

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, May 13, 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. 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.
6. 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.
7. Cause No. 2024-DCL-03953, *Ruben Cortez, Jr. v. Texas Ethics Commission*, in the 404th Judicial District Court, Cameron County, Texas.
8. Discussion of contemplated litigation and to seek legal advice regarding the collection of imposed penalties.

OTHER MATTERS

9. Discussion regarding legal issues related to certain contracts.
10. Discussion and possible action related to personnel matters.
11. Confidential sworn complaint matters under Section 571.139 of the Government Code.
12. Reconvene in open session.
13. 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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DAY OF THE MEETING HERE:**

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1. Call to order; roll call.
2. Discussion regarding dates for the next quarterly Commission meeting.
3. Approve minutes for the following meetings:
 - o Executive Session – February 11, 2026; and
 - o Public Agenda – February 11, 2026.

RULEMAKING

Rule Adoption

4. Discussion and possible action on the adoption or proposal and publication in the Texas Register regarding re-adoption of Chapter 26 of the TEC rules, related to political and legislative advertising.
 5. Discussion and possible action on the adoption or proposal and publication in the Texas Register regarding re-adoption of Chapter 46 of the TEC rules, related to disclosure of interested parties.
 6. Discussion and possible action on the adoption or proposal and publication in the Texas Register regarding re-adoption of Chapter 45 of the TEC rules, related to conflicts of interest.
 7. Discussion and possible action on the adoption or proposal and publication in the Texas Register regarding adoption of new Chapter 7 of the TEC rules, related to contracts.
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For more information, contact James Tinley, Executive Director, at (512) 463-5800.

8. 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.

Rule Publication

9. 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.
10. Discussion and possible action on the proposal and publication in the Texas Register regarding minor amendments to Chapter 20 of the TEC rules, related to Reporting Political Contributions and Expenditures.
11. Discussion and possible action on the proposal and publication in the Texas Register regarding amendments to Chapter 18 of the TEC rules, related to adjustments to reporting thresholds.
12. Discussion and possible action on the proposal and publication in the Texas Register regarding amendments to Chapter 12 of the TEC Rules, related to Informal Notice of Alleged Violation.
13. Discussion and possible action regarding TEC's comprehensive review of its rules.

ADVISORY OPINIONS

14. Reconsideration of Ethics Advisory Opinion No. 639, adopted on February 11, 2026, and possible adoption of a revised advisory opinion regarding 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 Chapter 255 of the Election Code

15. Advisory Opinion Request No. AOR-747: Whether, under Section 572.070 of the Government Code, a state employee is required to report certain contacts with an employee of a university owned or controlled by the People's Republic of China? What are the reporting requirements for frequent contacts?

This opinion construes Section 572.070 of the Government Code.

16. Advisory Opinion Request No. AOR-748: Regarding the application of the revolving door provision of Section 572.054(b) of the Texas Government Code to a former employee of Texas Department of Transportation ("TXDOT").

This opinion construes Section 572.054 of the Government Code.

17. Advisory Opinion Request No. AOR-749: Does paying a social media company's users for engaging with political advertising content (viewing advertisements,

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watching videos, completing surveys, etc.) constitute bribery of a voter under Section 36.02(a)(1) of the Penal Code?

Does paying a social media company's users to complete a survey that includes questions about the user's voting intentions—where compensation is identical regardless of the user's answers—constitute prohibited vote-buying under Texas law?

What disclaimer and disclosure requirements under Chapter 255 of the Election Code apply to political advertisements posted on social media?

May candidates, political parties, and political committees use the requestor's social media platform to deliver political advertisements and compensate users for engagement with the advertisements without violating Texas election laws?).

This opinion construes Section 36.02 of the Penal Code and Chapter 255 of the Election Code.

18. Advisory Opinion Request No. AOR-750: Whether public resources were unlawfully used for a candidate's campaign video.

This opinion construes section 255.003 of the Election Code.

ADMINISTRATIVE WAIVER OF FINES AND TREASURER TERMINATIONS

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. Bickers, Leland, Campaign Treasurer, Save Austin Now PAC (00085302)
- B. Raymond, Carlos Antonio (00080137)
- C. Thompson, William (00031950)

Staff Recommendation: Reduction

- D. Adams, Noel T. (00084087)
- E. Nkanga, Uduakobong (00085816)

Staff Recommendation: No Further Reduction or Waiver

- F. Caesar, Rosalind (00088147)
- G. Graves, Brooke (00054835)

20. Discussion and possible action regarding the termination of a campaign treasurer appointment for the following inactive political committees:

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

Individuals

1. Cavazos, Cynthia T. (00069817)
2. Fleming, DeAndrea (00088785)
3. Gonzalez, Velia (00088931)
4. Johnson, Jarvis (00080580)
5. Lester Osborne, Leslie (00082125)
6. Lowe, Thomas W., III (00026841)
7. Ramirez, Norma (00081860)
8. Walsh, Stephani A. (00067856)
9. Washington, Makala L. (00088421)
10. Windmann, Richard G. (00088466)

Political Committees

11. Browder, Bramlette, Treasurer, Founders PAC (00087003)
12. Burke, Kyle, Treasurer, Reform Project PAC (00088700)
13. Burkett, Dana, Treasurer, Residents Advancing in Ladonia (00088763)
14. Cagle, DeLane, Treasurer, Pecos County Republican Party (CEC) (00023748)
15. Flores, Robert, Treasurer, Texans for Progress PAC (00087120)
16. Fowler, Susan, Treasurer, Texas Motion Picture Alliance PAC (00063437)
17. Garcia, Patricia, Treasurer, Cameron County Texas Democratic Women (00068904)
18. Gonzalez, Elena, Treasurer, Friends of the River (F.O.R.) San Bernard, Texas PAC (00089110)
19. Gradney, Ashlei, Treasurer, Black Woman Attorneys PAC (00084649)
20. Henderson, Latasha, Treasurer, Black Girl Magic (00085108)
21. Johnson, Lucy, Treasurer, Texas Real Estate Advocacy and Defense PAC (00082651)
22. Kemp, Chelsey, Treasurer, Diversified Ladies PAC (00088483)
23. Meyer III, Fred, Treasurer, Northeast Texas Democratic Coalition (00086024)
24. Rios, Daniel, Treasurer, Stronger Texas PAC (00083947)
25. Rivera, Bryan, Treasurer, Gulf Coast Public Safety TX PAC (00088064)
26. Roberts, Martha, Treasurer, New Blue USA PAC (00086828)
27. Rokovich, Andrew, Treasurer, Protect Texas PAC (00089125)
28. Saibara-Naritomi, Nancy, Treasurer, Harris County Green Party (00038730)
29. Siwierka, Michael, Treasurer, Fort Bend Business PAC (00068461)
30. Stewart, Mende, Treasurer, Sage Brush Republican Women (00087992)

OTHER MATTERS

21. Briefing and discussion of actions taken or in-progress to implement move of the TEC from Sam Houston Building to Barbara Jordan Building.

22. Discussion and possible action regarding the TEC's response to the Sunset Advisory Commission's management recommendations, the strategic plan, legislative appropriations request, and recommendations for statutory change.
23. Discussion related to enhanced contract monitoring of certain Commission contracts.
24. 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:

1 **EXHIBIT 4-A**

2 **Text of Proposed Rules**

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

4 The proposed language is indicated by text text.

5 **CHAPTER 26. POLITICAL AND LEGISLATIVE ADVERTISING**

6 **§26.1. Disclosure Statement.**

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

9 (1) appear on one line of text or on successive lines of text on the face of the political
10 advertising; or

11 (2) be clearly spoken in the political advertising if the political advertising does not
12 include written text.

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

15 (1) the person who paid for the political advertising;

16 (2) the political committee authorizing the political advertising; or

17 (3) the candidate authorizing the political advertising.

18 (c) A disclosure statement is not required on:

19 (1) campaign buttons, pins, or hats, or on objects whose size makes printing the disclosure
20 impractical;

21 (2) political advertising posted or re-posted on an Internet website, as long as the person
22 posting or re-posting the political advertising:

23 (A) is not an officeholder, candidate, or political committee;

24 (B) did not make an expenditure exceeding \$100 in a reporting period for political
25 advertising beyond the basic cost of hardware messaging software and bandwidth;
26 and

27 (C) did not post or re-post the political advertising in return for consideration.

28 (3) the Internet social media profile webpage of a candidate or officeholder, provided the
29 webpage clearly and conspicuously displays the full name of the candidate or
30 officeholder; or

31 (4) political advertising posted or re-posted by a person on an Internet website, provided
32 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.

1 **EXHIBIT 5-A**

2 **Text of Proposed Rules**

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

4 The proposed language is indicated by text text.

5
6 **CHAPTER 46. DISCLOSURE OF INTERESTED PARTIES**

7 **§46.1. Application.**

8 (a) This chapter applies to §2252.908 of the Government Code.

9 ~~[(b) Section 2252.908 of the Government Code applies only to a contract of a governmental~~
10 ~~entity or state agency entered into after December 31, 2015, that meets either of the following~~
11 ~~conditions:~~

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

14 ~~(2) The value of the contract is at least \$1 million.]~~

15 ~~[(c)](b)~~ A contract does not require an action or vote by the governing body of a governmental
16 entity or state agency if:

17 (1) The governing body has legal authority to delegate to its staff the authority to execute
18 the contract;

19 (2) The governing body has delegated to its staff the authority to execute the contract; and

20 (3) The governing body does not participate in the selection of the business entity with
21 which the contract is entered into.

22 **§46.3. Definitions.**

23 (a) “Contract” means a contract between a governmental entity or state agency and a business
24 entity at the time it is voted on by the governing body or at the time it binds the governmental
25 entity or state agency, whichever is earlier, and includes an amended, extended, or renewed
26 contract.

27 (b) “Business entity” includes an entity through which business is conducted with a governmental
28 entity or state agency, regardless of whether the entity is a for-profit or nonprofit entity. The term
29 does not include a governmental entity or state agency.

30 (c) “Controlling interest” means:

31 (1) an ownership interest or participating interest in a business entity by virtue of units,
32 percentage, shares, stock, or otherwise that exceeds 10 percent;

33 (2) membership on the board of directors or other governing body of a business entity of
34 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.

1 **EXHIBIT 6-A**

2 **Text of Proposed Rules**

3 The deleted language is indicated by [~~strikethrough~~] text.

4 The proposed language is indicated by underlined text.

5 **CHAPTER 45. CONFLICTS OF INTEREST**

6 **§45.1. Application.**

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

8 **§45.3. Definitions.**

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

10 (1) the chief clerk,~~[-; and]~~

11 (2) an employee who exercises discretion in connection with a contract, payment, claim,
12 or other pecuniary transaction under the comptroller's purchasing authority, and~~[-]~~

13 (3) the Comptroller.

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

16 (1) “Chief clerk” and “employee” includes the spouse or dependent child of the chief clerk
17 or employee.

18 (2) “Have an interest in” or “in any manner be connected with,” is limited to the purchasing
19 authority that was transferred to the comptroller by §2151.004 of the Government
20 Code, and means a right, share, equitable or legal claim to, or pecuniary interest in, a
21 contract or bid.

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

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

28 **§45.5. Definitions.**

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

30 (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.

EXHIBIT 7-A

Text of Proposed Rules

The proposed language is indicated by underlined text.

CHAPTER 7. CONTRACTS

§7.1. Application.

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

§7.3. Definitions.

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

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

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

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

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

§7.5. Vendor Protest Procedures.

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

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

(c) A valid protest must be:

(1) In writing and contain:

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

§7.55. Vendor Protest Procedures for Vendor Performance Reports.

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

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

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

§7.7. Contract Monitoring.

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

(b) The contract monitoring roles and responsibilities of the Commission's internal audit staff and 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.

§7.11. Veteran Heroes United in Businesses (VetHUB)

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

1 **EXHIBIT 8-A**

2 **Text of Proposed Rules**

3 The deleted language is indicated by ~~[strike through]~~ text.

4 The proposed language is indicated by underlined text.

5 **CHAPTER 34. REGULATION OF LOBBYISTS**

6 **Subchapter A. GENERAL PROVISIONS**

7 **§34.1. Definitions.**

8 The following words and terms, when used in this chapter, shall have the following meanings,
9 unless the context clearly indicates otherwise.

10 ~~[(1) Communicates directly with, or any variation of that phrase--In Government Code,~~
11 ~~Chapter 305, and in this chapter includes communication by facsimile transmission.]~~

12 (1)[(2)] Expenditure--In Government Code, Chapter 305, and in this chapter does not
13 include a payment of less than \$200 that is fully reimbursed by the member of the
14 legislative or executive branch who benefits from the expenditure if the member of the
15 legislative or executive branch fully reimburses the person making the payment before
16 the date the person would otherwise be required to report the payment.

17 (2)[(3)] Lobby activity--Direct communication with and preparation for direct
18 communication with a member of the legislative or executive branch to influence
19 legislation or administrative action.

20 (3)[(4)] Registrant--In Government Code, Chapter 305, and in this chapter means a
21 person who is required to register as well as a person who has registered regardless of
22 whether that person's registration was required.

23 **§34.3. Compensation for Preparation Time.**

24 Compensation a person receives for preparing to communicate directly with a member of the
25 legislative or executive branch to influence legislation or administrative action is included in
26 calculating compensation for purposes of the registration and reporting requirements in
27 Government Code, Chapter 305, and this chapter. Examples of preparation for lobby
28 communications include participation in strategy sessions, review and analysis of legislation or
29 administrative matters, research and communication with the employer/client. A person who
30 does not directly communicate with a member of the legislative or executive branch to influence
31 legislation or administrative action is not required to register because of compensation received
32 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.

1 **EXHIBIT 9-A**

2 **Text of Proposed Rules**

3 The proposed language is indicated by underlined text.
4 The deleted language is indicated by strikethrough text.

5 **Chapter 16. FACIAL COMPLIANCE REVIEWS AND AUDITS.**

6 **§16.1. Definitions.**

7 The following words and terms, when used in this chapter, shall have the following meanings,
8 unless the context clearly indicates otherwise.

9 (1) Deficiency—An error, omission, inaccuracy, or violation of a law or rule administered
10 and enforced by the Commission~~[commission]~~ that is apparent on the face of a statement
11 or report filed with the Commission~~[commission]~~

12 (2) Compliance review report—A report sent to a filer detailing deficiencies in a report
13 that is the subject of a facial compliance review.

14 (3) Facial compliance review—A review conducted under ~~§[section]~~ 571.069 of the
15 Government Code of the information disclosed on a report, randomly selected in
16 accordance with §16.2 of this chapter (relating to Random Selection), filed with the
17 Commission~~[commission]~~ for facial completeness, accuracy, reliability, and compliance
18 with the law.

19 (4) Report—A personal financial statement, lobby registration, lobby activities report, or
20 campaign finance report filed with the Commission~~[commission]~~.

21 **§16.2. Random Selection.**

22 The report subject to a facial compliance review must be randomly selected from a list of all
23 reports filed by a particular filer type for a specific filing deadline.

24 **§16.3. Corrected or Amended Report Filed During a Facial Compliance Review; Late**
25 **Fines.**

26 (a) A correction filed for the report that is subject to the facial compliance review will not be
27 subject to a late fine if:

28 (1) The correction is filed not later than the 30th day after the date the filer receives the
29 compliance review report;

30 (2) The corrected information complies with the law; and

31 (3) The original report was filed in good faith and without an intent to mislead or
32 misrepresent the information contained in the report.

33 (b) A late fine will not be assessed for corrections filed to correct reporting errors made in any
34 report filed prior to the report that is subject to the facial compliance review if:

- (1) The filer learned of the errors through the facial compliance review;
 - (2) The correction is filed not later than the 30th day after the date the filer receives the compliance review report;
 - (3) The corrections comply with the law; and
 - (4) The original report was filed in good faith and without an intent to mislead or misrepresent the information contained in the report.
- (c) A correction filed in accordance with this section will not be considered a prior late offense for purposes of determining the waiver or reduction of a fine under chapter 18 of this title (relating to General Rules Concerning Reports).

§16.4. Additional Documents and Information Submitted in Response to a Facial Compliance Review; Timeliness.

- (a) The Commission~~[commission]~~ may request from a filer documentation and other information used by the filer to compile a report that is subject to a facial compliance review.
- (b) Documentation and other information requested by the Commission~~[commission]~~ is timely submitted if received by the Commission~~[commission]~~ not later than the 30th day after the date the filer receives the request for additional documentation.

§16.5. Commission Initiated Preliminary Review or Audit Resulting from a Facial Compliance Review.

- (a) The Commission~~[commission]~~ may initiate a preliminary review as authorized by §571.124 of the Government Code or perform a complete audit of a report that is subject to a facial compliance review under §571.069 of the Government Code if:

- (1) a correction is not resubmitted to the Commission~~[commission]~~ in accordance with §16.3 of this title (relating to Corrected or Amended Report Filed During a Facial Compliance Review; Late Fines)~~[16.2]~~;
- (2) documentation or other information requested by the Commission~~[commission]~~ during a facial compliance review is not submitted to the Commission~~[commission]~~ in accordance with §16.4 of this title (relating to Additional Documents and Information Submitted in Response to a Facial Compliance Review; Timeliness)~~[16.3]~~; or
- (3) the Commission~~[commission]~~ has determined by a vote of at least six Commission~~[commission]~~ members that the correction filed in response to a compliance review report, does not comply with the law.

§16.6. Notice of Audit of Report.

The Commission~~[commission]~~ shall notify a filer that the Commission~~[commission]~~ will perform a complete audit of a report that is the subject of a facial compliance review not later than the seventh day after the date the Commission~~[commission]~~ votes to initiate the audit.

§16.7. Supporting Documentation in Response to Audit; Timeliness.

(a) A filer must submit to the Commission~~[commission]~~, upon request and where applicable, supporting documentation in the possession, custody, or control of the filer or filer's agents that contains information necessary for filing the report that is subject to the audit, such as:

- (1) bank statements;
- (2) cancelled checks;
- (3) receipts;
- (4) credit card statements;
- (5) invoices;
- (6) loan documents;
- (7) books or ledgers;
- (8) employee timesheets and payroll records;
- (9) certificates of formation or other business documents; and
- (10) real property records.

(b) A filer must submit to the Commission~~[commission]~~ the supporting documentation in response to an audit not later than the 30th calendar~~[business]~~ day from the date the filer receives notice of the audit.

§16.8. Complete Audit Report.

(a) Commission staff must complete a draft audit report not later than the 30th day after the Commission~~[commission]~~ receives from the filer the documentation requested under §16.7 of this chapter (relating to supporting Documentation in Response to Audit; Timeliness) ~~[16.6]~~.

(b) The filer must have an opportunity to confer and object in writing to any findings in the draft audit report before it is submitted to the Commission~~[commission]~~ for approval.

(c) Commission staff must consider the filer's objections before submitting the draft audit report to the Commission~~[commission]~~ for approval.

(d) Upon approval of an audit, the Commission~~[commission]~~ shall send to the filer a final audit report that includes:

- (1) a notification that the Commission~~[commission]~~ has determined the report that was subject to the audit complies with the law; or
- (2) required corrective actions that the filer must take to cure any deficiency found in the report that is subject to the audit.

(e) A filer must correct or amend a report to correct all deficiencies identified in a complete audit report not later than the 30th day from the date the filer receives the complete audit report.

§16.9. Representation by Attorney.

(a) A filer has the right to be represented by an attorney retained by the filer during a facial compliance review or an audit initiated by the Commission~~[commission]~~ as a result of a facial compliance review.

(b) A letter of representation must be submitted to the Commission~~[commission]~~ if the filer is represented by an attorney.

§16.10. Extension of Deadlines.

The executive director may extend all deadlines related to this chapter except as provided by §571.069(a) of the Government Code (relating to when a corrected or amended report is considered filed as of the date the report was originally filed).

§16.11. Waiver of Delivery by Certified Mail.

A filer may waive the right under §571.032 of the Government Code to receive written notices related to a facial compliance review or audit by registered or certified mail, restricted delivery, return receipt requested, and may agree to receive written notices by first class mail, electronic mail, or other means.

§16.12. Facial Review of Total Amount of Political Contributions Maintained.

(a) In this section "expected total political contributions maintained" for a report subject to review is the total amount of political contributions maintained disclosed on the previous report and all monetary political contributions, loans, and credits, less all expenditures from political contributions disclosed on the report that is subject to review, excluding the purchase of investments that can be readily converted to cash.

(b) When there is a difference greater than the threshold set by §20.50(c) of this title (relating to Total Political Contributions Maintained) between the total amount of political contributions maintained disclosed in a report and the expected total political contributions maintained, the Commission~~[commission]~~ may request from the filer the bank statement showing the balance as of the last day of the reporting period for each account in which political contributions are maintained.

~~[(c) Producing the requested bank statements that show the total amount of political contributions was accurately reported in the report that is subject to review is sufficient to end the review of the total amount of political contributions maintained as disclosed in the report.]~~

1 **EXHIBIT 10-A**

2 **Text of Proposed Rule**

3 The proposed language is indicated by underlined text.

4 The deleted language is indicated by strikethrough text.

5 **CHAPTER 20. REPORTING POLITICAL CONTRIBUTIONS AND EXPENDITURES**

6 **Subchapter B. GENERAL REPORTING RULES**

7 **§20.50. Total Political Contributions Maintained.**

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

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

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

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

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

21 (c) For purposes of Election Code §254.031(a-1), the difference between the total amount of
22 political contributions maintained that is disclosed in a report and the correct amount is a de
23 minimis error if the difference does not exceed \$2,500.[:

24 ~~(1) \$7,500; or~~

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

26 **Subchapter C. REPORTING REQUIREMENTS**

27 **§20.211. Reporting Pledges.**

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

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

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

33 (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.

Each report must include:

- (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.

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

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

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

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

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

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

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

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

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

§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 section~~[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:

(A) the office sought by the filer; or

(B) the full name of the campaign treasurer;

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

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

(5) the amount of each contribution;

(6) the date each contribution was accepted; and

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

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

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

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

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

8 (4) the identification of the candidates or group of candidates benefiting from the direct
9 campaign expenditure.

10 **§20.227. Contents of Special Session Report.**

11 A special session report shall include the following information:

12 (1) the filer's name;

13 (2) the filer's address;

14 (3) either:

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

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

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

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

19 (i) the full name of the candidate;

20 (ii) the office sought by the candidate; and

21 (iii) an indication of whether the committee supports or opposes the
22 candidate;

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

24 (i) the full name of the officeholder;

25 (ii) the office held by the officeholder; and

26 (iii) an indication of whether the committee supports or opposes the
27 officeholder;

28 (5) the date each contribution was accepted;

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

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

- (8) the amount of each contribution accepted during the reporting period;
- (9) a description of any in-kind contribution accepted during the reporting period; and
- (10) an affidavit, executed by the candidate, stating: “I swear, or affirm, that the accompanying report is true and correct and includes all information required to be reported by me under Title 15, Election Code.”

§20.235. Contents of Annual Report.

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

- (1) for each payment made by the candidate from 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 during the previous year:

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

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

(C) the date of each payment;

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

(E) the amount of each payment.[:]

- (2) the full name of each person to whom a payment from 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 was made.

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

§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 political ~~[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 political ~~[specific-purpose]~~ committee may not make or authorize political expenditures or accept political contributions without having an appointment of campaign treasurer on file.”

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

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

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

(b) A filer 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.

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

(4) One pre-election report not earlier than the ninth day before the convening of the state convention and not later than the eighth day before the convening of the state convention. The report must cover the period that begins on either the day ~~after~~ the filer filed a campaign treasurer appointment with the Commission or the first day after the period

covered by the last report required to be filed, as applicable, and ends on the 10th day before the convening.

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

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

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

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

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

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

EXHIBIT 11-A

Text of Proposed Rule

The proposed language is indicated by underlined text.

Chapter 12. Sworn Complaints

Subchapter G. Other Enforcement Actions

§12.100. Informal Notice of Apparent Violation.

(a) Beginning the 60th day before an election and running until election day, if the Commission is notified of an apparent violation of a law or rule administered and enforced by the Commission, the executive director may notify the person responsible for the apparent violation and encourage the person to file a corrected report or otherwise remedy the apparent violation.

(b) The executive director shall report to the commission at its next regular meeting the notices provided by the executive director under this section since its last regular meeting.

(c) Discussions between commissioners and Commission staff and documents gathered related to the report under subsection (b) of this section are confidential under Section 12.15 of this chapter (relating to Commission Initiated Complaint) and Sections 571.139 and 571.140 of the Government Code.

EXHIBIT 12-A

Text of Proposed Rule Amendments

The proposed language is indicated by underlined text.
The deleted language is indicated by strikethrough text.

CHAPTER 18. GENERAL RULES CONCERNING REPORTS

§18.31. Adjustments to Reporting Thresholds.

(a) Pursuant to section 571.064 of the Government Code, the reporting thresholds are adjusted as follows:

Campaign Finance Reports: Section of Election Code	Threshold Description	Original Threshold Amount	Adjusted Amount
253.031(b)	PAC: Amount of contributions or expenditures permitted before TA is required	\$500	<u>\$1,140</u> [\$1,110]
253.031(d)(2)	CEC: Amount of contributions or expenditures permitted before TA is required	\$25,000	<u>\$42,570</u> [\$41,460]
253.032(a)	Contribution by Out-of-state PAC: Threshold above which certain paperwork is required	\$500	<u>\$1,170</u> [\$1,140]
253.032(a)(1)	Contribution to Out-of-state PAC: Threshold above which certain contribution information is required	\$100	\$230
253.032(e)	Contribution by Out-of-state PAC: Threshold at or below which certain information is required	\$500	<u>\$1,170</u> [\$1,140]
254.031(a)(1)	Contributions: Threshold over which more information is required	\$50	<u>\$120</u> [\$110]
254.031(a)(2)	Loans: Threshold over which more information is required	\$50	<u>\$120</u> [\$110]
254.031(a)(3)	Expenditures: Threshold over which more information is required	\$100	\$230
254.031(a)(5)	Contributions: Threshold at or below which more information is not required	\$50	<u>\$120</u> [\$110]
254.031(a)(5)	Expenditures: Threshold at or below which more information is not required	\$100	\$230
254.031(a)(9)	Interest, credits, refunds: Threshold over which more information is required	\$100	<u>\$150</u> [\$140]
254.031(a)(10)	Sale of political assets: Threshold over which proceeds must be reported	\$100	<u>\$150</u> [\$140]
254.031(a)(11)	Investment Gain: Threshold over which more information is required	\$100	<u>\$150</u> [\$140]

Campaign Finance Reports: Section of Election Code	Threshold Description	Original Threshold Amount	Adjusted Amount
254.031(a)(12)	Contribution Gain: Threshold over which more information is required	\$100	<u>\$150</u> [\$140]
254.0311(b)(1)	Caucus, contributions from non-caucus members: Threshold over which more information is required	\$50	<u>\$120</u> [\$110]
254.0311(b)(2)	Caucus, loans: Threshold over which more information is required	\$50	<u>\$120</u> [\$110]
254.0311(b)(3)	Caucus, expenditures: Threshold over which more information is required	\$50	<u>\$120</u> [\$110]
254.0311(b)(4)	Caucus, contributions and expenditures: Threshold at or below which more information is not required	\$50	<u>\$120</u> [\$110]
254.0312	Contributions, Best Efforts: Threshold under which filer is not required to request contributor information to be in compliance	\$500	<u>\$900</u> [\$870]
254.036	Electronic Filing Exemption: Threshold at or below which a filer may qualify	\$20,000	<u>\$35,830</u> [\$34,890]
254.038(a)	Daily Reports by certain candidates and PACs: Contribution threshold triggering report	\$1,000	<u>\$2,350</u> [\$2,290]
254.039	Daily Reports by GPACs: Contribution threshold triggering report	\$5,000	<u>\$8,030</u> [\$7,820]
254.039	Daily reports by GPACs: DCE expenditure thresholds (single candidate/group of candidates)	\$1,000/\$15,000	<u>\$2,350/\$35,250</u> [\$2,290/\$34,330]
254.0611(a)(2)	Judicial candidates, contributions: Threshold over which more information is required	\$50	<u>\$120</u> [\$110]
254.0611(a)(3)	Judicial candidates, asset purchase: Threshold over which more information is required	\$500	<u>\$1,170</u> [\$1,140]
254.0612	Statewide executive and legislative candidates, contributions: Threshold over which more information is required	\$500	<u>\$1,170</u> [\$1,140]
254.095	Local officeholders, contributions: Threshold under which reporting is not required	\$500	<u>\$1,170</u> [\$1,140]
254.151(6)	GPAC, contributions: Threshold over which more information is required	\$50	<u>\$120</u> [\$110]
254.1541(a)	GPAC, higher itemization threshold: Threshold under which it applies	\$20,000	<u>\$34,060</u> [\$33,170]

Campaign Finance Reports: Section of Election Code	Threshold Description	Original Threshold Amount	Adjusted Amount
254.1541(b)	GPACs that meet higher itemization threshold: Threshold over which more contributor information is required	\$100	\$230
254.156(1)	MPAC: Threshold over which contribution, lender and expenditure information is required	\$10	\$20
254.156(2)	MPACs that meet higher itemization threshold: Threshold over which more contributor information is required	\$20	\$50
254.181, 254.182, 254.183	Candidate or SPACs, modified reporting: Contribution or expenditure threshold at or below which filers may avoid pre-election reports	\$500	<u>\$1,170</u> [\$1,140]
254.261	DCE filers: Threshold over which a report must be filed	\$100	\$170

1

Lobby Registrations and Reports: Section of Government Code	Threshold Description	Original Threshold Amount	Adjusted Amount
305.003(1)	Lobbyist, expenditures: Threshold over which registration is required	\$500, by 1 Tex. Admin. Code §34.41	<u>\$1,020</u> [\$990]
305.003(2)	Lobbyist, compensation: Threshold over which registration is required	\$1,000, by 1 Tex. Admin. Code §34.43	<u>\$2,040</u> [\$1,990]
305.004(7)	Lobbying for political party: Threshold at or below which registration is not required	\$5,000	<u>\$11,750</u> [\$11,440]
305.005(g)(2)	Lobbyist: Compensation threshold	\$10,000	<u>Less than \$23,500</u> [Less than \$22,890]
305.005(g)(3)	Lobbyist: Compensation threshold	\$25,000	<u>\$23,500 to less than \$58,750</u> [\$22,890 to less than \$57,220]
305.005(g)(4)	Lobbyist: Compensation threshold	\$50,000	<u>\$58,750 to less than \$117,500</u> [\$57,220 to less than \$114,430]
305.005(g)(5)	Lobbyist: Compensation threshold	\$100,000	<u>\$117,500 to less than \$234,990</u> [\$114,430 to less than \$228,870]
305.005(g)(6)	Lobbyist: Compensation threshold	\$150,000	<u>\$234,990 to less than \$352,490</u> [\$228,770 to less than \$343,300]

Lobby Registrations and Reports: Section of Government Code	Threshold Description	Original Threshold Amount	Adjusted Amount
305.005(g)(7)	Lobbyist: Compensation threshold	\$200,000	<u>\$352,490 to less than \$469,980</u> [\$343,300 to less than \$457,730]
305.005(g)(8)	Lobbyist: Compensation threshold	\$250,000	<u>\$469,780 to less than \$587,480</u> [\$457,730 to less than \$572,160]
305.005(g)(9)	Lobbyist: Compensation threshold	\$300,000	<u>\$587,480 to less than \$704,980</u> [\$572,160 to less than \$686,600]
305.005(g)(10)	Lobbyist: Compensation threshold	\$350,000	<u>\$704,980 to less than \$822,470</u> [\$686,600 to less than \$801,030]
305.005(g)(11)	Lobbyist: Compensation threshold	\$400,000	<u>\$822,470 to less than \$939,970</u> [\$801,030 to less than \$915,460]
305.005(g)(12)	Lobbyist: Compensation threshold	\$450,000	<u>\$939,970 to less than \$1,057,460</u> [\$915,460 to less than \$1,029,890]
305.005(g)(13)	Lobbyist: Compensation threshold	\$500,000	<u>\$1,057,460 to less than \$1,174,960</u> [\$1,029,890 to less than \$1,144,330]
305.005(g-1)	Lobbyist: Compensation threshold	\$500,000	<u>\$1,174,960 or more</u> [\$1,144,330 or more]
305.0061(c)	Lobbyist, legislative/executive branch member: Threshold over which gifts, awards and mementos must be disclosed	\$50	<u>\$120</u> [\$110]
305.0061(e-1)	Lobbyist, food and beverage: threshold at or below which it is considered a gift and reported as such	\$50	<u>\$120</u> [\$110]
305.0063	Lobbyist, annual filer: expenditure threshold at or below which filer may file annually	\$1,000	<u>\$2,350</u> [\$2,290]

1

Personal Financial Statements: Section of Gov't Code	Threshold Description	Original Threshold Amount	Adjusted Amount
572.022(a)(1)	PFS threshold	less than \$5,000	less than <u>\$11,750</u> [\$11,440]
572.022(a)(2)	PFS threshold	\$5,000 to less than \$10,000	<u>\$11,750</u> [\$11,440] to less than <u>\$23,500</u> [\$22,890]

Personal Financial Statements: Section of Gov't Code	Threshold Description	Original Threshold Amount	Adjusted Amount
572.022(a)(3)	PFS threshold	\$10,000 to less than \$25,000	\$23,500 [\$22,890] to less than \$58,750 [\$57,220]
572.022(a)(4)	PFS threshold	\$25,000 or more	\$58,750 [\$57,220] or more
572.005, 572.023(b)(1)	PFS, retainer: Threshold over which filer with a substantial interest in a business entity must report more information	\$25,000	\$58,750 [\$57,220]
572.023(b)(4)	PFS, interest, dividends, royalties and rents: Threshold over which information must be reported	\$500	\$1,170 [\$1,140]
572.023(b)(5)	PFS, loans: Threshold over which information must be reported	\$1,000	\$2,350 [\$2,290]
572.023(b)(7)	PFS, gifts: Threshold over which information must be reported	\$250	\$590 [\$570]
572.023(b)(8)	PFS, income from trust: Threshold over which information must be reported	\$500	\$1,170 [\$1,140]
572.023(b)(15)	PFS, government contracts: Threshold of aggregate over which more information must be reported	Exceeds \$10,000	Exceeds \$12,990 [\$12,560]
572.023(b)(15)(A)	PFS, government contracts: Itemization threshold	\$2,500 or more	\$3,220 [\$3,140] or more
572.023(b)(16)(D)(i)	PFS, bond counsel fees paid to legislator: Threshold	less than \$5,000	less than \$6,450 [\$6,280]
572.023(b)(16)(D)(ii)	PFS, bond counsel fees paid to legislator: Threshold	at least \$5,000 but less than \$10,000	at least \$6,450 [\$6,280] but less than \$12,990 [\$12,560]
572.023(b)(16)(D)(iii)	PFS, bond counsel fees paid to legislator: Threshold	at least \$10,000 but less than \$25,000	at least \$12,990 [\$12,560] but less than \$32,250 [\$31,410]
572.023(b)(16)(D)(iv)	PFS, bond counsel fees paid to legislator: Threshold	\$25,000 or more	\$32,250 [\$1,4120] or more
572.023(b)(16)(E)(i)	PFS, bond counsel fees paid to individual's firm: Threshold	less than \$5,000	less than \$6,450 [\$6,280]
572.023(b)(16)(E)(ii)	PFS, bond counsel fees paid to individual's firm: Threshold	at least \$5,000 but less than \$10,000	at least \$6,450 [\$6,280] but less than \$12,990 [\$12,560]
572.023(b)(16)(E)(iii)	PFS, bond counsel fees paid to individual's firm: Threshold	at least \$10,000 but less than \$25,000	at least \$12,990 [\$12,560] but less than \$32,250 [\$31,410]
572.023(b)(16)(E)(iv)	PFS, bond counsel fees paid to individual's firm: Threshold	\$25,000 or more	\$32,250 [\$1,4120] or more

Speaker Election and Certain Ceremonial Reports: Section of Government Code	Threshold Type	Current Threshold Amount	Adjusted Amount
302.014(4)	Speaker: Expenditures over which more information must be reported	\$10	\$20
303.005(a)(1) – (10)	Governor for a Day/Speaker’s Day: Threshold over which more information must be reported	\$50	<u>\$120</u> [\$110]

1 Figure 4: No change.

2 Figure 5: No change.

3 (b) The changes made by this rule apply only to conduct occurring on or after the effective date
4 of this rule.

5 (c) The effective date of this rule is January 1, 2027[~~2026~~].

6 (d) In this section:

7 (1) “CEC” means county executive committee;

8 (2) “DCE” means direct campaign expenditure-only filer;

9 (3) “GPAC” means general-purpose political committee;

10 (4) “MPAC” means monthly-filing general-purpose political committee;

11 (5) “PAC” means political committee;

12 (6) “PFS” means personal financial statement;

13 (7) “SPAC” means specific-purpose political committee; and

14 (8) “TA” means treasurer appointment.

ETHICS ADVISORY OPINION NO. 639

February 11, 2026*

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 255.003 restriction on the use of a political subdivision's resources for political advertising does not apply because the charter school is not a political subdivision.

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

The Education Code specifically states which laws apply to a charter school as if it were a political subdivision. Tex. Educ. Code § 12.1058. 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

* The Commission voted to reconsider and amend this opinion by updating the language throughout the opinion. That change took effect on May 13th, 2026.

STAFF DRAFT. NOT FINAL UNLESS ADOPTED BY THE COMMISSION.

legislature intended the list to be exhaustive. *See Unigard Sec. Ins. Co. v. Schaefer*, 572 S.W.2d 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. Therefore, for the purposes of Section 255.003 of the Election Code, charter schools are not political subdivisions.

The video requires a political advertising disclosure statement.

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 requestor 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.” Tex. Elec. Code § 251.001(16). 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.

The use of the charter school’s classroom for a campaign ad likely constitutes an illegal corporate contribution.

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).

Here, the requestor entered a charter school, presumably with a film crew, and recorded a song that supported the requestor’s campaign. The use of a school’s facilities as a set for a campaign video is a thing of value. We assume the requestor intended the recording to be used in support of the

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requestor's campaign. Therefore, the candidate's use of charter school's classroom and other resources to film a political advertisement appears to constitute an illegal corporate contribution.

Receiving special access to a charter school classroom to record a political advertisement is likely an illegal gift to a public servant.

The requestor is likely 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; *but see id.* § 36.10 (listing exceptions). As a member of the SBOE, the requestor is a public servant in a regulatory agency. The SBOE has the authority to place on probation or revoke a school district's charter. *See* Tex. Educ. Code § 12.027. Therefore, the charter school is subject to the SBOE's regulation.

ETHICS ADVISORY OPINION NO. xxx

[Date]

ISSUE

Whether, under Section 572.070 of the Government Code, a state employee is required to report certain contacts with an employee of a university owned or controlled by the People's Republic of China? What are the reporting requirements for frequent contacts? (AOR-747)

SUMMARY

Advisory opinions cannot adjudicate disputed facts. For the sake of the opinion, we assume that the contacts employed by state-owned or state-controlled universities are working on behalf of foreign adversaries.

In cases of frequent contacts with the same person, one report may be submitted every thirty days covering contacts during that time.

FACTS

Under newly enacted legislation, an employee or volunteer of a state agency or a political subdivision is required to report to the Texas Ethics Commission ("TEC") each interaction, communication, or meeting the employee or volunteer has with a person acting on behalf of a foreign adversary not later than the 30th day after the date of the interaction, communication, or meeting. Tex. Gov't Code § 572.070.

The requestor is an assistant professor at a Texas university. The requestor routinely communicates with researchers at foreign, state-owned or state controlled academic institutions. The requestor states that the communications are limited to open, fundamental research intended for publication and that no gifts, items of value, honoraria, or travel/lodging are offered or accepted in connection with the communications.

The requestor specifically asks whether contacts with a faculty member, postdoc, or student employed by a Chinese university qualifies as a "person acting on behalf of a foreign adversary" solely by virtue of the foreign contact being employed by a state-owned/state-controlled university. The requestor also asks what factors would cause a foreign contact to be considered "acting on behalf of a foreign adversary" for the purposes of Section 572.070(c), such as titles/roles, affiliation with non-university entities, directions by a government body, etc.

Finally, the requestor asks about the reporting requirements for frequent interactions under Section 572.070(c).

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ANALYSIS

The definition of “foreign adversary” includes, in relevant part, countries identified by the United States Director of National Intelligence as a country that poses a risk to the national security of the United States or countries that have been designated by the governor. *See* Tex. Gov’t Code § 572.0707(a).

Whether communications made to a state employee by an employee of the Chinese university are required to be reported by the state employee turns on whether the communications are made “on behalf of” China.

Section 572.070(c) does not provide a definition for “on behalf of.” *See* Tex. Gov’t Code § 572.070(c). When construing a statute, words are to be given their ordinary meaning. Tex. Gov’t Code § 312.002. “On behalf of” means as a representative of someone, or for the benefit of or in support of someone. <https://www.merriam-webster.com/dictionary/on%20behalf%20of> (last accessed March 31, 2026).

An advisory opinion cannot resolve a disputed question of fact. 1 Tex. Admin. Code § 8.3(c). Without further information, we cannot answer if merely being employed by a Chinese owned or controlled university would mean that a person is acting on behalf of China. Therefore, for the purposes of this opinion, we assume without deciding that because China is a foreign adversary and the contacts at issue in this request work at Chinese owned or Chinese controlled universities, that an employee of such a university acting in their official capacity would therefore be acting on behalf of China. *See* Texas Governor Greg Abbott, Executive Order No. GA-48 (November 19, 2024) (“WHEREAS, the [People’s Republic of China’s] National Security Law requires all organizations and citizens of the PRCs to ‘support, assist, and cooperate with the state intelligence work;’”).

Regarding reporting frequent interactions, the statute requires that “each interaction, communication, or meeting [...] with a person acting on behalf of a foreign adversary” be reported “not later than the 30th day after the date of the interaction.” Tex. Gov’t Code § 572.070(c). It is permissible under the statute to report all interactions in 30-day increments, which reduces the number of forms required to be submitted while maintaining the 30-day deadline.

ETHICS ADVISORY OPINION NO. xxx

[Date]

ISSUE

Regarding the application of the revolving door provision of Section 572.054(b) of the Texas Government Code to a former employee of Texas Department of Transportation (“TXDOT”). (AOR-748.)

SUMMARY

The former TXDOT employee would not be barred from representing the requestor on the indicated projects, as they are not the same “particular matter” that the employee participated in while employed by TXDOT.

FACTS

The requestor is looking to employ a former TxDOT employee who exceeded the step 1, salary group 17 threshold and is subject to the revolving door prohibition of Section 572.054(b) of the Texas Government Code. The requestor states that the employee, among other duties, was responsible for completing block grants for projects, tracking amounts and utilization of federal entitlement funds allotted to eligible airports, and attending annual Aviation Capital Improvement Program (ACIP) meetings to inform planners of said federal entitlement funds for certain airports.

The requestor asks if the definition of “participate” would apply to the former TxDOT employee such that they would be barred from representing the requestor on projects where the employee may have sat in an ACIP meeting where all potential projects in the state were discussed.

The requestor also asks if the employee would be barred from representing the requestor on projects where the employee may have applied for a block grant.

ANALYSIS

“Participated” means to have taken action as an employee through decision, approval, disapproval, recommendation, giving advice, investigation, or similar action. Tex. Gov’t Code § 572.054(h)(1). “Particular matter” means a specific investigation, application, request for a ruling or determination, rulemaking proceeding, contract, claim, charge, accusation, arrest, or judicial or other proceeding. *Id.* § 572.054(h)(2).

Previously, we have stated that “particular matter” refers to a specific proceeding involving an agency’s exercise of discretion. *See* Tex. Ethics Comm’n Op. No. 426 (2000). The matter the employee participated in regarding the meetings was the tracking of amounts and utilization of

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federal entitlement funds. Merely sitting in on meetings to inform planners of federal entitlement funds would not be participating in all projects that were discussed at that meeting.

The Texas Ethics Commission has previously interpreted the application for a grant and the selection of a contractor through a competitive bidding process to be two different “particular matters.” See Tex. Ethics Comm’n Op. No. 345 (1996). The employee’s participation in applying for a block grant would not prohibit the employee from working on a response to the agency’s request for proposals, nor from working on the project itself. *Id.* It is important to note that if the employee did work on the request for proposals on behalf of the agency, they would be barred from participating in the matter on behalf of the requestor.

ETHICS ADVISORY OPINION NO. xxx

[Date]

ISSUE

Does paying a social media company's users for engaging with political advertising content (viewing advertisements, watching videos, completing surveys, etc.) constitute bribery of a voter under Section 36.02(a)(1) of the Penal Code?

Does paying a social media company's users to complete a survey that includes questions about the user's voting intentions—where compensation is identical regardless of the user's answers—constitute prohibited vote-buying under Texas law?

What disclaimer and disclosure requirements under Chapter 255 of the Election Code apply to political advertisements posted on social media?

May candidates, political parties, and political committees use the requestor's social media platform to deliver political advertisements and compensate users for engagement with the advertisements without violating Texas election laws? (AOR-749)

SUMMARY

Paying the requestor's users for engaging with political advertising content through its advertising marketplace does not constitute bribery under Section 36.02(a)(1) of the Penal Code under the facts presented.

Payment of compensation to the requestor's users to complete a survey that includes questions about the user's voting intentions—where compensation is identical regardless of the user's answers does not constitute bribery under Section 36.02(a)(1) of the Penal Code.

Chapter 255 of the Election Code requires specific disclaimers and disclosures on political advertisements.

Use of the requestor's advertising marketplace by candidates, political parties, and political committees does not violate Section 36.02(a)(1) of the Penal Code.

FACTS¹

The requestor is a company that operates a social media platform. According to the requestor, its platform is distinguished by two core features: (1) a credibility scoring system that evaluates users

¹ For the purposes of analyzing the issues presented in this opinion, we assume that the facts provided by the requestor are true and accurate.

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based on verified attributes and community feedback, and (2) its advertising marketplace that compensates users for engaging with advertising content.

The requester provided the following description of its advertising marketplace:

1. User Opt-In and Rate Setting. Users voluntarily enable advertising marketplace participation through their account settings. Participation is entirely optional. Users who enable the advertising marketplace establish their own personal “rate card” specifying the compensation they require for various engagement actions, including: viewing an advertisement, watching a video, filling out a form or survey, making a comment, sharing content, or taking other specified actions.
2. User Preference Curation. Users define the categories of advertising content they wish to receive through tags, filters, and category selections. Users who do not wish to receive political advertising may exclude such content from their feed entirely.
3. Campaign Creation by Advertisers. Advertisers create advertising campaigns by specifying: (a) total campaign budget; (b) demographic targeting parameters (age range, geographic location by zip code); (c) credibility score thresholds; (d) maximum compensation per individual user (“MaxPer” cap); and (e) compensation rates for each engagement action type.
4. Content Review and Approval. The requestor reviews all advertising content for compliance with platform policies before publication. Political advertising is subject to enhanced review to ensure compliance with applicable disclosure requirements under Chapter 255 of the Election Code.
5. Advertisement Delivery. Approved advertisements are delivered to users’ content feeds based on matching between advertiser targeting parameters and user demographic attributes and declared content preferences. Advertisements initially appear in a blurred or obscured state, displaying only the advertiser’s name and credibility rating. Users can see who is advertising before choosing whether to engage.
6. User Engagement and Compensation. When a user clicks on a blurred advertisement, the content is revealed, and the user earns their specified “View” rate. Additional compensable actions (watching embedded video, completing a survey, etc.) earn additional fees at the user’s pre-established rates. Users are compensated only once per action type per advertisement.
7. Instant Settlement. Upon completion of a compensable engagement action, funds are instantaneously transferred from the campaign’s escrow account to the user’s digital wallet² (80%) and the requestor’s platform account (20%). Users may immediately transfer earned funds to their connected U.S. bank account.
8. Campaign Termination. Campaigns remain active until the allocated budget is exhausted or

² The requestor maintains integrated digital wallet functionality so that users may connect external U.S. bank accounts to facilitate instant transfers between their wallet with the requestor and personal banking accounts.

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the advertiser manually terminates the campaign.

The requestor also provided the following example detailing how its advertising marketplace functions:

A candidate for Texas State Senate seeks to communicate her policy positions to potential voters in her district. The candidate's campaign committee creates an advertising marketplace campaign with the following parameters:

Parameter	Value
Campaign Budget	\$10,000.00
Geographic Target	Zip codes within Texas Senate District 14
Age Range	18 years and older
Credibility Score Threshold	4.0 or higher (scale of 1-5)
MaxPer (per user cap)	\$5.00
Compensation - View Ad	\$0.25
Compensation - Watch Video	\$0.75
Compensation - Complete Survey	\$1.00

The campaign uploads a three-minute video in which the candidate discusses her positions on education policy, a voter survey asking about policy priorities and voting intentions, and text content with hyperlinks to her campaign website. The campaign includes the required "Pol. Adv. Paid for by" disclaimer identifying the campaign committee per Texas Election Code § 255.001. A qualifying user sees the blurred advertisement in her feed, observes that it is from the candidate's campaign committee, and chooses to click. Upon clicking, she views the ad content (\$0.25), watches the policy video (\$0.75), and completes the voter survey (\$1.00), earning \$2.00 in total compensation (\$1.60 net after requestor's 20% platform fee).

The user's compensation is identical regardless of how she answers the survey questions—including any questions about her voting intentions. A user who indicates she intends to vote for the candidate receives the same compensation as a user who indicates she intends to vote for the opponent or who declines to answer. The compensation is for the act of completing the survey, not for any particular response. Moreover, there is no mechanism by which the requestor or the campaign verifies actual voting behavior. The user's survey response has no bearing on whether she actually votes or for whom she votes.

ANALYSIS

Payment to the requestor's users for engaging with political advertising content through its advertising marketplace does not constitute bribery under Section 36.02(a)(1) of the Penal Code.

Section 36.02(a)(1) of the Penal Code states in pertinent part that a person commits an offense if he intentionally or knowingly offers, confers, or agrees to confer on another, or solicits, accepts, or agrees to accept from another any benefit as consideration for the recipient's . . . vote, or other exercise of discretion as a voter. A "benefit" is defined as "anything reasonably regarded as pecuniary gain or pecuniary advantage, including benefit to any other person in whose welfare the beneficiary has a direct and substantial interest." Tex. Penal Code § 36.01(3). Merriam-Webster's

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Dictionary defines "pecuniary" with the phrases "consisting of or measured in money" and "of or relating to money." Webster's Twelfth Collegiate Dictionary (2025). Therefore, monetary payment is a benefit. See Tex. Ethics Comm'n Op. No. 123 (1993).

However, in order for bribery to occur, the benefit must be offered, conferred, solicited, or accepted as consideration for the recipient's vote.

In this case, the requestor would pay its users from a candidate's, political party's, or political committee's advertising account set up with the requestor upon the user's engagement with the candidate's political party's, or political committee's political advertisement. This payment constitutes a benefit to the user.

However, the facts provided by the requestor do not indicate that payment is conditioned upon the user agreeing to vote in a particular manner or even vote in general. Rather, the payment is initiated upon the user viewing an advertisement or taking a survey. Therefore, the payment is not offered or made in consideration for a user's specific vote, and, thus, is not a bribe under Section 36.02(a)(1).³

Payment to the requestor's users to complete a survey that includes questions about the user's voting intentions—where compensation is identical regardless of the user's answers does not constitute bribery under Section 36.02(a)(1) of the Penal Code.

It is assumed that the requestor's use of the term "vote-buying" refers to Section 36.02(a)(1) of the Penal Code.

As previously discussed, because payment is based on the user taking the survey and not the actual responses, it is not consideration for the user's vote or agreement to vote. Therefore, payment to the requestor's users for completing a survey that includes questions about the user's voting intentions does not constitute a bribery under Section 36.02(a)(1).

Chapter 255 of the Election Code requires specific disclaimers and disclosures on political advertisements.

Because the requestor states that the communications contemplated in its request would be political advertisements, the following disclaimer and disclosure requirements under Chapter 255 of the Election Code would apply to the individual advertisements:

- Section 255.001 – Required Disclosure on Political Advertising
- Section 255.005 – Misrepresentation of Identity
- Section 255.006 – Misleading Use of Office Title
- Section 255.008 – Disclosure on Political Advertising for Judicial Office

³ Despite our conclusion, we can envision a scenario in which a candidate's advertisement implies that payment is conditioned upon the user's agreement to vote for the candidate. Although, that is not how the requestor's advertising marketplace works, this may still constitute a bribe. However, this is not the fact scenario presented in the request, and it is presumed for the purposes of this opinion that the political advertisements posted on the requestor's advertising marketplace are lawful advertisements.

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Use of the requestor's advertising marketplace by candidates, political parties, and political committees does not violate Section 36.02(a)(1) of the Penal Code.

The Texas Ethics Commission (TEC) is only authorized to interpret the laws specified in Section 571.061 of the Government Code. Therefore, we cannot conclude that use of the requestor's advertising marketplace by candidates, political parties, and political committees would not violate any election related law within Texas. However, our responses above analyze the facts provided by the requestor about its advertising marketplace as they relate to the laws within the TEC's jurisdiction.

ETHICS ADVISORY OPINION NO. xxx

[Date]

ISSUE

Whether public resources were unlawfully used for a candidate's campaign video. (AOR-750.)

SUMMARY

Because all of the images used in the requestor's campaign video that relate to the school district at issue were obtained through publicly accessible means, the video does not violate Section 255.003(a) of the Election Code or Section 39.02(a)(2) of the Penal Code.

FACTS¹

The requestor is a candidate for school board trustee. The school district in which the requestor is running will be referred to as "ISD" for purposes of this opinion. The requestor is a former employee of ISD but is currently employed by a different school district.

In connection with his campaign, the requestor created and posted a campaign video on various social media platforms supporting his candidacy. The requestor asks if the portions of the video identified below constitute the unlawful use of ISD resources.

During the video an image depicting the exterior of a building bearing ISD's name and logo, which was obtained online, is displayed. From there, the video shows a clip of a news broadcast portraying the requestor instructing a classroom of students. This news segment was filmed approximately 15 years ago while the requestor was teaching for ISD, and he recorded a copy of the segment when it was broadcast online. After the news clip, the video proceeds to show an image of students sitting at a table, and then an empty classroom. These images are generic stock images obtained online that do not depict ISD students or property. The video then eventually shows another clip of the news broadcast and an image of the ISD administration building that the requestor obtained online. Lastly, the video plays another generic clip of students sitting at desks that the requestor also obtained online.

ANALYSIS

The requestor has asked whether his campaign video constitutes the unlawful use of ISD resources.²

¹ The facts presented in this opinion were provided by the requestor. We assume that these facts are true and accurate for the purposes of analyzing this request.

² This opinion only analyzes the video 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). Therefore,

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Election Code § 255.003(a):

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).³ The “spending” of public funds includes the use of a political subdivision employee’s work time or a political subdivision’s equipment or facilities. Tex. Ethics Comm’n Op. No. 443 (2002). For example, we have concluded that the use of a facility maintained by a political subdivision, in an area that was restricted to its employees and required government resources to operate while in that restricted area, violates Section 255.003(a) if used for political advertising. *Id.* However, this statute does not prohibit a public officer from using government resources that are equally accessible to the public for political advertising. Tex. Ethics Comm’n Op. No. 550 (2019); *but see* Tex. Ethics Comm’n Op. No. 625 (2025) (stating that a city’s “logo and slogan were ‘the city’s intellectual property and, as such, would constitute a city resource’”).

“Political advertising” is defined, in pertinent part, as a communication supporting or opposing a candidate for nomination or election to a public office or a public officer that appears on an Internet website. Tex. Elec. Code § 251.001(16).

Since the requestor is an employee of a school district, he is subject to Section 255.003(a). Additionally, because the video at issue supports the respondent’s campaign for school board trustee, it constitutes political advertising.

However, based on the facts presented, we conclude that the requestor’s video does not violate Section 255.003(a) for the following reasons. To start, the requestor was no longer an ISD employee at the time the video was created. Therefore, it is presumed that he did not have access to any ISD resources restricted to ISD employees and/or officers. However, even if this is not true, Section 255.003(a) does not prohibit the requestor from using government resources that are equally accessible to the public for political advertising. Therefore, use of the ISD building images and the new broadcast clips were not unlawful since they were publicly accessible online.

Use of the stock images of students and classrooms were also not unlawful because the images were not created by ISD, nor do they depict ISD property or students. Therefore, they do not constitute ISD resources.

Penal Code § 39.02(a)(2):

Under section 39.02(a)(2) of the Penal Code, a public servant, which includes an employee or agent of government and a candidate for nomination or election public office, may not, with intent to obtain a benefit or harm or defraud another, intentionally or knowingly “misuse” government property, services, personnel, or any other thing of value belonging to the government that has come into the public servant’s custody or possession by virtue of the public servant’s office or employment.” Tex. Pen. Code §§ 39.02(a)(2), 1.07(a)(41).

the conclusions of this analysis only apply to the statutes specifically identified in the opinion. They do not address issues related to intellectual property or copyright infringement.

³ “Political subdivision” includes a county, city, or school district or any other government entity that possesses authority for subordinate self-government through officers selected by it. Tex. Elec. Code § 1.005(13)(C).

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The use of government resources for an individual public servant's benefit is a misuse contrary to the state constitutional requirements that public money be used for a public purpose. Tex. Const. art. III, §§ 51, 52(a); Tex. Ethics Comm'n Op. No. 550 (2019). Therefore, the use of government resources for an individual public servant's private campaign purposes would be a misuse. Tex. Ethics Comm'n Op. No. 550 (2019).

However, we have previously concluded that the public area of a government facility would not be in the "custody or possession" of a public officer. *Id.* Such an area would be equally accessible to those not having custody or possession of the government resources. *Id.* Therefore, Section 39.02(a)(2) would not prohibit a public officer from using the public areas of a government building to create a communication for political advertising. *Id.* Additionally, the Penal Code does not prohibit public servants from repurposing an image that is created for a separate, lawful purpose. Tex. Ethics Comm'n Op. No. 561 (2021). For example, if a journalist attends an open court proceeding, sits in the gallery as a member of the general public, and takes a photograph that is published in a newspaper or periodical, a judge may repurpose that photograph for his campaign. *Id.*

As discussed above, it is presumed based on the requestor's employment status at the time of filming his campaign video, that he was not in the custody or possession of any ISD property or resources. However, even if he was, all of the images related to ISD in the requestor's video were equally accessible to the public either in person or online. Additionally, even though the requestor used clips of a news broadcast filmed on ISD property, the broadcast was created for a purpose other than political advertising.⁴ For these reasons, we conclude that the requestor's campaign video does not violate Section 39.02(a)(2) of the Election Code.

⁴ Because the news broadcast was filmed approximately 15 years ago, it is presumed that it was not created for the requestor's political advertising. We further assume for purposes of this opinion that the underlying purpose of the news broadcast was lawful.