

**Citizens for Clean
Elections**

...For Fair And Clean Elections in West Virginia

 **CLEAN ELECTIONS**

FAIR COURTS 
WV Citizens for Clean Elections

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State Election Commission
1900 Kanawha Blvd. East
Building 1, Suite 157-K
Charleston, WV 25305

**Re: Comments on Proposed Changes to §146CSR5 - Rule for WV Supreme Court of Appeals
Public Campaign Financing Program**

Dear Commission Members:

We appreciate the opportunity to comment on proposed changes to the rule for the West Virginia Supreme Court of Appeals Public Campaign Financing Program necessitated by the passage of HB 2010, which made election of Justices to the court non-partisan. This program plays an important role in ensuring public confidence in the impartiality and integrity of our judicial system. We appreciate that the Legislature, with the support of the Commission chose to make this a permanent program after its trial run in 2012 and we are hopeful that it will continue to be successful in future elections.

We commend the Commission and the election staff of the Secretary of State's office on the work that has gone into developing this rule. Generally, we support the rule proposed by the Commission, however we have a few technical changes and clarifications we would like to suggest. Below are our comments on specific sections of the rule.

Section 2. Definitions

The amended rule deletes the definition of "primary campaign period" and "primary election payment," and changes the definition of "general campaign period" and "general election payment," in addition to deleting references to the primary in other sections of the rule. However, HB 2010 makes reference to neither a primary nor general election, but includes a new definition of "non-partisan judicial election campaign period." Therefore, we suggest that this included in Section 2 in place of the definition of "general election campaign period" and that the definition of "general election payment" and other references to the general election in the remainder of the rule be changed accordingly.

Section 3. Exploratory Period; Expenditures

A stray reference to the primary election remains in section 3.6.2.e. and should be deleted.

Section 8. Payment Procedures, Schedules and Amounts

We suggest that section 8.3. be amended as follows to clarify that no payments will be received in an uncontested election and what amount will be paid to candidates if the election becomes contested later.

8.3. Change of election status from uncontested to contested. ~~When a candidate receives the~~ In an uncontested election, no monies are allotted from the fund. amount and, If, due to other candidates' later filing for the office, the election becomes contested, a payment to the certified candidate will be made in the amount equal to the ~~difference between what was paid and what would have been paid had the election been contested at the time of initial payment specified in section 8.6.2. of this rule.~~ For purposes of this rule, the payment of the difference will be referred to as an amended initial payment. The ~~amended initial~~ payment will be made within two business days of the SEC receiving information of the changed nature of the election.

Section 9. Restrictions on Campaign Contributions and Expenditures

We appreciate the clarification in Section 8 that a candidate in an uncontested election may keep and expend qualifying contributions that did not exceed \$50,000. However, we do not feel the addition of sections 9.7.1. and 9.7.2. is necessary. Paying any unspent exploratory or qualifying contributions to the fund after the election, should there be any, is appropriate and in keeping with the intent of the authorizing legislation.

Thank you for your consideration and the opportunity to comment on these proposed changes. Should you have any questions regarding our recommendations please contact us.

Sincerely,

/s/Julie Archer (Intended as a signature)

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