



TEXAS ETHICS COMMISSION



ETHICS ADVISORY OPINION NO. 612

September 24, 2024

ISSUE

Whether a judicial candidate needs to include on political advertising a disclosure regarding the candidate's acceptance or rejection of voluntary expenditure limits considering the voluntary expenditure limits have been repealed. (AOR-714)

SUMMARY

No. The law requiring a judicial candidate to disclose they have accepted or rejected the voluntary expenditure limits is no longer applicable because the expenditure limits have been repealed.

FACTS

The requestor is a judicial candidate who seeks clarity regarding the required disclosure statement on political advertising.

ANALYSIS

In 2019, the Legislature overhauled the Judicial Campaign Fairness Act, including the repeal of voluntary expenditures limits applicable to judicial candidates. Acts 2019, 86th Leg., R.S., Ch. 384 (H.B. [3233](#)), Sec. 1, eff. June 2, 2019.

Prior to the 2019 amendments, a judicial candidate was required to file a declaration whether the candidate intended to comply with voluntary expenditure limits. Rejecting the limits came with consequences. One consequence was a candidate had to include on political advertising that the candidate rejected the voluntary limits prescribed by the Judicial Campaign Fairness Act. Conversely, a candidate that declared his or her intent to comply with the limits could state that fact on political advertising.

Despite repealing expenditure limits, the Legislature did not repeal the law addressing these disclosure requirements. Tex. Elec. Code § 255.008.

The law currently states that a candidate “who files a declaration of intent to comply with the limits” may include a statement on political advertising that the advertising was paid for “in compliance with the voluntary limits of the Judicial Campaign Finance Act.” *Id.* at § 255.008(b). A candidate “who files a declaration of intent to exceed the limits” *must* include a statement on their political advertising that indicates the candidate has rejected the voluntary limits. *Id.* at 255.008(d).

The requestor asks how he can comply with the law regarding his adherence or rejection to limits that no longer exist in statute.

Section 255.008's disclosure requirements are inoperative because the declaration that would trigger the disclosure is no longer required to be filed. Under the plain text of the existing statute, if a judicial candidate does not file a declaration to comply or reject the voluntary expenditure limits, the disclosure requirements regarding that declaration are not required. The requirement to file a declaration regarding expenditure limits was repealed with the limits in 2019 with House Bill 3233. Acts 2019, 86th Leg., R.S., Ch. 384 (H.B. [3233](#)), Sec. 1, eff. June 2, 2019. Without a declaration, the political advertising disclosures regarding the declaration are not triggered. Therefore, a judicial candidate is not required to include either statement found in Section 255.008(b) or 255.008(d).

A judicial candidate is however required to include the disclosure statement applicable to all political advertising by a candidate found in Section 255.001 of the Election Code.