any judicial ruling that directly relates to the rule or the necessity to promulgate the rule;

N/A

- (E)** An estimate of the probable increase or decrease in state and local government revenues and expenditures, if any, resulting from the promulgation of this rule, and assumptions and reasoning upon which the estimate is based. An agency shall not state that the fiscal impact is minimal if the fiscal impact is more than two percent (2%) of the agency's annual budget or five hundred thousand dollars (\$500,000), whichever is less;

N/A

- (F)** Identification of the appropriate agency representative or representatives, possessing substantial knowledge and understanding of the rule;

Lauren Topping, General Counsel

- (G)** Identification of the appropriate agency representative or representatives who will explain the rule at a scheduled meeting of the committees;

William E. Young, Executive Director
Lauren Topping, General Counsel

- (H)** Office address, telephone number, and email address of the agency representative or representatives who will explain the rule at a scheduled meeting of the committees; and

Bureau of Ethics and Campaign Finance, WRS Tennessee Tower, 26th Floor, 312 Rosa L. Parks Avenue, Nashville, TN 37243; 615-741-7959; william.young@tn.gov; lauren.topping@tn.gov

- (I)** Any additional information relevant to the rule proposed for continuation that the committee requests.

N/A

**RULES
OF THE
TENNESSEE REGISTRY OF ELECTION FINANCE**

**CHAPTER 0530-01-01
CAMPAIGN FINANCIAL DISCLOSURE RULES**

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Deleted: PAC Annual Fee

0530-01-01-.01 DEFINITIONS.

- (1) Campaign Account - is a separate bank account which must be maintained by a candidate or political campaign committee into which all campaign contributions shall be deposited and from which all campaign monies shall be expended.
- (2) Candidate - shall include an individual who is actively waging a write-in campaign or who has authorized others to wage a write-in campaign on his/her behalf.
- (3) Goods or Services Received on Credit - are those that are obtained for a campaign from a person or business where credit is extended in the ordinary course of the business and the terms are substantially similar to the extension of credit to nonpolitical debtors. "Goods or services received on credit" do not include in-kind contributions.
- (4) Investment Accounts - are accounts such as savings, mutual funds and certificates of deposits (CDs) into which campaign funds may be held for investment purposes.
- (5) Political Campaign Committee - includes a multicandidate political campaign committee, single-candidate political campaign committee and single-measure political campaign committee, unless reference is made to a specific type of political campaign committee.
- (6) Single-Measure Political Campaign Committee is a committee which is receiving or expending funds to support or oppose a proposal(s) submitted to the people of the entire state or any political subdivision for approval or rejection at an election. For purposes of these rules, an organization or committee that is receiving or expending funds to support or defeat an issue that is being considered by the General Assembly or by a city or county legislative body that is not yet a proposal submitted to the people for approval or rejection at an election is not a single measure political campaign committee.

Authority: T.C.A. §§ 2-10-102(2), 2-10-102(7), 2-10-106, 2-10-107(b), 2-10-206(5), and 2-10-207(1).

Administrative History: Original rule filed March 12, 1993; effective April 26, 1993.

0530-01-01-.02 BOOKKEEPING PROCEDURES.

- (1) A candidate or political campaign committee shall not commingle personal funds or any other monies with campaign account funds.

Deleted: March, 2008

(Rule 0530-01-01-.02, continued)

- (2) A campaign contribution shall be deposited into a candidate's or political campaign committee's campaign account within ten (10) business days of the candidate's or committee receipt of the contribution.
- (3) All campaign funds deposited into an investment account must come from the campaign account. All funds withdrawn from an investment account must be deposited back into the campaign account.
- (4) All expenditures from campaign monies shall be made from a candidate's or political campaign committee's campaign account.
- (5) A candidate or political campaign committee shall maintain the following financial records:
 - (a) A list with name, amount and date of receipt of all campaign contributions received. The list shall be able to distinguish between contributors with like names.
 - (b) Copies of checks, bank statements and vendor receipts.
- (6) When feasible, copies of all campaign contribution checks received should be maintained by a candidate or political campaign committee.
- (7) A candidate or political campaign committee shall maintain all accounting records and required documentation listed in paragraphs 5 and 6 for at least two (2) years after the date of the election to which the records refer or the date of the statement, whichever is later. However, if investigative procedures or a contested case hearing have been initiated against a candidate or political campaign committee, accounting records relating to a campaign account and/or a campaign financial disclosure report must be maintained by the candidate or committee until the investigation or contested case hearing has been completed and the Registry gives approval for the records to be destroyed.
- (8) A candidate or political campaign committee shall have bank account reconciliations performed for a campaign account to ensure that the bank account balances with the financial disclosure reports filed by the candidate or committee.
- (9) "Best Efforts" to obtain the occupation, employer and complete address for contributors includes the following:
 - (a) Notifying the contributor, by first class mail, that additional information concerning the contributor is required under state law.
 - (b) Including on a written solicitation for contributions a clear request for the contributor's name, address, occupation and employer and by accurately stating that the information is required under state law for contributions of more than one hundred dollars (\$100).
 - (c) Notifying the contributor orally, documented in writing, that additional information concerning the contributor is required under state law. The written documentation should include the name of the person spoken to, the date of the conversation, the information provided and the telephone number, if applicable.
- (10) If the occupation for any contributor is listed as "retired", "student", "housewife", or "househusband" then the candidate is not required to obtain an employer.

Deleted: March, 2008

(Rule 0530-01-01-.02, continued)

Authority: T.C.A. §§ 2-10-105(f), 2-10-206(5), 2-10-107(a)(2)(A)(ii), and 2-10-207(1). **Administrative History:** Original rule filed March 12, 1993; effective April 26, 1993. Amended by Public Chapter 467; effective May 31, 1993. Amendments filed November 17, 2007; effective March 28, 2008.

0530-01-01-.03 CAMPAIGN CONTRIBUTIONS.

- (1) A campaign contribution is deemed to have been made by a multicandidate political campaign committee and reportable in the period in which the check or other written instrument is written to a candidate or political campaign committee. A cash campaign contribution is considered to have been made and to be reportable by a multicandidate political campaign committee in the period in which the money is delivered to a candidate or political campaign committee.
- (2) A campaign contribution is considered made to and reportable by a candidate or political committee when the contribution is delivered to a candidate or political campaign committee, or any agent thereof.
- (3) Personal funds of a candidate or any personal loan used by a candidate for routine living expenses that he or she would have incurred without candidacy, including the costs of food and residence, are not campaign contributions.
- (4) A campaign contribution that is made by a PAC by check or other similar written instrument must be provided to a candidate or candidate's political campaign committee within thirty (30) days of the date that the check or other written instrument is written.
- (5) A political campaign committee making an in-kind campaign contribution must notify a candidate or political campaign committee receiving the contribution of the amount and purpose of the contribution, in writing, within five (5) business days after the in-kind contribution is made or performed.
- (6) An in-kind contribution is the provision of any goods or services to a candidate or political campaign committee without charge or at a charge which is less than the fair market value for such goods or services.
- (7) Where goods or services are provided to a candidate or political campaign committee at a charge which is less than the fair market value for such goods or services, the candidate or committee must report as an in-kind contribution the difference between the amount paid for the goods or services and the fair market value of such goods or services.
- (8) Examples of in-kind contributions that are considered goods include, but are not limited to:
 - (a) campaign materials, such as campaign literature, brochures, bumper stickers, campaign advertisements;
 - (b) postage;
 - (c) equipment and other similar supplies;
 - (d) Reserved;
 - (e) polling or survey data.
- (9) Examples of in-kind contributions that are considered services include, but are not limited to:

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(Rule 0530-01-01-.03, continued)

- (a) providing of paid personnel for telephone banks and distribution of campaign materials;
 - (b) consulting services.
- (10) If a multi-candidate political campaign committee making an in-kind contribution to a candidate or political campaign committee is in a dispute with a vendor over the amount of an expense, the committee shall make a reasonable determination of the value of the in-kind contribution. The method to determine that amount shall be documented by the committee, and this documentation shall be submitted with the financial disclosure report on which the in-kind contribution is reported. Procedures set forth in the rules then should be followed for notifying the candidate or political campaign committee receiving the in-kind contribution.

Authority: T.C.A. §§ 2-10-102(3), 2-10-105(i), 2-10-107(a), 2-10-107(c), 2-10-107(d), 2-10-206(5), and 2-10-207(1). **Administrative History:** Original rule filed March 12, 1993; effective April 26, 1993. Amended by Public Chapter 467; effective May 31, 1993.

0530-01-01-.04 EXPENDITURES FROM CAMPAIGN CONTRIBUTIONS.

- (1) An expenditure made by check or other written instrument is deemed to have been made and is reportable during the reporting period in which the check or other written instrument is written. A cash expenditure shall be deemed to be made and is reportable during the reporting period in which the money is delivered to the payee.
- (2) Any disbursement out of campaign funds by a candidate or political campaign committee shall be reported as an expenditure by the candidate or political campaign committee on a campaign financial disclosure statement for the proper reporting period.
- (3) When providing the purpose of an expenditure or category of expenditures as required by T.C.A. § 2-10-107(a)(2)(B), a candidate or political committee shall provide a brief description of why the disbursement(s) was made. The description must clearly show that the expenditure was an allowable expense under campaign financial disclosure statutes. Examples of descriptions which shall be considered sufficient include the following: advertising, printing, phone banks and postage. However, descriptions such as miscellaneous, campaign expenditure, other expenses, advance reimbursement or credit card payment shall not be deemed sufficient.
- (4) A candidate who is an officeholder and who has an unexpended balance of campaign contributions may expend those monies for expenses which are incidental to the candidate's holding public office. If a candidate/officeholder incurs expenses which would exist regardless of being an officeholder, those expenses are not considered to be incidental to holding office and are not ordinary and necessary expenses incurred in connection with the office of the officeholder for purposes of T.C.A. §§ 2-10-114(a)(7).
- (5) Whether an expenditure of campaign funds by a candidate is made for a political purpose depends upon all the facts and circumstances surrounding the expenditure. An activity engaged in between elections by a candidate which is directly related to and supports the selection, nomination or elections of that individual to public office is considered political activity. An expense which would be incurred by an individual regardless of that person's candidacy for public office is considered an expenditure for a nonpolitical purpose under T.C.A. §§ 2-10-114(b) and may not be made from the individual's campaign funds, except as set forth in T.C.A. §§ 2-10-114(a).

Deleted: March, 2008

(Rule 0530-01-01-.04, continued)

Authority: T.C.A. §§ 2-10-105(a), 2-10-105(i), 2-10-107(a), 2-10-107(a)(2)(B), 2-10-206(5)(a), 2-10-207(1), 2-10-114, 2-10-115, and 2-10-207(1). **Administrative History:** Original rule filed March 12, 1993; effective April 26, 1993. **Amendment:** filed December 30, 1993; effective April 30, 1994. Amendments filed November 17, 2007; effective March 28, 2008.

0530-01-01-.05 FILING OF CAMPAIGN FINANCIAL DISCLOSURE REPORTS.

- (1) A report filed using the Registry's Internet filing system shall be considered timely filed if the report is filed before midnight on the due date of the report.
- (2) When, because of the closeness in time between two (2) elections, a post-election campaign financial disclosure report would be filed by a candidate or political campaign committee after the subsequent election in which the candidate or political campaign committee is also involved, no post-election campaign financial disclosure report for the first election is required to be filed by the candidate or committee.
- (3) No campaign financial disclosure statement required to be filed by the Campaign Financial Disclosure Law may be filed before the day following the ending date of the reporting period, by a candidate or political campaign committee such that there is a failure by the candidate or the political campaign committee to disclose the required campaign financial information for the full reporting period as required by law.
- (4) A document delivered to the Registry office after normal business hours shall be considered filed at the beginning of the next business day. Normal business hours shall be considered Monday through Friday (except holidays), 8:00 a.m. through 4:30 p.m.
- (5) When the filing deadline for any campaign financial disclosure statement falls on a weekend or a holiday, resulting in the closing of the Registry Office, the disclosure statement is to be filed with the Registry by the candidate or political campaign committee on the next business day.

Authority: T.C.A. §§ 2-1-115, 2-10-104, 2-10-105, 2-10-105(a), 2-10-105(c), 2-10-105(d), 2-10-105(e), 2-10-206(5), and 2-10-207(1). **Administrative History:** Original rule filed March 12, 1993; effective April 26, 1993. Amendment filed November 17, 2007; effective March 28, 2008.

0530-01-01-.06 CAMPAIGN LOANS.

- (1) A campaign loan must be disclosed by a candidate or political campaign committee during the reporting period that the loan is made. A loan is deemed to have been made when the candidate or political campaign committee obtaining the loan receives the monies from the loan.
- (2) A campaign loan must continue to be disclosed by a candidate or political campaign committee on campaign financial disclosure reports until the loan is paid back in full, or a statement has been filed with the appropriate campaign financial disclosure statement by the candidate or committee stating that the loan will not be repaid and shall be considered a contribution to the campaign.

Authority: T.C.A. §§ 2-10-106, 2-10-107(b), and 2-10-207(1). **Administrative History:** Original rule filed March 12, 1993; effective April 26, 1993.

0530-01-01-.07 **REPEALED.**

Deleted: PAC ANNUAL FEE

Deleted: (1) No later than January 31 of each year, each registered multicandidate political campaign committee (PAC) shall pay an annual registration fee of \$100.¶

Deleted: (2) Multicandidate political campaign committees registered by any statewide political party or a subsidiary are exempt from the annual registration fee.¶

¶
(3) Any political campaign committee that registers as a new PAC during any year shall pay the registration fee at the time of registration. ¶

Deleted: March, 2008

(Rule 0530-01-01-.07, continued)

Administrative History: *Original rule filed March 12, 1993; effective April 26, 1993. Repeal and new rule filed November 17, 2007; effective March 28, 2008. Repeal filed November 2023, pursuant to Public Chapter 108, § 12, effective April 4, 2023.*

Deleted: *Authority: T.C.A. §§ 2-10-121 and 2-10-207(1). ...*

0530-01-01-.08 SINGLE MEASURE COMMITTEES.

- (1) Before a single measure political campaign committee may receive any contributions or make any expenditures to support or defeat a measure on a ballot, it must certify the name and address of its political treasurer.
- (2) If the post referendum campaign financial disclosure statement filed by a single measure political campaign committee shows an unexpended balance of contributions, continuing debts and obligations, or an expenditure deficit, the single measure committee shall file an annual supplemental disclosure statement each year from the date of the post-referendum report until the campaign account shows no unexpended balance, continuing debts and obligations, or deficit.

Authority: *T.C.A. §§ 2-10-105(e), 2-10-107(b), and 2-10-207(1). **Administrative History:** Original rule filed March 12, 1993; effective April 26, 1993.*

0530-01-01-.09 COUNTY EXECUTIVE COMMITTEES.

- (1) A political party's county executive committee acting as a political campaign committee and filing campaign financial disclosure reports does not have to disclose the receipts and expenditures used by it to perform its functions required by the state election laws, where its annual receipts and expenditures are less than \$10,000 and where those receipts and expenditures are separated from and maintained in a fund separate and apart from any funds used by its as a political campaign committee. If the funds are commingled, the county executive committee must report its receipts and expenditures of all funds on its campaign financial disclosure reports.
- (2) A political party's county executive committee whose annual receipts and expenditures are \$10,000 or more must disclose its receipts and expenditures of all funds on its campaign financial disclosure reports.

Authority: *T.C.A. §§ 2-10-102(3)(F) and 2-10-207(1). **Administrative History:** Original rule filed March 12, 1993; effective April 26, 1993.*

0530-01-01-.10 GOODS OR SERVICES RECEIVED ON CREDIT.

- (1) Goods and services received on credit which are not paid for during the reporting period for which a disclosure statement is filed must be disclosed by a candidate or political campaign committee as follows:
 - (a) Goods and services received on credit totaling \$100 or less from each person shall be totaled and reported as a lump sum amount on a campaign financial disclosure report.
 - (b) Goods and services received on credit totaling more than \$100 from a source shall be itemized. The full name and complete address of each person who provided such goods and services on credit shall be disclosed, along with the total amount of goods and services provided by that person and a description of the goods and services.

Authority: *T.C.A. §§ 2-10-102(3), 2-10-106, 2-10-107, 2-10-206(5), and 2-10-207(1). **Administrative History:** Original rule filed March 12, 1993; effective April 26, 1993.*

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(Rule 0530-01-01-.10, continued)

0530-01-01-.11 INFORMAL SHOW CAUSE HEARINGS.

- (1) When Registry staff presents documentation to the Registry indicating that a candidate or political campaign committee has possibly violated the Campaign Financial Disclosure Law and before the Registry takes action to assess civil penalties for a violation, the Registry shall send a written notification to the candidate or committee of the allegations and the class and maximum amount of civil penalties which would be assessed for such a violation. Additionally, this notification shall inform the candidate or committee of the date, place and time of the Registry's next regularly scheduled meeting and provide the candidate or committee the opportunity to choose one (1) of the following options:
 - (a) The candidate, designee of a candidate, or committee shall be provided an opportunity to personally appear before the Registry at its next regularly scheduled meeting to show why civil penalties should not be assessed; or
 - (b) The candidate, designee of a candidate, or committee must be provided an opportunity to submit a sworn statement to the Registry which has been sworn to before a notary public, along with any pertinent attachments, to show why civil penalties should not be assessed.
- (2) The opportunity provided to a candidate, the designee of a candidate, or committee to personally appear before the Registry or to submit a sworn statement for the Registry's consideration as to whether to assess civil penalties against the candidate or committee is not in lieu of any contested case hearing rights that the candidate or committee may have pursuant to Tennessee Administrative Procedures Act, T.C.A. § 4-5-301, et seq.
- (3) In order for a candidate, the designee of a candidate, or committee to take advantage of the opportunity to personally appear before the Registry at its regularly scheduled meeting, the candidate or committee must request such an appearance in writing. A candidate or committee has the right to appear with legal counsel at the Registry meeting.
- (4) In order for a candidate, the designee of a candidate, or committee to take advantage of the opportunity to submit a sworn statement, along with any pertinent attachments for the Registry's determination as to whether to assess civil penalties, the statement and any attachments must be received in the Registry's office no later than eight (8) days before the day of the Registry's meeting in order to have the information considered by the Registry at that meeting. A sworn statement received less than eight (8) days before the Registry's meeting will have the matter continued until the Registry's next meeting.

Authority: T.C.A. §§ 2-10-110 and 2-1-207(1). **Administrative History:** Original rule filed March 12, 1993; effective April 26, 1993. Amended by Public Chapter 467; effective May 31, 1993. Amendment filed November 17, 2007; effective March 28, 2008.

0530-01-01-.12 ISSUANCE AND APPEAL OF CIVIL PENALTY ASSESSMENT ORDERS.

- (1) A civil penalty order issued by the Registry assessing penalties against a candidate or political campaign committee cannot be issued unless a majority of the Registry members present have voted that such an order be issued. Once a majority of the Registry members have voted that such an order should be issued, the chairperson or executive director shall have the authority to issue the order on behalf of the Registry.
- (2) (a) A civil penalty order assessing civil penalties shall be mailed by registered or certified mail to the candidate or political campaign committee to whom the order is issued, and the party to whom it is issued shall be provided thirty

Deleted: March, 2008

(Rule 0530-01-01-.12, continued)

(30) days from the date of the issuance of the order to either appeal the Registry's order pursuant to the procedures provided for under

Tennessee's Administrative Procedures Act, T.C.A. § 4-5-301, et seq., or to pay the assessed penalties to the Registry.

- (b) If the civil penalty assessment order is returned to the Registry from the United States Postal Service as unclaimed, then the order shall be reissued and mailed by the Registry by overnight mail delivery to the candidate or political campaign committee. The candidate or committee shall then have thirty (30) days from the date of the reissuance of the order to either appeal the Registry's order pursuant to procedures provided under the Uniform Administrative Procedures Act, compiled in T.C.A., Title 4, Chapter 5, Part 3, or to pay the assessed penalties to the Registry.
- (3) In order for a candidate or a political campaign committee to appeal an order issued by the Registry assessing civil penalties, the candidate or political campaign committee shall file a petition with the Registry. This petition shall be considered a request for a contested case hearing pursuant to the Uniform Administrative Procedures Act, T.C.A. § 4-5-301, et seq.
- (4) If the Registry's order assessing civil penalties is not appealed within thirty (30) days of its issuance by the candidate or political campaign committee to whom it was issued, the order becomes a final order.
- (5) If a candidate or political campaign committee fails to either appeal a civil penalty order issued to it by the Registry or to pay the Registry the assessed penalties and the Registry's order becomes final without the party taking any such action, upon the order becoming final, the Registry shall forward the matter to the State Attorney General and Reporter's office. The Registry shall request that the Attorney General take legal action on its behalf to collect the civil penalties from the candidate or committee against whom the action has been taken.

Authority: T.C.A. §§ 2-10-110 and 2-10-207(1). **Administrative History:** Original rule filed March 12, 1993; effective April 26, 1993.

0530-01-01-.13 RECONSIDERATION OF THE ISSUANCE OF CIVIL PENALTY ASSESSMENT ORDERS.

- (1) If a candidate or political campaign committee against whom a civil penalty assessment order has been issued by the Registry wishes to request that the Registry reconsider the matter, the candidate or committee must follow these procedures to have the Registry consider the request:
 - (a) The candidate or committee must file a written request with the Registry asking that the assessment of civil penalties against the candidate or committee be reconsidered by the Registry. The written request for reconsideration must be filed with the Registry within fourteen (14) days of the date of the issuance of the Registry's order assessing civil penalties.
 - (b) For a written request for reconsideration to be considered by the Registry, the candidate or committee must include additional information concerning the matter that was not available for the Registry's consideration at its meeting at which the civil penalty order was issued by the Registry. If no additional information is included in the request for reconsideration, the Registry may choose not to reconsider the matter.

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- (c) If the candidate or political campaign committee files a written request for reconsideration of an assessment of civil penalties with the Registry and asks to make a personal appearance before the Registry at a regularly scheduled meeting and, without good cause, fails to appear at that meeting without having notified the Registry prior to the meeting, the Registry will deny the request for reconsideration.
- (d) While a request for reconsideration of a civil penalty order by a candidate or political campaign committee is pending before the Registry, the Registry's order assessing penalties does not become final until a determination is made by the Registry as to the request for reconsideration. Upon a vote of a majority of the Registry members to deny a candidate's or political campaign committee's request for reconsideration of any civil penalty assessment order, the Registry shall issue an order denying the request and providing the candidate or committee ten (10) days after the date of the issuance of the order to appeal the original assessment order under the *Tennessee Administrative Procedures Act* before the order becomes a final order.

Authority: T.C.A. §§ 2-10-110 and 2-10-207(1). **Administrative History:** Original rule filed March 12, 1993; effective April 26, 1993. Amended by Public Chapter 467; effective May 31, 1993.

0530-01-01-.14 ISSUANCE OF ADVISORY OPINIONS BY THE REGISTRY.

- (1) A candidate may submit to the Registry a written request for an advisory opinion as to the application of the Campaign Financial Disclosure Law. In submitting such a request, the candidate shall include a complete description of all facts relevant to the specific transaction or activity which is the subject of the opinion request.
- (2) After reviewing a candidate's request for an advisory opinion and if the Registry staff determines that more information from the candidate is necessary in order for the Registry to properly respond to the request, the staff shall notify the candidate of the additional information which should be submitted to the Registry.
- (3) If the Registry staff determines that an advisory opinion request contains a complete description of the proposed transaction or activity, the staff shall notify the candidate making the request that it was received by the Registry and that the matter shall be presented by the staff to the board at its next scheduled meeting for an advisory opinion to be issued.
- (4) After reviewing a candidate's advisory opinion request and upon determining that the request presents essentially the same fact situation or proposed activity which was the subject of an advisory opinion previously issued by the Registry, the staff may recommend to the board at its next regularly scheduled meeting that a copy of that earlier opinion be sent to the candidate, in lieu of issuing a new opinion. If a majority of the members of the Registry present and voting at the meeting vote to adopt the staff's recommendation, a copy of the previous opinion shall be mailed to the candidate with a memorandum explaining that the analysis and conclusion(s) contained in that previous opinion are applicable to the activity being proposed by the candidate. However, if a majority of the members present and voting at the meeting determine that a new advisory opinion should be issued addressing the candidate's opinion request, the procedures outlined in paragraph 5 through 8 of this rule shall be followed in issuing the opinion, where applicable.
- (5) The Registry staff shall review the question presented in the candidate's request and research the applicable provisions of the Campaign Disclosure Law. A draft of an

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advisory opinion shall be presented to the members of the Registry at the board's next meeting, with a recommendation from the staff. After reviewing the draft, the members of the Registry present at the meeting shall then vote as to whether to issue the opinion as drafted.

- (6) If a majority of the members of the Registry present and voting at a meeting vote to issue an advisory opinion as drafted by the staff, the advisory opinion shall be issued under the signature of the chairperson. The opinion shall be provided to the candidate who requested it. Additionally, the Executive Director shall forward copies of the opinion to the office of Legislative Legal Services and to all local county election commission offices for dissemination. A copy of the opinion shall be retained on file at the Registry office for public inspection and copying.
- (7) If a majority of the members of the Registry present and voting at a meeting vote not to adopt an opinion as drafted, any board recommended changes shall be made in the opinion by the staff. If the changes voted by the board are minor changes, the staff shall be directed to make those specific changes, and the opinion shall be issued under the signature of the chairperson without further review by the board. The procedures for disseminating the advisory opinion as set forth in paragraph (6) shall then be followed.
- (8) If a majority of the Registry members present and voting at a meeting vote changes to be made to a draft advisory opinion which require the staff to rewrite the opinion with a different result, the Executive Director shall resent another draft of the opinion to the board members at the next scheduled meeting of the Registry.

Authority: T.C.A. §§ 2-10-207(1) and 2-10-207(3). **Administrative History:** Original rule filed December 30, 1993; effective April 30, 1994.

0530-01-01-.15 LOCAL ELECTION REPORTING.

- (1) Each county election commission shall notify the Registry of each local election held in their county at the same time that public notice is posted.
- (2) On a form prescribed by the Registry, the notice of election from the county election commission shall provide the Registry with the following information for each local election to be held: county, city (if applicable), qualifying deadline, date of election and offices on the ballot. The form shall be signed by an official from the county election commission.
- (3) For each campaign financial disclosure report required to be filed by a local candidate, the county election commission shall, on a form prescribed by the Registry, certify that all candidates have filed the report timely or provide a list of candidates that have failed to timely file the report. The form shall be signed by an official from the county election commission.
- (4) For each candidate listed by the county election commission as failing to timely file a report, the county election commission shall provide the Registry with a copy of the original notification letter, certified notification letter, acknowledgement card from the certified letter and report (if applicable).

Authority: T.C.A. §§ 2-10-111 and 2-10-207(1). **Administrative History:** Original rule filed November 17, 2007; effective March 28, 2008.

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