

TEXAS ETHICS COMMISSION
P.O. Box 12070, Austin, Texas 78711-2070
(512) 463-5800

Chris Flood, Chair
Patrick W. Mizell, Vice Chair
Randall H. Erben
Sean Gorman

Geanie W. Morrison
Richard S. Schmidt
Joseph O. Slovacek
Mark Strama

MEETING AGENDA

Date and Time:	9:00 a.m., Wednesday, February 11, 2026
Location:	Room E1.014, Capitol Extension, Austin, Texas

**INFORMATION ON HOW TO VIEW AND/OR PARTICIPATE IN THE ONLINE
BROADCAST OF THIS MEETING WILL BE POSTED ON OUR WEBSITE ON THE
DAY OF THE MEETING HERE:**

https://www.ethics.state.tx.us/meetings/meetings_2025-2029.php#2029

1. Call to order; roll call.

Executive session pursuant to Section 551.071, Government Code, Consultation with Attorneys; Section 551.074, Government Code, Personnel Matters; Sections 571.139, .140, Government Code, confidential sworn complaint matters, Closed Meeting.

DISCUSSION OF PENDING LITIGATION AND TO SEEK LEGAL ADVICE

2. Cause No. D-1-GN-17-001878: *Texas Ethics Commission v. Michael Quinn Sullivan*, in the 250th Judicial District Court, Travis County, Texas; Cause No. 03-17-00392-CV: *Michael Quinn Sullivan v. Texas Ethics Commission*, in the Third Court of Appeals at Austin, Texas; Cause No. 03-21-00033, *Michael Quinn Sullivan v. Texas Ethics Commission*, in the Third Court of Appeals at Austin, Texas; and Cause No. 18-0580: *Michael Quinn Sullivan v. Texas Ethics Commission*, in the Supreme Court of Texas. Cause No. D-1-GN-21-003269: *Michael Quinn Sullivan v. Texas Ethics Commission*, in the 459th Judicial District Court, Travis County, Texas; and related case, Cause No. 03-22-00133-CV: *Michael Quinn Sullivan v. Texas Ethics Commission*, in the Third Court of Appeals, Austin, Texas.
3. Cause No. 25-0679, *Christopher D. Paddie, Sr. v. Texas Ethics Commission, et al.*, in the 71st Judicial District Court, Harrison County, Texas.
4. Case No. 4:23-cv-00808-P, *Institute for Free Speech, a nonprofit corporation and public interest law firm, vs. James Tinley in his official capacity as Executive Director of the Texas Ethics Commission, et al.*, in the U.S. District Court for the Western District of Texas, Austin Division.

For more information, contact James Tinley, Executive Director, at (512) 463-5800.

5. Cause No. PD-0310-23, *Ex Parte John Morgan Stafford*, in the Texas Court of Criminal Appeals.
6. Cause No. 2023-DCL-01478, *Valleywide Pharmacy and DMI, Inc., vs. Texas Ethics Commission, by and through its Executive Director, J.R. Johnson, in his official capacity*, in the 445th Judicial District Court, Cameron County, Texas.
7. Civil Action 1:24-CV-500, *LIA Network v. James Tinley in his official capacity as Executive Director of the Texas Ethics Commission, et al.*, in the United States District Court for the Western District of Texas, Austin Division.
8. Cause No. 2024-DCL-03953, *Ruben Cortez, Jr. v. Texas Ethics Commission*, in the 404th Judicial District Court, Cameron County, Texas.
9. Discussion of contemplated litigation and to seek legal advice regarding the collection of imposed penalties.

OTHER MATTERS

10. Discussion to seek legal advice regarding entering into outside counsel contracts on behalf of the Texas Ethics Commission and its officers.
11. Discussion and possible action related to personnel matters.
12. Confidential sworn complaint matters under Section 571.139 of the Government Code.
13. Reconvene in open session.
14. Recess or continue to “Agenda 2” noticed for the same time and place as this agenda.

CERTIFICATION: I certify that I have reviewed this document and that it conforms to all applicable Texas Register filing requirements. Certifying Official & Agency Liaison: James Tinley, Executive Director.

NOTICE: Under the Americans with Disabilities Act, an individual with a disability must have an equal opportunity for effective communication and participation in public meetings. Upon request, the Texas Ethics Commission will provide auxiliary aids and services, such as interpreters for the deaf and hearing impaired, readers, and large print or Braille documents. In determining the type of auxiliary aid or service, the Commission will give primary consideration to the individual's request. Those requesting auxiliary aids or services should notify Margie Castellanos at (512) 463-5800 or RELAY Texas at (800) 735-2989 two days before this meeting so that appropriate arrangements can be made. Please also contact Ms. Castellanos if you need assistance in having English translated into Spanish.

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1. Call to order; roll call.
2. Discussion and possible action related to outside counsel contracts for certain lawsuits filed against either the Texas Ethics Commission and/or commissioners.
3. Discussion regarding dates for the next quarterly Commission meeting.
4. Approve minutes for the following meetings:
 - o Executive Session – December 10, 2025; and
 - o Public Agenda – December 10, 2025.

RULEMAKING

Rule Adoption

5. Discussion and possible action on the adoption or proposal and publication in the Texas Register regarding re-adoption of Chapter 20 of the TEC rules, related to reporting political contributions and expenditures, including an amendment to § 18.10 (Guidelines for Substantial Compliance for a Corrected/Amended 8-day Pre-election Report) which is affected by this re-adoption.
 6. Discussion and possible action on the adoption or proposal and publication in the Texas Register regarding re-adoption of Chapter 34 of the TEC rules, related to regulation of lobbyists.
 7. Discussion and possible action regarding the implementation of SB 293 (89R) related to
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the methodology by which the TEC may make equitable adjustments to the dollar amount on which the standard service retirement annuity is computed for the elected class of pension recipients. Possible action includes the adoption or proposal and publication in the Texas Register of 1 Tex. Admin Code § 50.3 regarding the equitable adjustments of pensions.

Rule Publication

8. Discussion and possible action on the proposal and publication in the Texas Register regarding re-adoption of Chapter 16 of the TEC rules, related to facial compliance.
9. Discussion and possible action on the proposal and publication in the Texas Register regarding re-adoption of Chapter 26 of the TEC rules, related to political and legislative advertising.
10. Discussion and possible action on the proposal and publication in the Texas Register regarding re-adoption of Chapter 45 of the TEC rules, related to conflicts of interest.
11. Discussion and possible action on the proposal and publication in the Texas Register regarding re-adoption of Chapter 46 of the TEC rules, related to disclosure of interested parties.
12. Discussion and possible action on the proposal and publication in the Texas Register of new Chapter 7 of the TEC rules, related to contract procedures.
13. Discussion and possible action regarding TEC's comprehensive review of its rules.

ADVISORY OPINIONS

14. Advisory Opinion Request No. AOR-740: Whether asking questions of or requesting a formal written opinion from certain state officials, without suggesting an answer to the questions, would require registration under Chapter 305, Texas Government Code.

This opinion construes Chapter 305 of the Government Code and specifically construes Sections 305.003(a)(3) and 305.030 of the Government Code.

15. Advisory Opinion Request No. AOR-741: Whether a video recorded with students at a charter school is political advertising for the purposes of Sections 255.003 and 255.001 of the Election Code.

This opinion construes Section 255.003 and 255.001 of the Election Code.

16. Advisory Opinion Request No. AOR-742: Whether the revolving door prohibition in Section 572.069 of the Government Code would prohibit a

former employee of a state agency from accepting certain employment.

This opinion construes Section 572.069 of the Government Code.

17. Advisory Opinion Request No. AOR-744: Whether a tax rate election (“TRE”) flier prepared by a school district (the “district”) is political advertising for the purposes of Section 255.003 of the Election Code.

This opinion construes Section 255.003 of the Election Code.

18. Advisory Opinion Request No. AOR-745: Whether a video constitutes political advertising for the purposes of the Election Code’s prohibition against using public funds for political advertising.

This opinion construes Section 255.003 of the Election Code.

ADMINISTRATIVE WAIVER OF FINES

19. Discussion and possible action on appeals of determinations made under 1 Tex. Admin. Code §§ 18.11, 18.25 and 18.26 relating to administrative waiver or reduction of a civil penalty to an untimely filed report, for the following filers:

Staff Recommendation: Waiver

- A. Alexander, Troy R. (00010227)
- B. Garner, Britt J., Campaign Treasurer, Blue Action Democrats – Southwest Austin (dissolved) (00082469)
- C. Givens-Davis, Amber N. (00069505)
- D. Ivey III, Ben L. (00089429)

Staff Recommendation: Reduction

- E. Bickers, Leland, Campaign Treasurer, Save Austin Now PAC (00085302)
- F. Hunsucker, Michael R. (00053200)
- G. Martin-Lane, Andrea (00069228)
- H. Ticknor, Corey (00087238)

Staff Recommendation: No Further Reduction or Waiver

- I. Hotze, Dr. Steven, Campaign Treasurer, Woodfill of Texas PAC (00088405)

OTHER MATTERS

20. Briefing and discussion of actions taken or in-progress to implement move of Texas Ethics Commission from Sam Houston Building to Barbara Jordan Building.
21. Briefing and discussion of various Commission policies, including Alternative Dispute Resolution, Commission policy-making responsibility, contracts and negotiated rulemaking.
22. Adjourn.

CERTIFICATION: I certify that I have reviewed this document and that it conforms to all applicable Texas Register filing requirements. Certifying Official & Agency Liaison: James Tinley, Executive Director.

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The draft meeting minutes will be available
on our website the day before the meeting, at
<https://www.ethics.state.tx.us/DraftMinutes>.

If you would like a copy of the draft minutes, please
provide your email address below, and return this sheet to
Ethics Commission staff at the meeting.

Email address:

Text of Proposed Rules

The proposed new language is indicated by underlined text.

CHAPTER 20. REPORTING POLITICAL CONTRIBUTIONS AND EXPENDITURES

Subchapter A. GENERAL RULES

§20.1. Definitions.

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

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

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

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

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

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

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

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

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

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

(10) Political advertising:

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

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

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

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

9 (iv) appears on an Internet website.

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

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

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

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

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

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

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

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

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

36 (A) A group may have more than one principal purpose. When determining
37 whether a group has a principal purpose of accepting political contributions or
38 making political expenditures, the Commission may consider any available

1 evidence regarding the activities by the group and its members, including, but not
2 limited to:

3 (i) public statements,

4 (ii) fundraising appeals,

5 (iii) government filings,

6 (iv) organizational documents; and

7 (v) the amount of political expenditures made and political contributions
8 accepted by the group and its members.

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

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

14 (i) the amount of money paid in compensation and benefits to the group's
15 employees for work related to making political expenditures;

16 (ii) the amount of money spent on political expenditures; and

17 (iii) the amount of money attributable to the proportional share of
18 administrative expenses related to political expenditures. The proportional
19 share of administrative expenses is calculated by comparing the political
20 expenditures in clause (ii) of this subparagraph with non-political
21 expenditures. (For example, if the group sends three mailings a year and
22 each costs \$10,000, if the first two are issue-based newsletters and the third
23 is a direct advocacy sample ballot, and there were no other expenditures,
24 then the proportion of the administrative expenses attributable to political
25 expenditures would be 33%.) Administrative expenses include:

26 (I) fees for services to non-employees;

27 (II) advertising and promotion;

28 (III) office expenses;

29 (IV) information technology;

30 (V) occupancy;

31 (VI) travel expenses;

32 (VII) interest; and

33 (VIII) insurance.

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

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

8 (16) In connection with a campaign:

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

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

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

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

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

24 (I) refers to a clearly identified candidate;

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

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

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

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

37 (iv) a campaign contribution to:

38 (I) a candidate; or

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

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

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

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

11 (I) refers to a clearly identified measure;

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

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

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

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

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

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

29 (D) For purposes of this section:

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

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

36 (17) Discount--The provision of any goods or services without charge or at a charge
37 which is less than fair market value. A discount is an in-kind political contribution unless
38 the terms of the transaction reflect the usual and normal practice of the industry and are

1 typical of the terms that are offered to political and non-political persons alike, or unless
2 the discount is given solely to comply with §253.041 of the Election Code. The value of
3 an in-kind contribution in the form of a discount is the difference between the fair market
4 value of the goods or services at the time of the contribution and the amount charged.

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

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

11 (20) Hybrid committee--A political committee that, as provided by §252.003(a)(4) or
12 §252.0031(a)(2) of the Election Code, as applicable, has filed a campaign treasurer
13 appointment that includes an affidavit stating that:

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

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

18 (i) a candidate for elective office;

19 (ii) an officeholder; or

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

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

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

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

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

28 (i) a candidate;

29 (ii) an officeholder;

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

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

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

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

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

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

§20.7. Reports Filed with Other Local Filing Authority.

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

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

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

§20.13. Out-of-State Committees.

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

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

(1) When making the expenditure (other than an expenditure in connection with a campaign for a federal office or an expenditure for a federal officeholder), the committee must calculate its total political expenditures made during the 12 months immediately preceding the date of the expenditure. This total does not include the political expenditure triggering the calculation requirement.

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

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

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

7 **§20.14. Information About Out-of-State Committees.**

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

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

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

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

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

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

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

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

28 **§20.16. Notices by Electronic Mail.**

29 (a) A person required to file reports electronically with the Commission shall provide to the
30 Commission an electronic mail address to which notices regarding filing requirements under Title
31 15 of the Election Code may be sent.

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

35 **§20.21. Due Dates on Holidays and Weekends.**

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

§20.33. Termination of Campaign Treasurer Appointment by Commission.

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

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

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

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

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

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

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

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

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

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

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

Subchapter B. GENERAL REPORTING RULES

§20.50. Total Political Contributions Maintained.

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

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

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

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

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

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

(1) \$7,500; or

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

§20.51. Value of In-Kind Contribution.

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

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

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

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

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

(1) The name of the person or persons traveling on whose behalf the travel was accepted;

(2) The means of transportation;

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

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

(5) The dates on which the travel occurred;

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

§20.54. Reporting a Pledge of a Contribution.

(a) The date of a pledge of a contribution is the date the pledge was accepted, regardless of when the pledge is received.

1 (b) Except as provided by subsection (c) of this section, a pledge of a contribution shall be
2 reported on the appropriate pledge schedule for the reporting period in which the pledge was
3 accepted and shall be reported on the appropriate receipts schedule for the reporting period in
4 which the pledge is received.

5 (c) A pledge of a contribution that is received in the reporting period in which the pledge was
6 accepted, shall be reported on the contribution schedule or the loan schedule, as applicable, and
7 in accordance with subsection (a) of this section.

8 **§20.55. Time of Accepting Contribution.**

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

12 **§20.56. Expenditures to Vendors.**

13 (a) A political expenditure made by a vendor for a candidate, officeholder, political committee, or
14 other filer, with the intent to seek reimbursement from the filer, shall be reported by the filer in
15 accordance with this chapter as though the filer made the expenditure directly.

16 (b) A vendor of a candidate, officeholder, or specific-purpose committee may not, in providing
17 goods or services for the candidate, officeholder, or committee, make an expenditure that, if
18 made by the candidate, officeholder, or committee, would be prohibited by §§253.035, 253.038,
19 or 253.041, Election Code.

20 (c) A candidate, officeholder, or specific-purpose committee may not use political contributions
21 to pay or reimburse a vendor for an expenditure that, if made by the candidate, officeholder, or
22 committee, would be prohibited by §§253.035, 253.038, or 253.041, Election Code.

23 **§20.58. Disclosure of Political Expenditure.**

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

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

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

33 **§20.59. Reporting Expenditure by Credit Card.**

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

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

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

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

(1) the charge was made; or

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

§20.60. Reporting Political Expenditures for Processing Fees.

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

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

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

§20.61. Purpose of Expenditure.

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

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

(A) advertising expense;

(B) accounting/banking;

(C) consulting expense;

(D) contributions/donations made by candidate/officeholder/political committee;

(E) event expense;

(F) fees;

(G) food/beverage expense;

(H) gifts/awards/memorials expense;

(I) legal services;

1 (J) loan repayment/reimbursement;

2 (K) office overhead/rental expense;

3 (L) polling expense;

4 (M) printing expense;

5 (N) salaries/wages/contract labor;

6 (O) solicitation/fundraising expense;

7 (P) transportation equipment and related expense;

8 (Q) travel in district;

9 (R) travel out of district;

10 (S) other political expenditures; and

11 (2) A brief statement or description of the candidate, officeholder, or political committee
12 activity that is conducted by making the expenditure and an additional indication if the
13 expenditure is an officeholder expenditure for living in Austin, Texas. The brief statement
14 or description must include the item or service purchased and must be sufficiently
15 specific, when considered within the context of the description of the category, to make
16 the reason for the expenditure clear. Merely disclosing the category of goods, services, or
17 other thing of value for which the expenditure is made does not adequately describe the
18 purpose of an expenditure.

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

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

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

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

29 (2) The means of transportation;

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

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

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

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

3 **§20.62. Reporting Staff Reimbursement.**

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

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

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

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

19 (1) the aggregate amount of the expenditures made by the staff member as of the last day
20 of the reporting period is reported as a loan to the officeholder, candidate, or political
21 committee;

22 (2) the expenditure made by the staff member is reported as a political expenditure by the
23 officeholder, candidate, or political committee; and

24 (3) the reimbursement to the staff member to repay the loan is reported as a political
25 expenditure by the officeholder, candidate, or political committee.

26 **§20.63. Reporting the Use and Reimbursement of Personal Funds.**

27 (a) A candidate is required to report a campaign expenditure from his or her personal funds.

28 (b) An officeholder is not required to report an officeholder expenditure from his or her personal
29 funds unless he or she intends to be reimbursed from political contributions.

30 (c) A candidate or officeholder must report a political expenditure from his or her personal funds
31 using one of the following methods:

32 (1) As a political expenditure made from personal funds reported on the political
33 expenditure made from personal funds schedule;

34 (2) As a loan without depositing the personal funds in an account in which political
35 contributions are held. The amount reported as a loan may not exceed the total amount
36 spent in the reporting period. A political expenditure made from these funds must also be
37 reported as a political expenditure made from political funds, not as made from personal
38 funds; or

(3) If the candidate or officeholder deposits personal funds in an account in which political contributions are held, he or she must report that amount as a loan with an indication that personal funds were deposited in that account. A political expenditure made from an account in which political contributions are maintained must be reported as a political expenditure made from political funds, not as made from personal funds.

(d) A candidate or officeholder who makes political expenditures from his or her personal funds may reimburse those personal funds from political contributions only if:

(1) the expenditures were fully reported using one of the methods in subsection (c) of this section on the report covering the period during which the expenditures were made; and

(2) if the method in subsection (c)(1) of this section was used, the report disclosing the expenditures indicates that the expenditures are subject to reimbursement.

(e) A candidate's or officeholder's failure to comply with subsection (d) of this section may not be cured by filing a corrected report after the report deadline has passed.

(f) A candidate or officeholder who has complied with subsection (d) of this section and whose personal funds have been reimbursed from political contributions must report the amount of the reimbursement as a political expenditure in the report covering the period during which the reimbursement was made.

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

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

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

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

§20.65. Reporting No Activity.

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

(b) This general rule does not apply to:

(1) special pre-election reports;

(2) special session reports; or

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

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

7 **§20.66. Discounts.**

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

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

14 **§20.67. Reporting after the Death or Incapacity of a Filer.**

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

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

22 **Subchapter C. REPORTING REQUIREMENTS**

23 **§20.201. Definitions.**

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

26 **§20.203. Required Appointment of Campaign Treasurer.**

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

30 **§20.205. Modified Reporting.**

31 (a) To file under the modified schedule, a candidate must file the declaration required under
32 §254.182 of the Election Code no later than the 30th day before the first election to which the
33 declaration applies. A declaration is valid for one election cycle only.

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

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

(1) the full name of the business to which the expenditure was made;

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

(3) the date of the expenditure;

(4) the purpose of the expenditure; and

(5) the amount of the expenditure.

§20.209. Reporting Contributions.

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

(1) the full name of the person making the contribution;

(2) the address of the person making the contribution;

(3) the total amount of contributions;

(4) the date each contribution was accepted; and

(5) a description of any in-kind contribution.

§20.211. Reporting Pledges.

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

(1) the full name of the person making the pledge;

(2) the address of the person making the pledge;

(3) the amount of each pledge;

(4) the date each pledge was accepted; and

(5) a description of any goods or services pledged; and

(6) the total of all pledges accepted during the period for the threshold amount and less from a person.

§20.213. Reporting Loans.

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

(1) the full name of the person or financial institution making the loan;

(2) the address of the person or financial institution making the loan;

(3) the amount of the loan;

(4) the date of the loan;

(5) the interest rate;

(6) the maturity date;

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

(8) if the loan has guarantors:

(A) the full name of each guarantor;

(B) the address of each guarantor;

(C) the principal occupation of each guarantor;

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

(E) the amount guaranteed by each guarantor.

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

§20.215. Reporting Expenditures of Personal Funds.

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

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

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

(3) the date of the expenditure;

(4) the purpose of the expenditure;

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

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

1 (7) the amount of the expenditure.

2 **§20.220. Additional Disclosure for the Texas Comptroller of Public Accounts.**

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

5 (1) a person who, during the comptroller’s term of office, bids on or receives a contract
6 under the comptroller’s purchasing authority that was transferred to the comptroller by
7 §2151.004 of the Government Code; and

8 (2) an employee or agent of a person described by subsection (a)(1) of this section who
9 communicates directly with the chief clerk, or an employee of the Texas Comptroller of
10 Public Accounts who exercises discretion in connection with the vendor's bid or contract,
11 about a bid or contract.

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

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

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

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

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

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

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

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

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

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

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

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

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

(e) If the comptroller, or a specific-purpose committee created to support the comptroller, receives the information required by this section after the filing deadline for the report on which the contribution is reported, the comptroller or committee must include the missing information on the next required campaign finance report.

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

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

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

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

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

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

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

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

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

(1) the name of the filer;

(2) either:

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

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

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

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

6 (5) the amount of each contribution;

7 (6) the date each contribution was accepted; and

8 (7) a description of any in-kind contribution.

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

10 (1) the full name and address of the person or persons to whom each direct campaign
11 expenditure is made;

12 (2) the date of each direct campaign expenditure;

13 (3) a description of the goods or services for which each direct campaign expenditure was
14 made; and

15 (4) the identification of the candidates or group of candidates benefiting from the direct
16 campaign expenditure.

17 **§20.225. Special Session Reports for Candidates and Certain Officeholders.**

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

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

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

26 **§20.227. Contents of Special Session Report.**

27 A special session report shall include the following information:

28 (1) the filer's name;

29 (2) the filer's address;

30 (3) either:

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

1 (B) the full name of the campaign treasurer

2 (4) if the filer is a specific-purpose committee:

3 (A) for each candidate supported or opposed by the specific-purpose committee:

4 (1) the full name of the candidate;

5 (2) the office sought by the candidate; and

6 (3) an indication of whether the committee supports or opposes the
7 candidate;

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

9 (1) the full name of the officeholder;

10 (2) the office held by the officeholder; and

11 (3) an indication of whether the committee supports or opposes the
12 officeholder;

13 (5) the date each contribution was accepted;

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

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

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

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

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

21 **§20.235. Contents of Annual Report.**

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

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

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

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

30 (C) the date of each payment;

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

1 (E) the amount of each payment;

2 (2) the full name of each person to whom a payment from unexpended political
3 contributions, unexpended interest or other income earned from political contributions, or
4 assets purchased with political contributions or interest or other income earned from
5 political contributions was made.

6 **§20.243. Contribution of Unexpended Political Contributions to Candidate or Political**
7 **Committee.**

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

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

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

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

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

26 **§20.271. Officeholders Covered.**

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

30 **§20.295. Contribution of Unexpended Political Contributions to Candidate or Political**
31 **Committee.**

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

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

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

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

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

§20.303. Appointment of Campaign Treasurer.

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

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

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

§20.305. Appointing an Assistant Campaign Treasurer.

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

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

§20.307. Name of Specific-Purpose Committee.

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

§20.308. Name of General-Purpose Committee.

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

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

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

6 **§20.311. Updating Certain Information on the Campaign Treasurer Appointment.**

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

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

14 **§20.313. Converting to a Different Committee Type.**

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

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

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

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

31 **§20.319. Notice to Candidate or Officeholder.**

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

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

35 (1) the full name of the committee;

36 (2) the address of the committee;

37 (3) the full name of the committee's campaign treasurer;

(4) the address of the committee's campaign treasurer;

(4) a statement that indicates that the committee is a political action committee; and

(6) a statement that the committee has accepted political contributions or has made political expenditures on behalf of the candidate or officeholder.

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

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

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

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

§20.343. Contents of Dissolution Report.

A dissolution report must contain:

(1) the information described in §254.121 of the Election Code; and

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

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

(a) A general-purpose committee that is the principal political committee of a political party is subject to Subchapter F of this chapter (relating to Rules Applicable to a Principal Political Committee of a Political Party). Subchapter F of this chapter prevails over this subchapter in the case of conflict.

(b) A general-purpose committee that is established by a political party's county executive committee is subject to Subchapter H of this chapter (relating to Rules Applicable to a Political Party's County Executive Committee). Subchapter H of this chapter prevails over this subchapter in the case of conflict.

1 (c) A general-purpose committee that supports or opposes a candidate for state chair of a political
2 party is subject to Subchapter I of this chapter (relating to Reports by a Candidate or a
3 Committee Supporting or Opposing a Candidate for State or County Party Chair). Subchapter I of
4 this chapter prevails over this subchapter in the case of conflict.

5 **Subchapter F. RULES APPLICABLE TO A PRINCIPAL POLITICAL COMMITTEE OF**
6 **A POLITICAL PARTY**

7 **§20.503. Exceptions from Certain Notice Requirements.**

8 (a) The principal political committee for a political party in the state or in a county is exempted
9 from complying with §20.319 of this chapter (relating to Notice to Candidate or Officeholder).

10 (b) The principal political committee for a political party in the state or in a county is not required
11 to report a direct campaign expenditure that it makes on behalf of a slate of two or more
12 nominees of the party.

13 **Subchapter G. RULES APPLICABLE TO A POLITICAL PARTY ACCEPTING**
14 **CONTRIBUTIONS FROM CORPORATIONS AND/OR LABOR ORGANIZATIONS**

15 **§20.523. Separate Account Required.**

16 (a) Interest and other income earned from contributions authorized by Chapter 253, Subchapter D
17 of the Election Code must be maintained in an account separate from other contributions
18 accepted by a political party.

19 (b) Proceeds from the sale or rent of assets purchased either with contributions authorized by
20 Chapter 253, Subchapter D of the Election Code or with interest or other income earned from
21 such contributions must be maintained in an account separate from other contributions accepted
22 by a political party.

23 **§20.527. Form of Report.**

24 (a) The report required by this subchapter is separate from any other report a political party is
25 required to file under this title.

26 (b) The report is filed by the chair of the state party or county executive committee, as applicable,
27 and not by the treasurer of a general-purpose committee. Contributions and expenditures required
28 to be reported under this subchapter should not be included on a report filed in accordance with
29 Subchapter E of this chapter (relating to Reports by a General-Purpose or Specific-Purpose
30 Committee).

31 (c) Except as provided by §254.036(c) of the Election Code, each report filed with the
32 Commission under this subchapter and Chapter 257 of the Election Code must be filed by
33 electronic transfer, using computer software provided by the Commission or computer software
34 that meets Commission specifications for a standard file format.

§20.529. Reporting Schedule for Political Party Accepting Corporate and/or Labor Organization Contributions.

A political party that has accepted a contribution from a corporation and/or labor organization shall file the following reports until the political party is no longer accepting corporate and/or labor organization contributions and the acceptance and expenditure of all such funds has been reported.

(1) A report shall be filed not earlier than July 1 and not later than July 15, covering the period that begins on either January 1 or the day after the last day included in a primary election report filed under paragraph (3) of this section, as applicable, and ends on June 30.

(2) A report shall be filed not earlier than January 1 and not later than January 15, covering the period that begins on either July 1 or the day after the last day included in a general election report filed under paragraph (4) of this section, as applicable, and ends on December 31.

(3) A report shall be filed for each primary election held by the political party. The report shall be filed not later than the eighth day before the primary election, covering the period that begins on January 1 and ends on the 10th day before the primary election.

(4) A report shall be filed for the general election for state and county officers. The report shall be filed not later than the 50th day before the general election, covering the period that begins on July 1 and ends on the 61st day before the general election for state and county officers.

Subchapter H. RULES APPLICABLE TO A POLITICAL PARTY'S COUNTY EXECUTIVE COMMITTEE

§20.555. County Executive Committee Accepting Contributions or Making Expenditures That Exceed Certain Amount.

(a) A county executive committee described by subsection (b) of this section is subject to the requirements of Subchapter E of this chapter (relating to Reports by a General-Purpose or Specific-Purpose Committee), except where those rules conflict with this subchapter. In the case of conflict, this subchapter prevails over Subchapter E of this chapter.

(b) A county executive committee that accepts political contributions or that makes political expenditures that, in the aggregate, exceeds the threshold in a calendar year shall file:

(1) a campaign treasurer appointment with the Commission no later than the 15th day after the date that amount is exceeded; and

(2) the reports required by Subchapter E of this chapter. The first report filed must include all political contributions accepted and all political expenditures made before the county executive committee filed its campaign treasurer appointment.

(c) Contributions accepted from corporations and/or labor organizations under §253.104 of the Election Code and reported under Subchapter G of this chapter (relating to Rules Applicable to a

1 Political Party Accepting Contributions From Corporations and/or Labor Organizations) do not
2 count against the thresholds described in subsection (b) of this section.

3 (d) A county executive committee that filed a campaign treasurer appointment may file a final
4 report, which will notify the Commission that the county executive committee does not intend to
5 file future reports unless it exceeds one of the thresholds. The final report may be filed:

6 (1) beginning on January 1 and by the January 15 filing deadline if the committee has
7 exceeded one of the thresholds in the previous calendar year; or

8 (2) at any time if the committee has not exceeded one of the thresholds in the calendar
9 year.

10 **§20.557. Exceptions from Certain Restrictions.**

11 A county executive committee is excepted from complying with §253.031(b)-(c) of the Election
12 Code).

13 **§20.559. Exception from Notice Requirement.**

14 A county executive committee that accepts political contributions for or makes political
15 expenditures on behalf of a candidate or officeholder is exempted from complying with §20.319
16 of this chapter (relating to Notice to Candidate or Officeholder).

17 **§20.561. County Executive Committee Accepting Contributions from Corporations and/or**
18 **Labor Organizations.**

19 (a) A county executive committee that accepts contributions from corporations and/or labor
20 organizations authorized by §253.104 of the Election Code is subject to the provisions set out in
21 Subchapter G of this chapter (relating to Rules Applicable to a Political Party Accepting
22 Contributions from Corporations and/or Labor Organizations).

23 (b) The chair of a county executive committee that accepts contributions from a corporation
24 and/or labor organization must file the report required by §257.003 of the Election Code
25 (regarding a county executive committee reporting contributions from corporations and/or labor
26 organizations).

27 **Subchapter I. REPORTS BY A CANDIDATE OR A COMMITTEE SUPPORTING OR**
28 **OPPOSING A CANDIDATE FOR STATE OR COUNTY PARTY CHAIR**

29 **§20.571. Definitions.**

30 The following terms, when used in this subchapter, shall have the following meaning, unless the
31 context clearly indicates otherwise:

32 (1) Candidate for state chair of a political party--A person who seeks election to serve as the chair
33 of the state executive committee of a political party with a nominee on the ballot in the most
34 recent gubernatorial general election. Candidacy may be evidenced by any one or more of the
35 following actions:

36 (A) declaring candidacy;

1 (B) soliciting or accepting a campaign contribution or making or authorizing a campaign
2 expenditure; or

3 (C) appointing a campaign treasurer as a candidate for state chair.

4 (2) Filer--Candidate for state or county chair, or a committee supporting or opposing a candidate
5 for state or county chair.

6 **§20.577. Reporting Schedule for a Candidate for State Chair.**

7 (a) A filer is required to file only the reports listed in this section and is not required to file any
8 other reports required by candidates for public office under Subchapter C of this chapter (relating
9 to Reporting Requirements).

10 (b) A filer is required to file semiannual reports as provided by this subsection.

11 (1) One semiannual report is due no earlier than July 1 and no later than July 15.

12 (A) The period covered by a report under this paragraph begins on the later of the
13 following dates, as applicable:

14 (i) January 1;

15 (ii) the first day after the period covered by the last report required by this
16 subchapter; or

17 (iii) the day the state chair's campaign treasurer appointment was filed, if
18 this is the first report filed under this subchapter.

19 (B) The period covered by the report under this paragraph ends on June 30.

20 (2) One semiannual report is due no earlier than January 1 and no later than January 15.

21 (A) The period covered by a report under this paragraph begins on the later of the
22 following dates, as applicable:

23 (i) July 1;

24 (ii) the first day after the period covered by the last report required by this
25 subchapter; or

26 (iii) the day the state chair's campaign treasurer appointment was filed, if
27 this is the first report filed under this subchapter.

28 (B) The period covered by the report under this paragraph ends on December 31.

29 (3) One pre-election report not earlier than the 39th day before the convening of the state
30 convention and not later than the 30th day before the convening of the state convention.
31 The report shall cover the period that begins on either the day the filer filed a campaign
32 treasurer appointment with the Commission or the first day after the period covered by the
33 last report required to be filed, as applicable, and ends on the 40th day before the
34 convening.

1 (4) One pre-election report not earlier than the ninth day before the convening of the state
2 convention and not later than the eighth day before the convening of the state convention.
3 The report must cover the period that begins on either the day after the filer filed a
4 campaign treasurer appointment with the Commission or the first day after the period
5 covered by the last report required to be filed, as applicable, and ends on the 10th day
6 before the convening.

7 (d) A candidate for state chair of a political party who expects no further reportable activity in
8 connection with his or her candidacy may file a final report at any time in accordance with
9 §254.125 of the Election Code.

10 (e) A former candidate for state chair of a political party who retains unexpended political
11 contributions, unexpended interest or other income from political contributions, or assets
12 purchased with political contributions at the time of filing a final report is subject to the
13 requirements of §254.065 of the Election Code.

14 (f) Except as provided by §254.036(c), Election Code, each report filed with the Commission
15 under this section must be filed by electronic transfer, using computer software provided by the
16 Commission or computer software that meets Commission specifications for a standard file
17 format.

18 **§20.579. Candidates and Committees Supporting or Opposing Candidates for County**
19 **Chair in Certain Counties.**

20 (a) In addition to the semiannual reports due to be filed with the Commission by January 15 and
21 July 15 under §20.577(b) of this chapter (relating to Reporting Schedule for a Candidate for State
22 Chair), a candidate for county chair covered by this section who has an opponent on the ballot in
23 an election, or a committee supporting or opposing a candidate for county chair, shall file the
24 following two reports with the Commission for each primary election except as provided by
25 subsection (d).

26 (1) The first report shall be filed not later than the 30th day before primary election day.
27 The report covers the period beginning the day the candidate's campaign treasurer
28 appointment is filed or the first day after the period covered by the last report required to
29 be filed under this subchapter, as applicable, and continuing through the 40th day before
30 primary election day.

31 (2) The second report shall be filed not later than the eighth day before election day. The
32 report covers the period beginning the 39th day before primary election day and
33 continuing through the 10th day before primary election day.

34 (b) A candidate who has declared the intention to file reports in accordance with §20.205 of this
35 chapter (relating to Modified Reporting) and who remains eligible to file under the modified
36 schedule is not required to file special pre-election reports.

37 (c) In addition to other required reports, a filer covered by this section who is in a runoff election
38 shall file one report with the Commission for the runoff election. The runoff election report shall
39 be filed not later than the eighth day before runoff election day. The report covers the period
40 beginning the ninth day before primary election day and continuing through the tenth day before
41 runoff election day.

(d) Except as provided by §254.036(c) of the Election Code, each report filed with the Commission under this section must be filed by electronic transfer, using computer software provided by the Commission or computer software that meets Commission specifications for a standard file format.

Subchapter J. REPORTS BY A LEGISLATIVE CAUCUS

§20.601. Reporting Obligations Imposed on Caucus Chair.

(a) The caucus chair may designate a party responsible for filing reports required under §254.0311 of the Election Code.

§20.602. Reporting Schedule for a Legislative Caucus.

(a) A legislative caucus is required to file only the reports listed in this section.

(b) A caucus is required to file semiannual reports as provided by this subsection.

(1) One semiannual report is due no earlier than July 1 and no later than July 15.

(A) The period covered by a report under this paragraph begins on the later of the following dates, as applicable:

(i) January 1;

(ii) the first day after the period covered by the last report required by this subchapter; or

(iii) the day the state chair's campaign treasurer appointment was filed, if this is the first report filed under this subchapter.

(B) The period covered by the report under this paragraph ends on June 30.

(2) One semiannual report is due no earlier than January 1 and no later than January 15.

(A) The period covered by a report under this paragraph begins on the later of the following dates, as applicable:

(i) July 1;

(ii) the first day after the period covered by the last report required by this subchapter; or

(iii) the day the state chair's campaign treasurer appointment was filed, if this is the first report filed under this subchapter.

(B) The period covered by the report under this paragraph ends on December 31.

(c) A caucus chair for a legislative caucus who expects no further reportable activity, may terminate the caucus at any time by:

1 (1) sending written notice to the Commission that the caucus is terminating; and

2 (2) filing a final report in accordance with §254.125 of the Election Code.

3 (d) Except as provided by §254.036(c), Election Code, each report filed with the Commission
4 under this section must be filed by electronic transfer, using computer software provided by the
5 Commission or computer software that meets Commission specifications for a standard file
6 format.

1 **Chapter 18. GENERAL RULES CONCERNING REPORTS.**

2 **§18.10. Guidelines for Substantial Compliance for a Corrected/Amended 8-day Pre-election**
3 **Report.**

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

13 (i) the amount originally disclosed was an overestimation;

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

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

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

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

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

27 (d) In this section, "8-day pre-election report" means a report due eight days before an election
28 filed in accordance with the requirements of [~~§20.213(d), 20.325(e), or 20.425(d) of this title~~
29 ~~(relating to a candidate, a specific purpose committee, or a general purpose committee,~~
30 ~~respectively) and~~ §254.064(c), 254.124(c), or 254.154(c) of the Election Code (relating to a
31 candidate, a specific-purpose committee, or a general-purpose committee, respectively).

1

2

3 **Text of Proposed Rules**

4 The deleted language is indicated by [strikethrough] text.

5 The proposed language is indicated by underlined text.

6

7 **CHAPTER 34. REGULATION OF LOBBYISTS**

8

9 **Subchapter A. GENERAL PROVISIONS**

10

11 **§34.1. Definitions.**

12 The following words and terms, when used in this chapter, shall have the following meanings,

13 unless the context clearly indicates otherwise.

14 ~~[(1) Communicates directly with, or any variation of that phrase--In Government Code,~~

15 ~~Chapter 305, and in this chapter includes communication by facsimile transmission.]~~

16 (1)[(2)] Expenditure--In Government Code, Chapter 305, and in this chapter does not

17 include a payment of less than \$200 that is fully reimbursed by the member of the

18 legislative or executive branch who benefits from the expenditure if the member of the

19 legislative or executive branch fully reimburses the person making the payment before

20 the date the person would otherwise be required to report the payment.

21 (2)[(3)] Lobby activity--Direct communication with and preparation for direct

22 communication with a member of the legislative or executive branch to influence

23 legislation or administrative action.

24 (3)[(4)] Registrant--In Government Code, Chapter 305, and in this chapter means a

25 person who is required to register as well as a person who has registered regardless of

26 whether that person's registration was required.

27

28 **§34.3. Compensation for Preparation Time.**

29 Compensation a person receives for preparing to communicate directly with a member of the

30 legislative or executive branch to influence legislation or administrative action is included in

31 calculating compensation for purposes of the registration and reporting requirements in

32 Government Code, Chapter 305, and this chapter. Examples of preparation for lobby

communications include participation in strategy sessions, review and analysis of legislation or

administrative matters, research and communication with the employer/client. A person who

does not directly communicate with a member of the legislative or executive branch to influence

legislation or administrative action is not required to register because of compensation received

for preparing to do so.

1 **§34.5. Certain Compensation Excluded.**

2 (a) Compensation received for the following activities is not included for purposes of calculating
3 the registration threshold under Government Code §305.003(a)(2) and this chapter:

4 (1) requesting a written opinion that interprets a law, regulation, rule, policy, practice, or
5 procedure administered by a state office or agency;

6 (2) preparation or submission of an application or other written document that merely
7 provides information required by law, statute, rule, regulation, order, or subpoena, or that
8 responds to a document prepared by a state agency;

9 (3) communicating merely for the purpose of demonstrating compliance with an audit,
10 inspection, examination of a financial institution, or government investigation to interpret
11 and determine compliance with existing laws, rules, policies, and procedures;

12 (4) communicating for the purpose of achieving compliance with existing laws, rules,
13 policies, and procedures, including communications to show qualification for an
14 exception of general applicability that is available under existing laws, rules, policies, and
15 procedures;

16 (5) providing to a member of the legislative or executive branch information consisting of
17 facts or data that the member requested in writing regarding legislation or administrative
18 action, when the request was not solicited by or on behalf of the person providing the
19 information;

20 (6) communicating to an agency's legal counsel, an administrative law judge, or a
21 hearings examiner concerning litigation or adjudicative proceedings to which the agency
22 is a party, or concerning adjudicative proceedings of that agency;

23 (7) providing testimony, making an appearance, or any other type of communication
24 documented as part of a public record in a proceeding of an adjudicative nature of the
25 type authorized by or subject to the Administrative Procedure Act, Government Code,
26 Chapter 2001, whether or not that proceeding is subject to the Open Meetings Law;

27 (8) providing oral or written comments, making an appearance, or any other type of
28 communication, if documented as part of a public record in an agency's rule-making
29 proceeding under the Administrative Procedure Act, Government Code, Chapter 2001, or
30 in public records kept in connection with a legislative hearing; or

31 (9) providing only clerical assistance to another in connection with the other person's
32 lobbying (for example, a person who merely types or delivers another person's letter to a
33 member).

34 (b) Subsection (a) of this section does not apply to a registrant. A registrant's activity described
35 by subsection (a) is subject to disclosure under Chapter 305 of the Government Code and this
36 title.

§34.7. Reimbursement for Office Expenses.

Reimbursement received for the following office expenses is not included in calculating reimbursement for purposes of the registration and reporting requirements in Government Code, Chapter 305, and this chapter.

(1) long distance telephone charges;

(2) delivery charges;

(3) photocopy expenses;

(4) facsimile expenses;

(5) office supplies;

(6) postage; and

(7) dues and subscriptions.

§34.9. Taxes and Tips.

Taxes and tips are not included in determining the amount of an expenditure for purposes of Government Code, Chapter 305, and this chapter.

§34.11. Attribution of Expenditure to More Than One Person; Reimbursement of Lobby Expenditure.

(a) Except as provided by Government Code, §305.0021, a lobby expenditure made on a person's behalf and with the person's consent or ratification is an expenditure by that person for purposes of registration and reporting under Government Code, Chapter 305, and this chapter.

(b) Payment of reimbursement to a registrant is not included for purposes of calculation of the registration threshold under Government Code, §305.003(a)(1), and is not required to be reported if the registrant receiving the reimbursement reports the expenditure on a lobby activity report.

(c) A registrant is not required to report a lobby expenditure attributable to more than one person if another registrant has reported the expenditure.

§34.13. Incidental Expenditures for Transportation.

Government Code, §305.024(a)(3), does not prohibit an expenditure for transportation of incidental value such as transportation in the form of a ride of short duration in a personal car or taxi.

§34.14. Expenditures for Fact-Finding Trips.

(a) For purposes of §305.025(3), Government Code, an expenditure for transportation or lodging provided to a member of the legislative or executive branch is for a fact-finding trip only if:

1 (1) the expenditure is necessary for the member to obtain information that directly relates
2 to the member's official duties;

3 (2) the member cannot reasonably obtain the information without the expenditure; and

4 (3) the expenditure is not for the member's attendance at a merely ceremonial event or
5 pleasure trip.

6 (b) If an expenditure made for transportation or lodging for a fact-finding trip is required to be
7 disclosed on a lobby activities report by §305.0061(a), Government Code, the purpose of the
8 transportation or lodging must include a description of the information that the expenditure was
9 necessary to obtain under subsection (a) of this section.

10 **§34.15. Reporting Subject Matter.**

11 (a) A registrant reporting subject matter under Government Code, §305.005(f)(4), (f)(5)(B), or
12 §305.006(d), of this chapter, shall report subject matter by marking the appropriate subject
13 matter categories.

14 (b) A registrant reporting the subject matter of communications to influence administrative
15 action shall also report, if known or reasonably available to the registrant, the docket number or
16 other administrative designation of any administrative action that is the subject of the registrant's
17 direct communication with a member of the executive branch, and the name of the agency or
18 department at which the administrative action is pending.

19 **§34.17. Satisfaction of Presence Requirement by Entity.**

20 An entity may satisfy the presence requirement in Government Code §305.006(f), and
21 §305.024(a)(7), by the presence of:

22 (1) an individual registrant who represents the entity; or

23 (2) a person whose position, authority, or conduct on behalf of the entity could support an
24 award of exemplary damages against the entity.

25 **§34.19. Courtesy Notices by Electronic Mail.**

26 (a) A person required to register as a lobbyist may provide to the commission an electronic mail
27 address to which courtesy notices regarding filing requirements under Chapter 305 of the
28 Government Code may be sent.

29 (b) The commission is not obligated to send notices regarding filing requirements to a person
30 required to register as a lobbyist who does not provide to the commission an electronic mail
31 address.

32 (c) Failure to receive a notice regarding filing requirements does not constitute an excuse for
33 failing to comply with any filing deadline.

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(b) An entity that avoids registration under subsection (a) of this section becomes subject to Government Code, §305.024 on the earlier of the date the entity makes the expenditure that would have required the entity to register as a lobbyist or the date the entity receives, or is entitled to receive compensation or reimbursement that would have required the entity to register as a lobbyist.

(c) Registration by an entity does not relieve any individual of the requirement to register if that individual meets one of the registration thresholds in Government Code, §305.003.

Subchapter C. COMPLETING THE REGISTRATION FORM

§34.63. Assistants.

(a) For purposes of Government Code, §305.005(f)(5), a person “employed or retained by the registrant for the purpose of assisting in direct communication” includes any person who provides administrative or research assistance to the registrant but does not include a person who provides only clerical or secretarial help.

(b) An individual employed by the same employer as the registrant and who assists the registrant at the direction of the registrant is “employed or retained” by the registrant for purposes of Government Code, §305.005(f)(5).

(c) A person listed by a registrant as an assistant under Government Code, §305.005(f)(5), is required to register if the assistant meets one of the registration thresholds under Government Code, §305.003, and this chapter.

§34.65. Compensation Reported by Lobby Firm Employee.

(a) An individual registrant employed, reimbursed, or retained by a business entity that receives compensation and/or reimbursement for lobby activity is required to report all compensation and/or reimbursement paid to the entity for lobby activity by that individual.

(b) An individual registrant employed, reimbursed, or retained by a business entity that receives compensation and/or reimbursement for lobby activity may also report compensation and/or reimbursement paid to the entity for lobby activity by one or more other persons if the entity requests that the individual do so in order for the entity to avoid registration.

(c) The individual registrant shall report the compensation by the date on which the entity, if registered, would have been required to report it. The individual registrant shall indicate on a registration or amended registration, as applicable, that he has reported compensation and/or reimbursement paid to an entity for lobby activity by one or more persons other than the registrant.

§34.67. Paid, Earned, and Prospective Compensation.

(a) For purposes of Government Code, §305.005, and this chapter, compensation may be reported in any one of the following three ways:

(1) compensation actually paid for lobby activity during the year of registration as of the date the registration form or amended registration form is filed;

(2) compensation earned for lobby activity during the year of registration as of the date the registration form or amended registration form is filed, regardless of whether paid; or

(3) promised compensation for lobby activity during the year of registration, regardless of whether earned or paid on the date the registration form or amended registration form is filed.

(b) A registrant shall indicate on a registration form or amended registration form whether compensation is reported under subsection (a)(1), (2), or (3) of this section.

§34.69. Subject Matter.

A registrant shall report the subject matter of lobby activity, in accordance with Government Code, §305.005(f)(4), with respect to each person who reimburses, retains, or employs the registrant to engage in lobby activity.

§34.71. Amending a Registration Form.

(a) A change with respect to a docket number or other administrative designation is not required to be reported on an amended registration unless the docket number or other administrative designation is related to a subject matter category not previously reported by the registrant.

(b) Except as necessary to report changed information, a registrant shall not report information about subject matter on an amended registration form that the registrant reported on the registration form or on a previous amended registration form.

(c) A registrant is not required to report on an amended registration form reimbursement received for a lobby expenditure that the registrant will report on a lobby activity report.

§34.75. Reporting of Commission or Fee Paid by State Agency.

(a) In addition to the contents required by §305.005 of the Government Code and this chapter, a registration filed by a person who is paid a sales commission or such fee by a state agency must;

(1) disclose the state agency as a client;

(2) indicate that the client is a state agency;

(3) provide a description of the subject matter for which the person is paid a sales commission or such fee; and

(4) disclose the amount of the sales commission or such fee.

(b) If the amount of the sales commission or such fee is not known at the time of the reporting, the registration must disclose a reasonable estimate of the maximum amount of the sales commission or such fee and the method under which that amount will be computed.

1 **§34.77. Disclosure of Registration under Foreign Agents Registration Act.**

2 The registration of any person who has also filed an active registration statement under the
3 Foreign Agents Registration Act of 1938, as amended (22 U.S.C. §611 et seq.), must include the
4 registration number assigned to the registration statement by the United States Attorney General
5 until the registration statement is terminated.

6 **Subchapter D. LOBBY ACTIVITY REPORTS**

7 **§34.81. Election to File Annually.**

8 A registrant who is eligible to file an annual lobby activity report under Government Code,
9 §305.0063, may elect to do so at any time during the registration year.

10 **§34.82. Modified Reporting Threshold.**

11 For purposes of section 305.0063(d) of the Texas Government Code, expenditures shall include
12 all expenditures reportable under section 305.006, including all expenditures that are required to
13 be reported under subsections 305.006(b) and 305.006(c).

14 **§34.83. Time of Expenditure.**

15 For reporting purposes, an expenditure is not made until the amount of the expenditure is readily
16 determinable by the person making the expenditure. If the normal business practice of a vendor
17 or service provider is to make the amount charged known by sending a bill after expenses are
18 incurred, the date of the expenditure, for reporting purposes, is the date the person billed receives
19 the bill.

20 **§34.85. Individual Reporting Expenditure by Entity.**

21 (a) An individual registrant may report an expenditure made by a lobby entity if the entity
22 requests that the individual do so in order for the entity to avoid registration; and

23 (1) the entity makes the expenditure in order for the individual to act on the entity's
24 behalf to communicate directly with a member of the legislative or executive branch to
25 influence legislation or administrative action; or

26 (2) the entity compensates or reimburses the individual to act on behalf of the entity or on
27 behalf of the entity's clients to communicate directly with a member of the legislative or
28 executive branch to influence legislation or administrative action.

29 (b) The individual registrant shall report the expenditure by the date on which the entity, if
30 registered, would have been required to report it. The individual registrant shall indicate on a
31 lobby activity report that he or she has reported expenditures made by an entity and indicate the
32 specific amount reported on behalf of the entity.

(c) For purposes of Government Code, §305.0021(b), an expenditure made by an entity under subsection (a) of this section, is not a joint expenditure for purposes of Government Code, §305.0021(b) if the entity makes the entirety of the expenditure at issue.

(d) In this provision “lobby entity” means a corporation, association, firm, partnership, committee, club, organization, or other group of persons voluntarily acting in concert that meets one of the registration thresholds in Government Code, §305.003.

Subchapter E. ELECTRONIC FILING

§34.91. Exemptions from Electronic Filing.

(a) A registrant is required to file each report electronically by using the Internet to transmit the report, by using the web-based filing application provided by the commission, unless the registrant files with the commission an affidavit stating that:

(1) the registrant does not use a computer or mobile device, including a tablet or smartphone with access to the Internet;

(2) no person acting as an agent or consultant of the registrant and no person with whom the registrant contracts uses a computer or mobile device, including a tablet or smartphone with access to the Internet;

(3) the registrant does not intend to be compensated or reimbursed for lobby activity in the calendar year covered by the registration;

(4) the registrant was not compensated for lobby activity in either of the previous two calendar years;

(5) the registrant does not intend to make lobby expenditures during the calendar year covered by the registration; and

(6) the registrant did not make lobby expenditures in either of the previous two calendar years.

(b) The commission has the discretion to exempt from the electronic filing requirement a registrant who is not eligible to file under subsection (a) of this section if a registrant submits an affidavit to the commission stating the basis for the inability to filing electronically.

(c) A registrant who is eligible to file under subsection (a) of this section must file an affidavit under subsection (a) of this section with each report filed under Chapter 305 of the Government Code and this chapter.

(d) A registrant who during a calendar year becomes ineligible to file on paper based on the criteria listed in subsection (a) of this section must file electronically beginning on the date on which the next report is due under §305.007 of the Government Code.

1 (e) For purposes of this section, “lobby expenditure” means expenditures required to be reported
2 under Chapter 305 of the Government Code and this chapter.

3 (f) For purposes of this section, a “report” includes any document required to be filed by a
4 registrant under Chapter 305 of the Government Code and this chapter except that it does not
5 include notices and statements required to be filed under §305.028 of the Government Code.

6 (g) For purposes of this section, a “report” includes the confidential social security information
7 required to be filed by a lobbyist in compliance with §231.302(c)(1) of the Family Code.

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Text of Proposed New Rule

3 The proposed new language is indicated by underlined text.

4 The deleted language is indicated by [~~striketrough~~] text.

5

CHAPTER 50. Legislative Salaries, ~~and]Per Diem,~~ and Equitable Pension Adjustments.

6

§ 50.3 Equitable Adjustments to Pensions.

8 (a)

This section applies to equitable adjustments to the dollar amount on which
standard service annuity is based under Subsection (a) of Section 814.103 of the
Government Code.

10

11 (b)

The commission shall consider an equitable increase in the dollar amount on
which the standard annuity is based beginning August 31, 2030, and every fifth
anniversary of that date and increase the dollar amount as the commission
considers appropriate.

14

15 (c)

When making an equitable adjustment, the commission shall consider any increase
in compensation for elected officials and officers for salaries included in the
General Appropriations Act.

16

18 (d)

The adjustment shall not exceed the greater of the cumulative inflation rate from
the last adjustment as measured by the Consumer Price Index for Urban Wage
Earners and Clerical Workers or another similar index, or the average percent
increase in compensation for elected officials and officers for salaries included in
the General Appropriations Act.

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Text of Proposed Rules

The deleted language is indicated by ~~text~~ text.
The proposed language is indicated by text text.

CHAPTER 26. POLITICAL AND LEGISLATIVE ADVERTISING

§26.1. Disclosure Statement.

(a) A disclosure statement that is required by §255.001, Election Code, must contain the words "political advertising" or any recognizable abbreviation, and must:

- (1) appear on one line of text or on successive lines of text on the face of the political advertising; or
- (2) be clearly spoken in the political advertising if the political advertising does not include written text.

(b) A disclosure statement is not required on political advertising printed on letterhead stationery if the letterhead contains the full name of one of the following:

- (1) the person who paid for the political advertising;
- (2) the political committee authorizing the political advertising; or
- (3) the candidate authorizing the political advertising.

(c) A disclosure statement is not required on:

- (1) campaign buttons, pins, or hats, or on objects whose size makes printing the disclosure impractical;
- (2) political advertising posted or re-posted on an Internet website, as long as the person posting or re-posting the political advertising:
 - (A) is not an officeholder, candidate, or political committee;
 - (B) did not make an expenditure exceeding \$100 in a reporting period for political advertising beyond the basic cost of hardware messaging software and bandwidth; and
 - (C) did not post or re-post the political advertising in return for consideration.
- (3) the Internet social media profile webpage of a candidate or officeholder, provided the webpage clearly and conspicuously displays the full name of the candidate or officeholder; or

- (4) political advertising posted or re-posted by a person on an Internet website, provided the advertising is posted with a link to a publicly viewable Internet webpage that:

(A) contains the disclosure statement; or

(B) is exempt from containing the disclosure statement under Subsection (c)(3).

(d) For the purposes of Subsection (c), an “Internet social media profile webpage” is an Internet webpage on a website where members of the public may, for no charge, connect electronically with other members of the public and share text, images, videos, and similar forms of communications.

§26.2. Newsletter of Public Officer of a Political Subdivision.

For purposes of §255.003 of the Election Code, a newsletter of a public officer of a political subdivision is not political advertising if:

(1) It includes no more than two pictures of a public officer per page and if the total amount of area covered by the pictures is no more than 20 percent of the page on which the pictures appear;

(2) It includes no more than eight personally phrased references (such as the public officer’s name, “I”, “me”, “the city council member”) on a page that is 8 ½” x 11” or larger, with a reasonable reduction in the number of such personally phrased references in pages smaller than 8 ½” x 11”; ~~and~~

(3) When viewed as a whole and in the proper context:

(A) is informational rather than self-promotional;

(B) does not advocate passage or defeat of a measure; and

(C) does not support or oppose a candidate for nomination or election to a public office or office of political party, a political party, or a public officer; ~~and~~

(4) Is published more than 62 days before the election.

§26.3. Legislative Advertising.

Political advertising as defined by the Election Code, ~~§[Section]~~ 251.001(16) (concerning Definitions), does not constitute legislative advertising under the Government Code, ~~§[Section]~~ 305.027 (concerning Required Disclosure on Legislative Advertising).

§26.5. Code of Fair Campaign Practices.

A candidate or political committee that has filed a copy of the Code of Fair Campaign Practices as provided by the Election Code, Chapter 258, may indicate that fact on political advertising by including the following or a substantially similar statement: (Name of the candidate or political committee, as appropriate) subscribes to the Code of Fair Campaign Practices.

§26.7. Use of the Term “Reelect” in Political Advertising.

A person or candidate may, in the event of redistricting, use the term “reelect” in a campaign for elective office only if the candidate is the elected incumbent of an office that represented any part of the new or renumbered district prior to the redistricting.

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Text of Proposed Rules

The deleted language is indicated by ~~text~~ text.
The proposed language is indicated by text text.

CHAPTER 45. CONFLICTS OF INTEREST

§45.1. Application.

This chapter applies to §2152.064 and §2155.003 of the Government Code.

§45.3. Definitions.

(a) Section 2155.003 of the Government Code applies to:

- (1) the chief clerk~~;~~ and
- (2) an employee who exercises discretion in connection with a contract, payment, claim, or other pecuniary transaction under the comptroller's purchasing authority, and~~;~~
- (3) the Comptroller.

(b) Under §2155.003 of the Government Code the following words and terms shall have the following meanings:

- (1) “Chief clerk” and “employee” includes the spouse or dependent child of the chief clerk or employee.
- (2) “Have an interest in” or “in any manner be connected with,” is limited to the purchasing authority that was transferred to the comptroller by §2151.004 of the Government Code, and means a right, share, equitable or legal claim to, or pecuniary interest in, a contract or bid.
- (3) “Value,” “reward,” and “compensation” includes anything with a monetary value of \$5 or more.

(c) Section 2155.003 of the Government Code does not apply to the ownership of stock the value of which does not exceed the lesser of \$25,000 or 5% in any one company, or ownership of shares in a publicly traded mutual fund or similar investment vehicle in which the person does not exercise any discretion regarding the investment of the assets of the fund or other investment vehicle.

§45.5. Definitions.

(a) Section 2152.064 of the Government Code applies to:

- (1) a commission member and appointee; and

(2) to an employee who exercises discretion in connection with a contract, payment, claim, or other pecuniary transaction under §2152.064 of the Government Code, or in connection with state surplus or salvage property.

(b) Under §2152.064 of the Government Code the following words and terms shall have the following meanings:

(1) “Commission member,” “appointee,” and “employee” includes the spouse or dependent child of a commission member, appointee, or employee.

(2) “Have an interest in” or “in any manner be connected with,” means a right, share, equitable or legal claim to, or pecuniary interest in, a contract or bid, or a recipient of state surplus or salvage property under control of the commission.

(3) “Value,” “reward,” and “compensation” includes anything with a monetary value of \$5 or more.

(c) Section 2152.064 of the Government Code does not apply to the ownership of stock the value of which does not exceed the lesser of \$25,000 or 5% in any one company, or ownership of shares in a publicly traded mutual fund or similar investment vehicle in which the person does not exercise any discretion regarding the investment of the assets of the fund or other investment vehicle.

§45.7. Rebates.

(a) The term “rebate” includes a discount, return, or refund of money.

(b) The chief clerk or an employee of the comptroller is not prohibited from accepting a rebate that is offered or given on the same terms to all state employees or to the general public.

§45.8. Additional Disclosures for Texas Comptroller of Public Accounts

(a) For purposes of this section and §2155.003(e) of the Government Code, the procedure for the required additional disclosure can be found at 1 Tex. Admin. Code §20.220.

§45.9. Rebates.

(a) The term “rebate” includes a discount, return, or refund of money.

(b) An employee, appointee, or commission member of the Texas Facilities Commission is not prohibited from accepting a rebate that is offered or given on the same terms to all state employees or to the general public.

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Text of Proposed Rules

The deleted language is indicated by ~~text~~.
The proposed language is indicated by text.

CHAPTER 46. DISCLOSURE OF INTERESTED PARTIES

§46.1. Application.

- (a) This chapter applies to §2252.908 of the Government Code.
- ~~[(b) Section 2252.908 of the Government Code applies only to a contract of a governmental entity or state agency entered into after December 31, 2015, that meets either of the following conditions:~~
- ~~(1) the contract requires an action or vote by the governing body of the entity or agency;~~
~~or~~
 - ~~(2) The value of the contract is at least \$1 million.]~~
- ~~[(c)](b)~~ A contract does not require an action or vote by the governing body of a governmental entity or state agency if:
- (1) The governing body has legal authority to delegate to its staff the authority to execute the contract;
 - (2) The governing body has delegated to its staff the authority to execute the contract; and
 - (3) The governing body does not participate in the selection of the business entity with which the contract is entered into.

§46.3. Definitions.

- (a) “Contract” means a contract between a governmental entity or state agency and a business entity at the time it is voted on by the governing body or at the time it binds the governmental entity or state agency, whichever is earlier, and includes an amended, extended, or renewed contract.
- (b) “Business entity” includes an entity through which business is conducted with a governmental entity or state agency, regardless of whether the entity is a for-profit or nonprofit entity. The term does not include a governmental entity or state agency.
- (c) “Controlling interest” means:
- (1) an ownership interest or participating interest in a business entity by virtue of units, percentage, shares, stock, or otherwise that exceeds 10 percent;
 - (2) membership on the board of directors or other governing body of a business entity of which the board or other governing body is composed of not more than 10 members; or

(3) service as an officer of a business entity that has four or fewer officers, or service as one of the four officers most highly compensated by a business entity that has more than four officers. This paragraph does not apply to an officer of a publicly held business entity or its wholly owned subsidiaries.

(d) "Interested party" means:

(1) a person who has a controlling interest in a business entity with whom a governmental entity or state agency contracts; or

(2) an intermediary.

(e) "Intermediary," for purposes of this rule, means, a person who actively participates in the facilitation of the contract or negotiating the contract, including a broker, adviser, attorney, or representative of or agent for the business entity who:

(1) receives compensation from the business entity for the person's participation;

(2) communicates directly with the governmental entity or state agency on behalf of the business entity regarding the contract; and

(3) is not an employee of the business entity or of an entity with a controlling interest in the business entity.

(f) "Signed" includes any symbol executed or adopted by a person with present intention to authenticate a writing, including an electronic signature.

(g) "Value" of a contract is based on the amount of consideration received or to be received by the business entity from the governmental entity or state agency under the contract.

§46.4. Changes to Contracts.

(a) Section 2252.908 of the Government Code does not apply to a change made to an existing contract, including an amendment, change order, or extension of a contract, except as provided by subsections (b) or (c) of this section.

(b) Section 2252.908 of the Government Code applies to a change made to an existing contract, including an amendment, change order, or extension of a contract, if a disclosure of interested parties form was not filed for the existing contract; and either:

(1) the changed contract requires an action or vote by the governing body of the entity or agency; or

(2) the value of the changed contract is at least \$1 million.

(c) Section 2252.908 of the Government Code applies to a change made to an existing contract, including an amendment, change order, or extension of a contract, if the business entity submitted a disclosure of interested parties form to the governmental entity or state agency that is a party to the existing contract; and either:

(1) there is a change to the disclosure of interested parties; or

1 (2) the changed contract requires an action or vote by the governing body of the entity or
2 agency; or

3 (3) the value of the changed contract is at least \$1 million greater than the value of the
4 existing contract.

5 **§46.5. Disclosure of Interested Parties Form.**

6 (a) A disclosure of interested parties form required by §2252.908 of the Government Code must
7 be filed on an electronic form prescribed by the Commission. [~~commission that contains the~~
8 ~~following:~~

9 ~~(1) The name of the business entity filing the form and the city, state, and country of the~~
10 ~~business entity's place of business;~~

11 ~~(2) The name of the governmental entity or state agency that is a party to the contract for~~
12 ~~which the form is being filed;~~

13 ~~(3) The name of each interested party and the city, state, and country of the place of~~
14 ~~business of each interested party;~~

15 ~~(4) The identification number used by the governmental entity or state agency to track or~~
16 ~~identify the contract for which the form is being filed and a short description of the~~
17 ~~services, goods, or other property used by the governmental entity or state agency~~
18 ~~provided under the contract; and~~

19 ~~(5) An indication of whether each interested party has a controlling interest in the~~
20 ~~business entity, is an intermediary in the contract for which the disclosure is being filed,~~
21 ~~or both.]~~

22 (b) The certification of filing and the completed disclosure of interested parties form generated by
23 the Commission's[~~commission~~] electronic filing application must be printed, signed by an
24 authorized agency of the contracting business entity, and submitted to the governmental entity or
25 state agency that is the party to the contract for which the form is being filed.

26 (c) A governmental entity or state agency that receives a completed disclosure of interested
27 parties form and certification of filing shall notify the Commission[~~commission~~], in an electronic
28 format prescribed by the Commission[~~commission~~], of the receipt of those documents not later
29 than the 30th day after the date the governmental entity or state agency receives the disclosure.

30 (d) The Commission[~~commission~~] shall make each disclosure of interested parties form filed with
31 the Commission[~~commission~~] under §2252.908(f) of the Government Code available to the
32 public on the Commission's[~~commission~~] Internet website not later than the seventh business day
33 after the date the Commission[~~commission~~] receives the notice required under subsection (c) of
34 this section.

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3 **Text of Proposed Rules**

4 The proposed language is indicated by underlined text.

5 **CHAPTER 7. CONTRACTS**

6 **§7.1. Application.**

7 This chapter applies to §2155.076, §2261.202 and §2262.253 of the Government Code.

8 **§7.3. Definitions.**

9 (1) Agency - The state agency governed by the Commission, as it functions and operates
10 through the administrative staff hired by the Commission and its executive director.

11 (2) Commission - The Texas Ethics Commission, as constituted and described in the Texas
12 Constitution, Article 3, §24a and in the Government Code, Chapter 571.

13 (3) Contract - A written contract between the agency and a contractor, under the terms of
14 which the contractor agrees to provide goods or services to or for the agency.

15 (4) Executive director - The person employed by the Commission to serve as the agency's
16 chief administrative officer, or any other employee of the Commission acting as the
17 designee of the executive director.

18 (5) Vendor - A person that offers goods and services in the state.

19 **§7.5. Vendor Protest Procedures.**

20 (a) Per Tex. Gov't Code §2155.076, a state agency must adopt procedures for resolving vendor
21 protests related to purchasing issues.

22 (b) A vendor who submitted a written response to a solicitation and did not receive the award
23 may file a written protest.

24 (c) A valid protest must be:

25 (1) In writing and contain:

26 (A) the specific rule, statute or regulation the protesting vendor alleges the solicitation,
27 contract award or tentative award violated;

28 (B) a specific description of each action by the agency that the protesting vendor alleges
29 is a violation of the statutory or regulatory provision the protesting vendor
30 identified in subparagraph (A) of this paragraph;

31 (C) a precise statement of the relevant facts including:

32 (i) sufficient documentation to establish that the protest has been timely filed;

1 (ii) a description of the adverse impact to the agency and the state; and

2 (iii) a description of the resulting adverse impact to the protesting vendor.

3 (D) a statement of the argument and authorities that the protesting vendor offers in
4 support of the protest;

5 (E) an explanation of the subsequent action the vendor is requesting.

6 (2) signed by an authorized representative with the signature notarized; and

7 (3) filed in the time period specified in this section.

8 (d) To be considered by the Commission, a protest must be filed:

9 (1) by the end of the posted solicitation period, if the protest concerns the solicitation
10 documents or actions associated with the publication of solicitation documents;

11 (2) by the day of the award of a contract resulting from the solicitation, if the protest concerns
12 the evaluation or method of evaluation for a solicitation; or

13 (3) no later than 10 days after the notice of award, if the protest concerns the award.

14 (e) In the event of a timely protest or appeal under this section, the Commission shall not proceed
15 further with the solicitation or with the award of the contract unless the Executive Director makes
16 a written determination that the award of the contract without delay is necessary to protect the
17 best interest of the Commission.

18 (f) Policies and procedures related to this section can be found in the Commission policy on the
19 Commission website.

20 **§7.55. Vendor Protest Procedures for Vendor Performance Reports.**

21 (a) The Commission is required by §2155.089 and §2262.055 of the Texas Government Code to
22 review a vendor's performance under a contract after the contract is completed or otherwise
23 terminated. Vendor performance must be reported to the Comptroller using the Comptroller's
24 tracking system to rate vendors on an A through F scale, with A being the highest grade.

25 (b) A vendor who receives a grade lower than a C in the vendor performance tracking system
26 may file a protest regarding the lower grade assigned to the vendor in the system.

27 (c) Policies and procedures related to this section can be found in the Commission policy on the
28 Commission website.

29 **§7.7. Contract Monitoring.**

30 (a) Per Tex. Gov't Code §2261.202, a state agency must adopt a policy that clearly defines the
31 contract monitoring roles and responsibilities.

32 (b) The contract monitoring roles and responsibilities of the Commission's internal audit staff and
33 other inspection, investigative, or compliance staff are as follows:

- (1) The Commission does not have an Internal Auditor. The Executive Director, or Designee, will perform internal audit activities which will include performing audits of the contract management function and systems when they are warranted by the results of risk assessment or included in the audit plan approved by the Commission.
- (2) The Administration division will seek to improve contract compliance by serving as a central repository for agency contracts so the agency can perform contract compliance reviews.
- (3) The Administration Division will assist the Requesting Division in monitoring agency contracts in connection with applicable historically underutilized and minority business contract requirements.
- (4) The General Counsel division will seek to improve contract compliance by reviewing and approving each contract.
- (5) The Requesting Division will oversee the contract, monitor and report to other appropriate agency divisions regarding contract compliance.
- (6) Upon contract close-out the Administration Division will file vendor performance reports, as required by the rules of the Comptroller of Public Accounts in 34 TAC Part 1, Chapter 20, Subchapter C (relating to Procurement), and §20.108 (relating to Vendor Performance Tracking System).
- (7) The Commission does not have a criminal enforcement unit. Criminal activity related to agency contracts will be reported to the appropriate authorities as set out in statute.

§7.9. Enhanced Contract Monitoring.

- (a) Per Tex. Gov't Code 2261.253, a state agency must establish a procedure to identify each contract that requires enhanced or performance monitoring, and submit information on those contracts to the agency's governing body.
- (b) Contracts that are subject to enhanced contract monitoring include:
 - (1) Contracts for the purchase of goods or services that have a value in excess of \$1 million for the life of the contract.
 - (2) Contracts that are identified based on an internal risk analysis.
 - (3) Any contracts identified by the Commission, Executive Director, or General Counsel.
 - (4) Contracts subject to enhanced contract or performance monitoring will be included in reports provided to the Commission.
 - (5) Contracts will be monitored in accordance with policies and procedures in the Commission's contract management handbook.
 - (6) The Commission will be notified, as appropriate, of any serious issue or risk that is identified with report to a contract monitored under this rule.

1 **§7.11. Veteran Heroes United in Businesses (VetHUB)**

2 In accordance with Tex. Gov' Code §2161.003, the Commission adopts by reference the Texas
3 Comptroller of Public Accounts' rules in Texas Administrative Code, Title 34, Chapter 20,
4 Subchapter D, Division 1 (relating to Historically Underutilized Businesses).

ETHICS ADVISORY OPINION NO. xxx

[Date]

ISSUE

Whether asking questions of or requesting a formal written opinion from certain state officials, without suggesting an answer to the questions, would require registration under Chapter 305, Texas Government Code. (AOR-740)

SUMMARY

A request seeking the clarification of the operation of a law or to seek compliance with an existing law, without suggesting an answer, is not a communication to influence administrative or legislative action under Chapter 305 of the Government Code and would not require lobby registration.

FACTS

The requestor represents an entity that meets the statutory definition of a “foreign adversary” as that term is defined in Section 305.030 of the Government Code and intends to request clarification relating to a bill passed by the 89th Legislature that directly impacts the entity’s business practices. At issue is whether requesting a clarification from the bill author, the attorney general, or the relevant state agency, without suggesting an answer in any way, is considered a lobby communication.

ANALYSIS

Under newly enacted legislation, a person is prohibited from receiving compensation from a “foreign adversary,” “foreign adversary client,” or “foreign adversary political party” to communicate with state lawmakers or administrators to influence legislative or administrative action. Acts 2025, 89th Leg., R.S., Ch. 917 (H.B. 119), Sec. 1, eff. September 1, 2025, codified at Tex. Gov’t Code § 305.030(b). Under the same law, a person is also required to register as a lobbyist even if the person receives no compensation to make a “lobby communication,” on behalf of a foreign adversary. *See* Tex. Gov’t Code § 305.003(a)(3). A lobby communication is a direct communication with one or more members of the legislative or executive branch to influence legislation or administrative action. *See* Tex. Gov’t Code § 305.002(2-a).

The definition of “foreign adversary” includes not only foreign governments or persons designated as a foreign adversary by the U.S. secretary of commerce¹ but also entities that are under the

¹ Currently classified as foreign adversaries under 15 C.F.R. § 791.4 are: The People’s Republic of China, Republic of Cuba, Islamic Republic of Iran, Democratic People’s Republic of Korea (North Korea), Russian Federation, and Venezuelan political Nicolás Maduro (Maduro Regime).

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control, ownership, or influence of a foreign adversary. The definition also includes businesses that have their principal place of business in or that are organized under the laws of a foreign adversary—including a parent or subsidiary of a domestic business organization.

A communication to determine the scope or applicability of a law or policy without attempting to change or seek an exception to the existing law or policy is not a “lobby communication.”

The requestor states he would like to communicate on behalf of a foreign adversary with a legislator, the attorney general, or the relevant state agency, seeking an interpretation of the scope of the law, or for the purpose of achieving compliance with existing law. The requestor states he would not suggest what he believes is the correct interpretation when communicating with the state officials.

TEC rules currently provide that “certain compensation” is excluded “for the purposes of calculating the registration threshold under Government Code §305.003(a)(2).” 1 Tex. Admin. Code § 34.5. That rule expressly exempts:

- “requesting a written opinion that interprets a law, regulation, rule, policy, practice, or procedure administered by a state office or agency;” and
- “communicating for the purpose of achieving compliance with existing laws, rules, policies, and procedures.”

Id. at §34.5(a)(1), (4). Unlike other lobby communications, which require a person to receive a certain amount of compensation for lobbying before being required to register, uncompensated lobbying for a foreign adversary triggers lobby registration. Tex. Gov’t Code § 305.003(a)(2), (3). The requestor notes that the Rule 34 exempting certain types of communication from the compensation threshold specifically applies to §305.003(a)(2) (related to the compensation threshold), and “it is not clear at this time whether this type of conduct will also be exempt for the purposes of the newly enacted §305.003(a)(3).”

We believe the exceptions in Rule 34.5(a)(1) and (a)(4) would apply to the communications proposed by the requestor because such are not lobby communications.

Near the time of enactment of what is now Rule 34.5, the TEC issued advisory opinions interpreting whether certain communications would qualify as lobby communications under the statute. *See generally* Tex. Ethics Comm’n Op. Nos. 16, 15, 14 (1992). The TEC opined that communications “for purposes of the compensation threshold, that certain activities are not communications to influence legislation or administrative action and are not required to be reported on registration forms or activity reports.” Tex. Ethics Comm’n Op. No. 14 (1992). One such communication is a communication “for the purpose of compliance with existing laws, administrative rules, policies, and procedures, when there is no attempt to change or seek exceptions to such rules, policies, or procedures.” *Id.*

The rationale for adopting the rules exempting communications to ensure compliance with existing laws from the lobby compensation threshold is that such communications are not made to influence

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legislative or administrative action because there is no attempt to change or create an exception to existing law or policy. *See* Tex. Ethics Comm'n Op. No. 15 (1992). However, communications meant to influence a change in a law or policy of general applicability is a lobby communication. *See* Tex. Ethics. Op. No. 89 (1992).

The requestor proposes to ask state officials about the current state of the law and how to comply with it, without suggesting what the answer should be. Under the TEC's past opinions, a request seeking the clarification of the operation of a law or to seek compliance with an existing law is not a communication to influence administrative or legislative action under Chapter 305 of the Government Code. Therefore, the requestor would not be prohibited from making such a communication by Section 305.030(b) nor would such a communication, standing alone, trigger registration under Section 305.003(a)(3).

ETHICS ADVISORY OPINION NO. xxx

[Date]

ISSUE

Whether a video recorded with students at a charter school is political advertising for the purposes of Sections 255.003 and 255.001 of the Election Code. (AOR-741)

SUMMARY

Section 255.003 applies to officers and employees of a political subdivision. For purposes of Section 255.003 of the Election Code, a charter school is not a political subdivision. Therefore, the use of a charter school's resources would not implicate Section 255.003. However, a political advertisement video recorded at a charter school would raise concerns of violations of Section 253.094 of the Election Code, and possibly Sections 36.08 and 39.02 of the Penal Code.

FACTS

The requestor is a member of the State Board of Education (SBOE) and a candidate for state representative. She visited a charter school and filmed a video with the students. The requestor was given permission from the school superintendent for both her visit and the recording. The requestor further stated that the students have standing consent from the school to appear in photos and videos taken on campus for public and educational purposes. Finally, the requestor asserts that the visit and recording were not conducted in her official capacity as SBOE member, but rather as a private citizen.

ANALYSIS

The requestor asked if participating in or recording the video raised any potential issues regarding "use of office, public resources or campaign activities."

The Election Code prohibits the use of public funds for political advertising. However, the restriction applies specifically to an officer or employee of a political subdivision. *See* Tex. Elec. Code § 255.003(a) ("An officer or employee of a political subdivision may not knowingly spend or authorize the spending of public funders for political advertising.").

When a charter school may be considered a political subdivision is answered by Texas Education Code Section 12.1058, which specifically states which laws apply to a charter school as if it were a political subdivision. The existence of this law indicates that charter schools are not normally considered political subdivisions. The level of specificity of the law (listing at least 19 ways in which a charter school may or may not be considered a political subdivision) indicates the legislature intended the list to be exhaustive. *See Unigard Sec. Ins. EACo. v. Schaefer*, 572 S.W.2d

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303, 307 (Tex. 1978) (“When specific exclusions or exceptions to a statute are stated by the Legislature, the intent is usually clear that no others shall apply.”).

Section 255.003 specifically, and the Election Code in general, do not appear on that list of ways in which a charter school is to be considered a political subdivision. Indeed, legislation was introduced in the 89th Legislative session to subject officers and employees of charter schools to the Election Code prohibition on electioneering communications. SB 2044, 89th R.S. (2025); HB 2826, 89th R.S. (2025); HB 3661, 89th R.S. (2025). Therefore, for the purposes of Section 255.003 of the Election Code, charter schools are not political subdivisions.

The requestor also asked if there would be any restrictions or disclosures required if they wanted to share the video on social media.

Political advertising authorized by a candidate requires a political advertising disclosure statement. Tex. Elec. Code § 255.001. Therefore, if the video was political advertising, it would need the political advertising disclosure statement. However, whether a communication is political advertising “can be answered only when the communication is viewed as a whole.” Tex. Ethics Comm’n Op. No. 476 (2007).

The video opens with the requestor surrounded by students in what is presumably the cafeteria of the school. The video is cut with shots of the filer high-fiving children or holding lectures in a classroom. The video opens with the children chanting “it’s alright with me” before the requestor begins rapping. The requestor asks “what you think about a state rep that raps too? Somebody in the trenches with the students at the school?” The students’ chant of “it’s alright with me” repeats, answering the questions.

“Political advertising” is defined, in relevant part, as “a communication supporting or opposing a candidate for nomination or election to a public office that appears on an Internet website.” The students’ positive refrain following the requestors questions, the rhetorical nature of the requestor’s questions, and the visual imagery of the requestor interacting with the children all amount to support for the election of the requestor to public office. Therefore, the video is political advertising and would require a political advertising disclosure statement.

Additionally, it should be noted that the charter school at issue is operated by a tax-exempt 501(c)(3) non-profit corporation. Tex. Elec. Code § 255.001(16). A corporation or labor organization may not make a political contribution to a candidate. *Id.* § 253.094. A direct or indirect transfer of any thing of value that is offered or given with the intent that it be used in connection with a campaign is a campaign contribution. *Id.* § 251.001(2),(3),(5). The use of the charter school’s resources to film a political advertisement appears to constitute an improper contribution from a corporation.

Finally, if the requestor was granted access to the school through their position as a member of the SBOE, the requestor may be in violation of Section 36.08 of the Penal Code. A public servant in a regulatory agency may not accept benefits from persons subject to that agency’s regulation. Tex. Penal Code § 36.08. The requestor states that the visit and the recording were done as a private citizen engaging with her community, but does not state why she was invited to visit the charter school.

ETHICS ADVISORY OPINION NO. xxx

[Date]

ISSUE

Whether the revolving door prohibition in Section 572.069 of the Government Code would prohibit a former employee of a state agency from accepting certain employment. (AOR-742)

SUMMARY

A former state employee participates on behalf of a state agency in a procurement or contract negotiation with a subcontractor if the subcontractor is identified as providing work in the contract.

FACTS

The requestor currently works for a state agency. The requestor participated in the selection process for a contract. The requestor scored responses to a Request for Proposal (RFP) and participated in selecting the prime provider on the contract. The requestor stated he was not involved in the negotiations with the prime provider and the subcontractor, but that the subcontractor was listed as a subcontracting partner in the RFP.

ANALYSIS

A former state officer or employee of a state agency who during the period of state service or employment participated on behalf of a state agency in a procurement or contract negotiation involving a person may not accept employment from that person before the second anniversary of the date the contract is signed or the procurement is terminated or withdrawn.

Tex. Gov't Code § 572.069.

A contract that identifies a subcontractor as performing work “involves” the identified subcontractor for purposes of Section 572.069. Tex. Ethics Comm’n Op. No. 545 (2017).

The requestor “participated” on behalf of a state agency in a procurement or contract negotiation by scoring responses to an RFP and the procurement “involved” the subcontractor as it was named in the contract.

Therefore, the requestor would be barred from accepting employment from the subcontractor if he left state employment for two years after the contract was signed.

ETHICS ADVISORY OPINION NO. xxx

[Date]

ISSUE

Whether a tax rate election (“TRE”) flier prepared by a school district (the “district”) is political advertising for the purposes of Section 255.003 of the Election Code. (AOR-744)

SUMMARY

The TRE flier prepared by the district constitutes political advertising because it advocates for passage of the TRE and, therefore, would violate Section 255.003(a) of the Election Code if distributed to voters by the district.

FACTS

The requestor is the superintendent of a district that is proposing a TRE. The district has created a flier discussing the TRE that it wants to distribute to voters.

ANALYSIS

The requestor has asked whether the distribution of the flier would “break any laws.”¹

The Election Code prohibits an officer or employee of a political subdivision from knowingly spending or authorizing the spending of public funds for political advertising. Tex. Elec. Code § 255.003(a). However, this prohibition does not apply to a communication that factually describes the purposes of a measure if the communication does not advocate passage or defeat of the measure. *Id.* § 255.003(b).²

Given that the flier is on district letterhead and purports to come from the district’s superintendent and board members, this opinion assumes that district resources were used to create the flier. Therefore, the question is whether the flier advocates for the passage or defeat of the TRE and, thus, constitutes political advertising.

Political advertising is defined, in pertinent part, as a communication supporting or opposing a measure that appears in a pamphlet, circular, or flier. Tex. Elec. Code § 251.001(16)(B)(i). A factor in determining whether a particular communication supports or opposes a measure is whether the

¹ This opinion only analyzes the flier at issue as it pertains to laws within the Texas Ethics Commission’s (TEC) jurisdiction. See Tex. Gov’t Code § 571.091 (listing the laws about which the TEC may issue an opinion).

² A “measure” is a question or proposal submitted in an election for an expression of the voters’ will. Tex. Elec. Code § 251.001(19).

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communication provides information and discussion of the measure without promoting the outcome of the measure. Tex. Ethics Comm’n Op. No. 538 (2016).

The flier at issue begins by stating, “Thank you for your continued support of our school. Our mission remains to provide every student with the highest quality education and to ensure they are well prepared for the future.” The flier then goes on to discuss why the district has previously adopted deficit budgets, how the district plans to address the deficit through a “tax rate swap and drop,” the ballot language regarding tax increases, and the revenue that the district believes the tax rate swap would generate. The flier then concludes by saying, “Thank you for your partnership and for standing with” the school district.

The majority of the flier’s content provides factual information about the TRE or issues related to the TRE and, therefore, would not be prohibited under Section 255.003(a) of the Election Code.³ However, the sentence regarding the district’s mission to “provide every student with the highest quality education and to ensure they are well prepared for the future,” transforms the nature of flier from factual to political advertising. Specifically, the inclusion of this sentence implies that passage of the TRE would allow the district to continue its mission to prepare its students for the future. Whether or not the TRE would accomplish this goal, though, is a question for voters to decide. Additionally, since this sentence does not provide any factual information about the particulars of the TRE, it only serves to persuade readers to pass the TRE.

Similarly, the flier’s concluding remark thanking the reader for “standing with” the district implies that if the reader supports the district, he or she should vote in favor of the TRE because of the benefits it will bring to the district.

Since we have previously concluded that “[n]o matter how much factual information about the purposes of a measure election is included in a communication, *any amount* of advocacy is impermissible,” (Tex. Ethics Comm’n Op. No. 559 (2021)), the district’s flier constitutes prohibited political advertising under Section 255.003(a) of the Election Code.

³ For the purposes of assessing whether a communication constitutes political advertising, the TEC assumes that the information conveyed in the communication is true and accurate. However, it should be noted that an officer or employee of a political subdivision is prohibited from spending or authorizing the spending of public funds for a communication describing a measure if the communication contains information that: (1) the officer or employee knows is false; and (2) is sufficiently substantial and important as to be reasonably likely to influence a voter to vote for or against the measure. Tex. Elec. Code § 255.003(b-1).

ETHICS ADVISORY OPINION NO. xxx

[Date]

ISSUE

Whether a video constitutes political advertising for the purposes of the Election Code's prohibition against using public funds for political advertising. (AOR-745)

SUMMARY

When considering whether a specific video constitutes political advertising for the purposes of the Election Code, we view the communication as a whole. A significant factor in determining whether a particular communication is a political advertisement is whether it provides information without promoting a public office or measure.

The mere fact that a communication includes an express disclaimer of support or opposition is not determinative. However, the video considered in this opinion is a political advertisement for the purposes of Section 255.003 of the Election Code because it includes advocacy.

FACTS

The requestor, a social media director for a city council member, requested guidance on whether public funds could be used to pay for a social media advertisement. The requestor stated that the video contained only district related updates.

The requestor specifically requested guidance on whether a paid social media promotion of the video would be considered political advertising, whether public funds could be used if it was political advertising, and finally, if it was political advertising what disclosures would be required.

ANALYSIS

An officer or employee of a political subdivision may not knowingly spend or authorize the spending of public funds for political advertising. Tex. Elec. Code § 255.003(a).

Political advertising means, in relevant part, a communication supporting or opposing a public officer that appears on an Internet website. *Id.* § 251.001(16)(B)(ii).

The critical issue in determining whether an advertisement is 'political advertising' is whether it is a communication supporting or opposing a candidate or a public officer. Tex. Ethics Comm'n Op. No. 476 (2007) (citing Tex. Ethics Comm'n Op. No. 102 (1992)).

A significant factor "in determining whether a particular communication supports or opposes a public officer is whether the communication provides information ... without promotion of the public officer." Tex. Ethics Comm'n Op. No. 476 (2007). For example, in Ethics Advisory Opinion

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No. 211, we concluded that an informational brochure was not a political advertisement—despite identifying the incumbent in the letterhead—because it “merely describe[d] the duties” of the public office and did not reference the incumbent “in a way that would lead one to believe that the purpose of the brochure was to support the incumbent.” Tex. Ethics Comm’n Op. No. 211 (1994).

“However, [...] *any amount* of advocacy is impermissible. Violations sometimes occur when a factual explanation is accompanied by a motivational slogan or a call to action. Common examples include, “it pays to invest in the future;” ... [and] “let’s build a better city[.]” Tex. Ethics Comm’n Op. No. 559 (2021).

While the provided video did include factual information about a budgeting change that had been proposed by the public officer, it also contained phrases that constituted advocacy: “Zero based budgeting is a win for taxpayers;” and “Every cent will now be tied to results and every decision focused on improving the lives of our residents.”

“A factor in determining whether a particular communication supports or opposes a public officer is whether the communication provides information and discussion of official activities without promotion of the public officer. The mere fact that the name of a public officer or the picture of a public officer appears in a newsletter would not determine whether the communication constitutes political advertising. However, the context and frequency with which the name or picture appears are relevant to making that determination.” Tex. Ethics Comm’n Op. No. 476 (2007).

The video is one minute and forty-one seconds long. The public officer’s face is visible for one minute and seven seconds of the video.

In our opinion, the video is a self-promotion of the public officer, and thus, when viewed as a whole, constitutes support of a public officer for purposes of political advertising. Therefore, the video is political advertising, it would require the political advertising disclosure statement, and public funds may not be spent on the video.