WEST VIRGINIA SECRETARY OF STATE

MAC WARNER

ADMINISTRATIVE LAW DIVISION

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Office of West Virginia
Secretary Of State

NOTICE OF PUBLIC COMMENT PERIOD

AGENCY: Election Commission TITLE-SERIES: 146-03

RULE TYPE: Legislative Amendment to Existing Rule: Yes Repeal of existing rule: No

RULE NAME: REGULATION OF CAMPAIGN FINANCE

CITE STATUTORY AUTHORITY: W. Va. Code §§ 3-1A-5, 3-8-2, 3-8-7, 3-8-8, 3-8-9 and 29A-3-1 et seq.

COMMENTS LIMITED TO:

Written

DATE OF PUBLIC HEARING:

LOCATION OF PUBLIC HEARING:

DATE WRITTEN COMMENT PERIOD ENDS: 07/10/2019 5:00 PM

COMMENTS MAY BE MAILED OR EMAILED TO:

NAME: State Election Commission, c/o Donald Kersey

ADDRESS: State Capitol, Bldg. 1, Ste. 157-K

Charleston, WV 25305

EMAIL: dkersey@wvsos.gov

PLEASE INDICATE IF THIS FILING INCLUDES:

RELEVANT FEDERAL STATUTES OR REGULATIONS: Yes

(IF YES, PLEASE UPLOAD IN THE SUPPORTING DOCUMENTS FIELD)

INCORPORATED BY REFERENCE: No

(IF YES, PLEASE UPLOAD IN THE SUPPORTING DOCUMENTS FIELD)

PROVIDE A BRIEF SUMMARY OF THE CONTENT OF THE RULE:

Rule modifies and adds clarification and explanations for the purpose of effectuating the provisions of SB 622 (eff. June 7, 2019) related to Chapter 3 of the West Virginia Code regarding the regulation of campaign finances.

SUMMARIZE IN A CLEAR AND CONCISE MANNER CONTENTS OF CHANGES IN THE RULE AND A STATEMENT OF CIRCUMSTANCES REQUIRING THE RULE:

Summarily, there are several new definitions, modified campaign finance report filing periods, new provisions related to joint fundraising activities, mandatory fines for delinquent or inaccurate campaign finance reports, and guidance for permissible and prohibited political contributions and expenditures.

SUMMARIZE IN A CLEAR AND CONCISE MANNER THE OVERALL ECONOMIC IMPACT OF THE PROPOSED RULE:

A. ECONOMIC IMPACT ON REVENUES OF STATE GOVERNMENT:

N/A.

B. ECONOMIC IMPACT OF THE RULE ON THE STATE OR ITS RESIDENTS:

N/A.

C. FISCAL NOTE DETAIL:

Effect of Proposal	Fiscal Year		
	2019 Increase/Decrease (use "-")	2020 Increase/Decrease (use "-")	Fiscal Year (Upon Full Implementation)
1. Estimated Total Cost			
Personal Services			
Current Expenses			
Repairs and Alterations			
Assets			
Other			
2. Estimated Total Revenues			

D. EXPLANATION OF ABOVE ESTIMATES (INCLUDING LONG-RANGE EFFECT):

N/A.

BY CHOOSING 'YES', I ATTEST THAT THE PREVIOUS STATEMENT IS TRUE AND CORRECT.

Yes

Donald Kersey -- By my signature, I certify that I am the person authorized to file legislative rules, in accordance with West Virginia Code §29A-3-11 and §39A-3-2.

TITLE 146
LEGISLATIVE RULE
ELECTION COMMISSION

SERIES 3
REGULATION OF CAMPAIGN FINANCE

§146-3-1. General.

1.1. Scope. -- This rule clarifies and provides for implementation of state law relating to the regulation of campaign finance, reporting requirements and prohibited activities set forth under W. Va. Code §3-8-1 et seq.

1.2. Authority. -- W. Va. Code §§3-1A-5, 3-8-2, 3-8-7, 3-8-8, 3-8-9 and 29A-3-1 *et seq.*

1.3. Filing Date. -- ~~June 22, 2016~~.

1.4. Effective Date. -- ~~July 1, 2016~~.

1.5. Sunset Provision. -- This rule shall terminate and have no further force or effect upon the expiration of 5 years from its effective date.

§146-3-2. Definitions.

2.1. "Ballot issue" means a constitutional amendment, special levy, bond issue, local option referendum, municipal charter adoption or revision, an increase or decrease of corporate limits, or any other question placed before the voters for a binding decision under the provisions of the West Virginia Code.

2.2. "Ballot issue committee" means a committee established solely for the purpose of advocating or opposing a ballot issue and which makes no expenditures to or on behalf of a political committee.

2.3. "Business affiliation" means the name of an individual's employer, or the name of the firm, business or organization, if any, with which a self-employed individual is primarily affiliated.

2.4. "Candidate" means an individual who:

2.4.~~a.~~1. Has filed a certificate of announcement under W. Va. Code §3-5-7 or a municipal charter;

2.4.~~b.~~2. Has filed declaration of candidacy under W. Va. Code §3-5-23;

2.4.~~c.~~3. Has been named to fill a vacancy on a ballot; or

2.4.~~d.~~4. Has declared a write-in candidacy or otherwise publicly declared his or her intention to seek nomination or election to a state, district, county or municipal office or party office to be filled at any primary, general or special election.

2.5. "Candidate's committee" means a political committee established with the approval of or in cooperation with ~~one pre-candidate or candidate~~ a candidate or a prospective candidate to explore the possibilities of seeking a particular office ~~and/or to advocate~~ or to support or aid his or her nomination or election to an office in ~~one~~ an election cycle. If a candidate directs or influences the activities of more than one active committee in a current campaign, those committees shall be considered one committee for the purpose of contribution limits.

2.6. ~~"Election" means any primary, general or special election conducted under the provisions of this code or under the charter of any municipality.~~ "Caucus campaign committee" means a West Virginia House of Delegates or Senate political party caucus campaign committee that receives contributions and makes lawful expenditures in accordance with CSR 146-3-6, which include to support or oppose one or more specific candidates or slates of candidates for nomination, election, or committee membership. A political committee is determined to be a caucus campaign committee when meeting the following criteria:

2.6.1. The committee is established by a quorum of the members a political party caucus of either the House of Delegates or State Senate;

2.6.2. A Statement of Organization for the political committee has been submitted to the Secretary of State, either prior to or at the same time as designating the political committee as a caucus campaign committee;

2.6.3. The political party caucus has designated a chairperson and treasurer responsible for the caucus campaign committee; and

2.6.4. The designated caucus chairperson has notified the Secretary of State of satisfying the criteria in 146 CSR 3-2.6.1. through 3-2.6.3. in writing. Any changes to the status of the designation of chairperson shall be submitted to the Secretary of State.

2.7. ~~"Grossly incomplete or grossly inaccurate" means that a financial statement as defined under W. Va. Code §3-8-5 is missing information required by W. Va. Code §3-8-2 *et. seq.* and State Election Commission, Regulation of Campaign Finance, 146 CSR 3~~ "Clearly identified" means that the nickname, photograph, drawing, or other depiction of the candidate appears or the identity of the candidate is otherwise apparent through an unambiguous reference, or through a reference to his or her status as candidate.

2.8. ~~"Independent expenditure-only political action committee" means a committee registered with the Secretary of State which only makes independent expenditures and makes no political contributions to any candidate for any elected office in this state or any of its subdivisions~~ "Committee" means an entity, group or body composed of one or more persons for the purpose of engaging in, overseeing, managing, or otherwise operating in support, on behalf or against any certain or specific matters under the authority provided by contract, operation, law, statute and/or designation by another person, group of persons, entity or entities.

2.9. ~~"Member" means any person who currently satisfies the membership requirements in a membership organization, affirmatively accepts the membership organization's invitation to become a member, and either:~~

~~2.9.a. Pays membership dues at least annually, of a specific amount predetermined by the organization; or~~

~~2.9.b. Has a significant organizational attachment to the membership organization which includes: affirmation of membership on at least an annual basis; and direct participatory rights in the~~

~~governance of the organization. For example, such rights could include the right to vote directly or indirectly for at least one individual on the membership organization's highest governing board; the right to vote directly for organization officers; the right to vote on policy questions where the highest governing body of the membership organization is obligated to abide by the results; the right to approve the organization's annual budget; or the right to participate directly in similar aspects of the organization's governance~~ "Contribution" means a gift, subscription, loan, assessment, payment for services, dues, advance, donation, pledge, contract, agreement, forbearance, or promise of money, or other tangible thing of value, whether conditional or legally enforceable, or a transfer of money or other tangible thing of value to a person, made for the purpose of influencing the nomination, election, or defeat of a candidate.

2.9.1. A coordinated expenditure as described in Section 3-15 of this Rule shall be considered a contribution.

2.9.2. An offer or tender of a contribution is not a contribution if expressly and unconditionally rejected or returned.

2.9.3. A contribution does not include volunteer personal services provided without compensation.

2.10. ~~"Membership Organization" means an organization that:~~

~~2.10.a. Is composed of members, some or all of whom are vested with the power and authority to operate or administer the organization, pursuant to the organization's articles, bylaws, constitution or other formal organizational documents;~~

~~2.10.b. Expressly states the qualifications and requirements for membership in its articles, bylaws, constitution or other formal organizational documents;~~

~~2.10.c. Makes its articles, bylaws, constitution, or other formal organizational documents available to its members upon request;~~

~~2.10.d. Expressly solicits persons to become members;~~

~~2.10.e. Expressly acknowledges the acceptance of membership, such as by sending a membership card or including the members' name on a membership newsletter list; and~~

~~2.10.f. Is not organized primarily for the purpose of influencing the nomination for election, or election, of any individual to political office~~ "Coordinated expenditure" is an expenditure made with, in cooperation with, or at the request or suggestion of the referenced candidate or candidate's committee, political party committee or caucus campaign committee and meeting the criteria provided in 146 CSR 3-15 of this rule.

2.11. ~~"Necessary traveling and hotel expenses" includes mileage at a rate not to exceed the current state-mandated reimbursement rate per mile or direct charges for transportation and itemized food and lodging costs incurred specifically for the purpose of campaigning or conducting the organizational, political or financial business of a political committee. The term does not include the purchase cost of any vehicle, or expenditures for traveling and hotel expenses incurred for activities which result primarily in personal benefit and are not directly and specifically undertaken for political purposes~~ "Corporation" means any separately incorporated entity, whether under the laws of West Virginia or any other state or any foreign country. The term corporation covers both for-profit and nonprofit corporations and includes nonstock corporations, incorporated membership organizations, incorporated cooperatives, incorporated trade associations, professional corporations and, under certain circumstances, limited liability companies.

A political committee may incorporate and not be subject to the definition of a corporation within this rule if the political committee incorporates for liability purposes only, and if the organization is properly registered as political committee with the appropriate filing officer. Notwithstanding the corporate status of the political committee, the treasurer of an incorporated political committee remains personally responsible for carrying out their respective duties under this rule.

2.6.12. ~~"Nominal noncash expressions of appreciation" means a token of appreciation, having a cash value of ten dollars ($10.00) or less, given to volunteer or paid campaign workers following the close of the polls or within 30 days thereafter.~~ "Election" means any primary, general or special election conducted under the provisions of this code or under the charter of any municipality.

2.13. ~~"Occupation" means the principal work activity which is described by a general term such as teacher, miner, business executive, homemaker or doctor~~ "Electioneering communications" means any paid communication made by broadcast, cable or satellite signal, mass mailing, telephone bank, billboard advertisement, or publication in any newspaper magazine, or other periodical that meets the definition under W. Va. Code § 3-8-1a(14) *et seq.*

2.14. ~~"Person" means an individual, partnership, committee, association and any other organization or group of individuals.~~ "Expressly advocating" means any communication that:

2.14.1. Uses phrases such as "vote for the Governor," "re-elect your Senator," "support the incumbent nominee for Supreme Court," "cast your ballot for the Republican challenger for House of Delegates," "Smith for House," "Bob Smith in '04," "vote Pro-Life," or "vote Pro-Choice," accompanied by a listing of clearly identified candidates described as Pro-Life or Pro-Choice, "vote against Old Hickory," "defeat" accompanied by a picture of one or more candidates, "reject the incumbent;"

2.14.2. Communicates campaign slogans or individual words that can have no other reasonable meaning than to urge the election or defeat of one or more clearly identified candidate or candidates, such as posters, bumper stickers, advertisements, etc., which say "Smith's the One," "Jones '06," "Baker," etc.; or

2.14.3. Is susceptible of no reasonable interpretation other than as an appeal to vote for or against a specific candidate or candidates.

2.15. ~~"Political Action Committee" means a committee organized by one or more persons for the purpose of supporting or opposing the nomination or election of one or more candidates. The following are types of political action committees:~~

~~2.15.a. A corporate political action committee;~~

~~2.15.b. A separate segregated fund established by a membership organization, as defined by this rule;~~

~~2.15.c. An unaffiliated political action committee; or~~

~~2.15.d. An independent expenditure only political action committee.~~ "Financial transactions" means all contributions or loans received and all repayments of loans or expenditures made to promote the candidacy of any person by any candidate or any organization advocating or opposing the nomination, election, or defeat of any candidate to be voted on.

2.16. ~~"Political committee" means any candidate committee, political action committee or political party committee.~~

~~2.16.a. This definition includes but is not limited to political party executive committees, other committees operating in conjunction with a political party or using a political party name, political~~

~~action committees and any other organizations, whether temporarily or permanently established, using any portion of their funds for political purposes.~~

~~2.16.b. This definition shall not include family members or members of a partnership acting together to make joint or individual contributions to a candidate or political committee~~ "Firewall" means a policy designed and implemented to prohibit the flow of information between employees or consultants providing services for the person paying for a communication and those employees or consultants currently or previously providing services to a candidate, or to a committee supporting or opposing a candidate, clearly identified in the communication.

2.17. "Foreign national" means the following:

2.17.1. A foreign principal, as such term is defined in 22 U.S.C. §611(b), which includes:

2.17.1.a. A government of a foreign country;

2.17.1.b. A foreign political party;

2.17.1.c. A person outside of the United States, unless it is established that such person:

2.17.1.c.1. Is an individual and a citizen of the United States; or

2.17.1.c.2. That such person is not an individual and is organized under or created by the laws of the United States or of any state or other place subject to the jurisdiction of the United States and has its principal place of business within the United States; and

2.17.1.d. A partnership, association, corporation, organization, or other combination of persons organized under the laws of, or having its principal place of business in, a foreign country.

2.17.2. An individual who is not a citizen of the United States or a national of the United States, as defined in 8 U.S.C. §1101(a)(22), and who is not lawfully admitted for permanent residence, as defined by 8 U.S.C. §1101(a)(20).

2.~~7.~~18. ~~"Political purposes" means advocating or opposing the nomination, election or defeat of one or more candidates, supporting the administration or activities of an established political party or an organization which has declared itself a political party, supporting the administration or activities of a political committee determining the advisability of becoming a candidate under the pre-candidacy financing provisions, and supporting the retirement of the debt of a candidate or political committee incurred for any of the purposes set forth in this subsection~~ "Grossly incomplete or grossly inaccurate" means that a financial statement as defined under W. Va. Code §3-8-5 is missing information required by W. Va. Code §3-8-2 *et seq.* and State Election Commission, Regulation of Campaign Finance, 146 CSR 3.

2.19. ~~"Pre-candidate" means, for the purpose of this rule, an individual who has filed a pre-candidacy statement under the provisions of W. Va. Code §3-8-5c but has not yet filed a certificate of announcement or declaration of candidacy. This definition does not exclude a pre-candidate from the requirements and prohibitions relating to candidates in the West Virginia Code~~ "Independent expenditure" means an expenditure by a person:

2.19.1. Expressly advocating the election or defeat of a clearly identified candidate, including supporting or opposing the candidates of a political party, and

2.19.2. That is not a coordinated expenditure with the candidate, his or her agents, the candidate's authorized political committee, a political party committee or its agents.

2.19.3. An expenditure which does not meet the criteria for an independent expenditure is considered a contribution. *Provided*, that coordinated expenditures under W. Va. Code § 3-8-9b in an amount that does not exceed $5,000 by political party committees and political party caucuses in connection with certain statewide candidates shall not be considered a contribution.

2.~~8.~~20. ~~"Restricted Group" means the membership organization's members and the executive or administrative personnel of the membership organization and their families~~ "Independent expenditure-only political ~~action~~ committee" means a committee registered with the Secretary of State, or equivalent local election official, which ~~only~~ makes independent expenditures and makes no political contributions to any candidate for any elected office in this state or any of its subdivisions, makes no coordinated expenditures with a candidate or candidate's committee, and does not participate in joint fundraising agreements with a candidate or a candidate's committees.

2.21. ~~"Solicit" or "solicitation" means the act of asking, suggesting, requiring or inviting, either orally or in writing, a person or persons, organization of any kind, political committee or other entity to give a contribution or other thing of value for political purposes, as defined in this section~~ "Local" refers to the election of candidates to a city, county, or municipal office and any issue to be voted on by only the residents of a particular political subdivision.

2.~~9.~~22. ~~"Treasurer" means an individual designated to act on behalf of a political committee to conduct the financial transactions of the committee. For the purposes of this rule, the term "treasurer" shall be used in place of "financial agent" as defined in W. Va. Code §3-8-1a when the individual acts on behalf of more than one candidate or person~~ "Member" means any person who currently satisfies the membership requirements in a membership organization, affirmatively accepts the membership organization's invitation to become a member, and either:

2.~~9.~~22.1. Pays membership dues at least annually, of a specific amount predetermined by the organization; or

2.~~9.~~22.~~.~~2. Has a significant organizational attachment to the membership organization which includes: affirmation of membership on at least an annual basis~~;~~ and direct participatory rights in the governance of the organization. For example, such rights could include the right to vote directly or indirectly for at least one individual on the membership organization's highest governing board; the right to vote directly for organization officers; the right to vote on policy questions where the highest governing body of the membership organization is obligated to abide by the results; the right to approve the organization's annual budget; or the right to participate directly in similar aspects of the organization's governance.

2.~~10.~~23 "Membership Organization" means an organization that:

2.~~10.~~23.~~a.~~1. Is composed of members, some or all of whom are vested with the power and authority to operate or administer the organization, pursuant to the organization's articles, bylaws, constitution or other formal organizational documents;

2.~~10.~~23.~~b.~~2. Expressly states the qualifications and requirements for membership in its articles, bylaws, constitution or other formal organizational documents;

2.~~10.~~23.~~c.~~3. Makes its articles, bylaws, constitution, or other formal organizational documents available to its members upon request;

2.~~10.~~23.~~d.~~4. Expressly solicits persons to become members;

2.~~10.~~23.~~e.~~5. Expressly acknowledges the acceptance of membership, such as by sending a membership card or including the members' name on a membership newsletter list; and

2.~~10.~~23.~~f.~~6. Is not organized primarily for the purpose of influencing the nomination for election, or election, of any individual to political office.

2.~~11.~~24. "Necessary traveling and hotel expenses" includes mileage at a rate not to exceed the current state-mandated reimbursement rate per mile or direct charges for transportation and itemized food and lodging costs incurred specifically for the purpose of campaigning or conducting the organizational, political or financial business of a political committee. The term does not include the purchase cost of any vehicle, or expenditures for traveling and hotel expenses incurred for activities which result primarily in personal benefit and are not directly and specifically undertaken for political purposes.

2.25. "Nominal noncash expressions of appreciation" means a token of appreciation, having a cash value of ten dollars ($10.00) or less, given to volunteer or paid campaign workers following the close of the polls or within 30 days thereafter.

2.26. "Nonpolitical committee" means a committee established with the primary purpose other than to support or oppose the nomination or election of one or more candidates and which does not meet the definition of a political committee per Subsection 2.30.3 of this Rule.

2.~~13.~~27. "Occupation" means the principal work activity which is described by a general term such as teacher, miner, business executive, homemaker or doctor.

2.~~14.~~28. "Person" means an individual, corporation, partnership, committee, association and any other organization or group of individuals.

2.~~15.~~29. "Political Action Committee" means a committee organized by one or more persons unrelated by marriage, or any other organization or entity, ~~for the purpose of supporting or opposing~~ whose primary purpose is to support or oppose the nomination or election of one or more candidates. ~~The following are types of political action committees:~~

2.29.1. In determining a committee's primary purpose, the following factors shall be considered:

2.29.1.a. Whether the combination of one or more persons receives and manages money or any other thing of value in a common account for the specific purpose of supporting or opposing any candidate, political party or political committee;

2.29.1.b. Whether the combination of one or more persons makes, anticipates or should have anticipated engaging in a continuing pattern of expenditures from a common account to support or oppose any candidate, political party or political committee; or

2.29.1.c. Whether the combination of one or more persons constitutes a committee that was not in existence for any other primary purpose prior to supporting or opposing any candidate, political party or political committee.

2.~~15.~~29.2. The following are types of political action committees:

2.~~15.~~29.2.a. A corporate political action committee;

2.~~15.~~29.2.b. A separate segregated fund established by a membership organization, as defined ~~by this rule;~~ in this section;

2.~~15.~~29.2.c. An unaffiliated political action committee~~.~~ or

2.~~15.~~29.2.d. Any political committee may also identify as ~~A~~an independent expenditure-only political ~~action~~ committee when meeting the definition in this section.

2.~~15.~~29.3. A committee established as a joint fundraising committee under 146 CSR 3-13 does not meet the definition of a political action committee when acting solely as a financial agent to raise contributions for committees and distribute contributions to committees. However, this provision does not act in contrary to the reporting requirements of W.Va. Code §3-8-5, WV CSR 146-3-8 and WV CSR 146-3-13.

2.~~16.~~30. "Political committee" means any candidate committee, political action committee or political party committee.

2.~~16.~~30.~~a.~~1. This definition includes but is not limited to:

2.~~16.~~30.~~a.~~1.a. ~~p~~Political party executive committees and political party caucus campaign committees;

2.~~16.~~30.~~a.~~1.b. ~~o~~Other committees operating in conjunction with a political party or using a political party name~~,~~; or

2.~~16.~~30.~~a.~~1.c. ~~p~~Political action committees ~~and any other organizations, whether temporarily or permanently established, using any portion of their funds for political purposes~~.

2.30.2. This definition shall not include family members or members of a partnership acting together to make joint or individual contributions to a candidate or political committee.

2.30.3. Any committee that does not meet the definition of political committee shall be defined as a nonpolitical committee.

2.31. "Political party committee" means a committee established by a political party or political party caucus for the purposes of engaging in the influencing of the election, nomination or defeat of a candidate in any election.

2.32. "Political party caucus campaign committee" means the group of members of the House of Delegates or State Senate that belong to the same political party and who may organize as a caucus campaign committee.

2.~~18.~~33. "Political purposes" means any of the following:

2.~~18.~~33.1. Expressly advocating or opposing the nomination, election or defeat of one or more candidates;

2.~~18.~~33.2. Supporting the administration or activities of an established political party, political party caucus or an organization which has declared itself a political party or political party caucus;

2.~~18.~~33.3. Supporting the administration or activities of a political committee determining the advisability of becoming a candidate under the pre-candidacy financing provisions; ~~and~~ or

2.~~18.~~33.4. Supporting the retirement of the debt of a candidate or political committee incurred for any of the purposes set forth in this subsection.

2.~~18.~~33.5. Making allowable contributions to political committees in accordance with the applicable limits of the law and this Rule.

2.~~19.~~34. "Pre-candidate" means, for the purpose of this rule, an individual who has filed a pre-candidacy statement under the provisions of W. Va. Code § 3-8-5e but has not yet filed a certificate of announcement or declaration of candidacy. This definition does not exclude a pre-candidate from the requirements and prohibitions relating to candidates in the West Virginia Code.

2.~~20.~~35. "Restricted Group" means the membership organization's members and the executive or administrative personnel of the membership organization and their families.

2.~~21.~~36. "Solicit" or "solicitation" means the act of asking, suggesting, requiring or inviting, either orally or in writing, a person or persons, organization of any kind, political committee or other entity to give a contribution or other thing of value for political purposes, as defined in this section.

2.~~22.~~37. "Treasurer" means an individual designated to act on behalf of a political committee to conduct the financial transactions of the committee. For the purposes of this rule, the term "treasurer" shall be used in place of "financial agent" as defined in W. Va. Code §3-8-1a when the individual acts on behalf of more than one candidate or person.

§146-3-3. Contributions for Primary and General Elections.

Candidate Committee Contributions:

3.1. A contribution to a pre-candidate or pre-candidate's committee is a contribution in connection with a primary election when a candidate seeks to be nominated to a general election ballot by the voters on a primary election ballot as prescribed by law. Contributions to a pre-candidate or pre-candidate's committee that does not seek a party nomination are attributed as contributions to a general election.

3.2. A contribution to a ~~candidate or~~ candidate's committee is a contribution ~~in connection with a~~ attributed to the primary election in the following circumstances:

3.2.~~a.~~1. For a candidate for nomination or election in the primary, all contributions received on or before the primary election day that are not expressly indicated for use as a general election contribution;

3.2.~~b.~~2. For a candidate nominated in the primary election, a contribution received after the primary which is designated in writing on the financial report, with the consent of the contributor, as a contribution for the primary election, providing the aggregate of all these designated contributions do not exceed the total of unpaid bills, loans or other financial obligations incurred for the primary election;

3.2.~~c.~~3. For a candidate defeated for nomination in the primary election, all contributions received after the primary, not to exceed the total of unpaid primary election expenses; and

3.2.~~d.~~4. For a candidate for nomination in a party convention, all contributions received on or before the day of that convention.

~~3.3. A contribution to a candidate or candidate's committee is a contribution in connection with a general or special election in the following circumstances:~~

~~3.3.a. For a candidate nominated in a primary election or party convention, all contributions, except those designated as primary contributions to offset debts incurred under subdivision 3.2.b, of this section received after the nomination and not later than the date when all debts, loans or other financial obligations of the general election campaign have been repaid;~~

~~3.3.b. For a candidate appointed to fill a vacancy on the general or special election ballot by a party executive committee, for a candidate nominated by certificates of nomination, as provided for in W.Va. State Code §3-5-23, and for a write-in candidate, all contributions received in connection with the election and not later than the date when all debts, loans or other financial obligations of the general election campaign have been repaid.~~

3.3. A contribution received by a candidate's committee is attributed to the general or special election in the following circumstances:

3.3.1. Contributions received by a candidate after nomination in a primary election or party convention; *Provided*, contributions received after nomination in a primary election or party convention that are designated to offset debts incurred in a primary election described within subdivision 3.2.b of this section are contributions attributed to the primary election.

3.3.2. Contributions received by a candidate that has been appointed to fill a vacancy on the general or special election ballot by a party executive committee,

3.3.3. Contributions received by a candidate that has been nominated by certificates of nomination, as provided for in W.Va. State Code §3-5-23, and

3.3.4. Contributions received by a write-in candidate;

3.3.5. Contributions received prior to the primary election or nominating convention if expressly indicated by the contributor that the contribution be attributed to a general or special election, if applicable; however, these funds cannot be expended until after the subsequent candidacy in the general election has been declared by:

3.3.5.a. The board of canvassers if the election is within a single county or municipality~~.~~; or

3.3.5.b. The Secretary of State if the political subdivision includes more than one county.

3.3.6. If the candidate does not receive the nomination to be placed on the General Election ballot, contributions received prior to the primary or nominating convention expressly indicated for use in the general election shall be returned to the contributor at the full amount of the contribution within 30 days of declaration of general election candidates.

Political Action Committee Contributions:

3.4. A contribution to a political action committee~~ other than a candidate's committee, acting for political purposes in both the primary and general election~~ is a contribution:

3.4.~~a.~~1. In connection with a primary election, if the contribution is received after ~~the last Saturday in~~ the General Election and ~~by~~ on or before the date of the statewide primary election in the following calendar year (for example, from ~~March 28~~, November 4, 2014, to May 12, 2016); and

3.4.~~b.~~2. In connection with a general election, if the contribution is received after the date of a statewide primary election and not later than the day ~~the last Saturday of March~~ of the General Election (for example, from May 13, 2016 to ~~March 25~~ January 1, 2017).

~~3.5. A contribution to a political committee acting for political purposes only in one election is a contribution in connection with that election.~~

§146-3-4. Contributions for Inaugural Events.

4.1. An inaugural committee established for the purpose of soliciting or receiving contributions for the funding of all or any part of an inaugural event for any person elected to any state public office shall file a verified financial statement with the Secretary of State's Office relating to any contributions from one person in excess of two hundred fifty dollars ($250.)

4.2. An inaugural committee shall file and retain detailed records of any contribution from one person in excess of two hundred fifty dollars ($250.).

4.3. For purposes of this section, "detailed records" shall contain the following information:

4.3.~~a.~~1. The full name of each person, firm, association or committee;

4.3.~~b.~~2. The residence and mailing address of the contributor and may include a business telephone number, if available;

4.3.~~c.~~3. In the case of an individual, his or her major business affiliation and occupation; and

4.3.~~d.~~4. The amount of the contribution.

4.4. The inaugural committee, financial agent or any person or officer acting on behalf of the committee shall file a sworn financial statement, containing the information required by subsection 4.3 of this section for each person making a contribution in excess of two hundred fifty dollars ($250.), within ninety (90) days following the inaugural event.

4.5. The sworn financial statement shall be on a form prescribed by the State Election Commission.

4.6. Aggregate contributions of any person to any inaugural committee shall not exceed $5,000.

4.7. Excess campaign funds, as defined in section 7 of this rule, may not be transferred to an inaugural committee.

§146-3-5. Contribution Limitations ~~and~~, Sources and Restrictions.

Contribution Limits:

~~5.1. Limitations on contributions to candidates for national elective office (including President, Vice President, U.S. Senate and U.S. House of Representatives) are established in Chapter 14, Title 2 of the~~

~~United States Code and the Code of Federal Regulations and are not subject to regulation by the states. The Federal Election Commission regulates federal campaign activity. (FEC, 999 E Street, N. W., Washington, D.C. 20463 Telephone (800)424-9530)~~

~~5.2. Aggregate contributions from one person to a candidate or political committee in connection with a primary election may not exceed one thousand dollars ($1,000). Aggregate contributions from one person to a candidate or political committee in connection with a general or special election may not exceed one thousand dollars ($1,000); Provided that the aggregate of contributions from one person to a State political party executive committee may not exceed one thousand dollars ($1,000.) in any calendar year.~~

5.1. Aggregated contributions limits that can be accepted by political committees are as follows:

5.1.1. Contributions from a person to a candidate or pre-candidate committee in which the candidate is seeking the nomination of a political party may not exceed $2,800. Provided, the candidate may contribute to their own campaign committee without limitation.

5.1.2. Contributions received by a candidate's committee prior to a primary election or nominating event that are expressly attributed by the contributor for the subsequent general election, as referenced in 146 CSR 3-3, are considered against the aggregate limitation to the general election.

5.1.3. Contributions from a person to a candidate or pre-candidate committee seeking election in a general or special election may not exceed $2,800. Provided, the candidate may contribute to their own campaign without limitation.

5.1.4. Contributions from a person to a political action committee after the state's scheduled general election and prior to the state's scheduled primary election may not exceed $5,000. Provided, an independent expenditure only political action committee does not have a limitation on aggregate contribution amounts.

5.1.5. Contributions from a person to a political action committee after the state's scheduled primary and prior to the state's scheduled general or special election may not exceed $5,000. Provided, an independent expenditure only political action committee does not have a limitation on aggregate contribution amounts.

5.1.6. Contributions from a person to a political party committee, including a political party caucus campaign committee, may not exceed $10,000 in any calendar year.

5.1.7. Limitations on contributions to candidates for federal elective office (including President, Vice President, U.S. Senate and U.S. House of Representatives) are established in Chapter 14, Title 2 of the United States Code and the Code of Federal Regulations and are not subject to West Virginia laws and regulations.

5.2. Contribution Sources:

5.2.1. A contribution made by a business licensed as a sole proprietorship is a contribution made by the owner of that sole proprietorship and reported as received from the owner. The aggregate contribution limits apply to all contributions to a candidate or political committee made by that owner, whether from personal or business funds.

5.2.2. A contribution made by a business licensed as a partnership is a contribution which shall be apportioned to the ownership interest of the partners and reported as received from the aforementioned partners. The aggregate contribution limits apply to contributions to a candidate or political committee made by each partner whether from personal funds or from the contributor's share of partnership funds.

5.2.3. A husband and wife may each contribute ~~one thousand dollars ($1,000)~~ within the contribution limits of this rule to the same candidate or political committee in connection with the same election, regardless of the source of family income.

5.2.4. A contribution made by check drawn on a joint personal account shall be attributed to the person who signed the check, or equally to the persons signing the check, unless otherwise specified in writing by the contributor.

5.2.5. Minor children (children under eighteen (18) years of age) may contribute ~~up to one thousand dollars ($1,000)~~ within the contribution limits of this rule to a candidate or political committee if:

5.2.5.a. The decision to contribute is made knowingly and voluntarily by the minor child;

5.2.5.b. The funds, goods or services contributed are owned and controlled by the minor child, such as income earned by the child, the proceeds of a trust for which the child is the beneficiary, or a savings account opened and maintained in the child's name; and

5.2.5.c. The contribution is not made from the proceeds of a gift, the purpose of which was to provide funds to be contributed or is not in any other way controlled by another individual.

5.2.6. When a contributor designates all or part of a contribution to a political committee for the benefit of a particular candidate and makes that contribution to a political committee acting with the approval or control of that candidate, the contribution shall be considered to be an indirect contribution to the designated candidate and is subject to the aggregate contribution limits for that candidate.

5.2.7. A candidate or candidate's committee established for one primary and general election may transfer excess campaign assets to the same candidate's campaign or committee for a subsequent election year, and the transfer is not limited by aggregate contribution limits.

~~5.10. The aggregate contribution by a person to a ballot issue committee is not limited; and corporate contributions to a ballot issue committee are not prohibited.~~

~~5.11. The aggregate contribution by a person to an independent expenditure-only political action committee is not limited.~~

5.2.8. Transfers of contributions by a political committee established as a federal committee under the regulation of the Federal Election Commission (FEC) from the committee's federal account to a state account shall not be made for the purpose of allowing any contributor to exceed the maximum contribution per election to the state account.

5.2.9. If a candidate or candidate's committee has excess campaign funds at the time of the close of the General Election polls, close of the Primary Election polls if unsuccessful in the nomination in the Primary Election or withdrawal of candidacy or pre-candidacy, no further contributions may be accepted

until the candidate files a pre-candidacy statement or becomes a candidate for a subsequent election.

5.2.10. If a candidate or candidate's committee has debts, outstanding loans or unpaid bills at the time of the close of the General Election polls, close of the Primary Election polls if unsuccessful in the nomination in the Primary Election or withdrawal of candidacy or pre-candidacy, further contributions may be accepted only until an amount sufficient to repay the debts and outstanding loans has been received.

5.2.11. A non-monetary contribution is to be considered at fair market value for reporting requirements and contribution limitations.

5.3. Contribution Restrictions:

5.3.1. Corporate and Membership Organization Contribution Restrictions:

5.3.1.a. Corporations and membership organizations are restricted from accepting or soliciting contributions to a separate segregated fund of the corporation or membership organization in which its primary purpose is to influence the election or defeat of a candidate in an election prior to notifying the Secretary of State of the organization's existence.

5.3.1.b. Separate segregated funds of corporations and membership organizations are restricted from accepting contributions totaling more than $5,000 from any one person prior to the primary and preceding the general election.

5.3.1.c. No corporation or membership organization may make expenditures or contributions to restricted classes during local and state elections.

5.3.1.d. For the purpose of this section, "restricted classes" means stockholders and their families, executive and administrative personnel of its subsidies, branches, divisions, and departments of a corporation.

5.3.1.e. Corporations and membership organizations are prohibited from facilitating the making of contributions to candidates or political committees other than to the separate segregated funds of the corporation, as expressed in 146 CSR 1 §3.3.b.2.

5.3.2. A foreign national may not, directly or indirectly, make:

5.3.2.a. A contribution or donation, or express/implied promise to make a contribution or donation to a candidate's committee, a political committee, or a political party; or

5.3.2.b. An independent expenditure or any disbursement for an electioneering communication related to a state or local election.

5.3.2.c. Any person is prohibited from accepting, soliciting, or receiving funds described in this section.

5.3.3. Exemption to restrictions:

5.3.3.a. Independent Expenditure Only PACs are prohibited from making expenditures made in concert or cooperation or at the request or suggestion of a candidate, his/her agencies, the candidate's committee, or a political party committee.

5.3.3.b. The aggregate contribution by a person to a ballot issue committee is not limited; and corporate contributions to a ballot issue committee are not prohibited.

5.3.3.c. The aggregate contribution by a person to an independent expenditure-only political action committee is not limited; and corporate contributions to an independent expenditure-only political action committee are not prohibited.

§146-3-6. Lawful Expenditures.

6.1. Funds belonging to or received by a candidate or political committee may be used to employ persons to perform those functions enumerated in W. Va. Code §3-8-9, either on a full-time, part-time or temporary basis, and in compliance with the provisions of this rule.

6.2. Funds belonging to or received by a political committee may be used for reasonable office expenses enumerated in W. Va. Code §3-8-9.

6.3. No money or thing of value derived from contributions received by a political committee may be paid to or given to any person, except:

6.3.~~a.~~1. As lawful payment for goods provided, services rendered or reimbursement of expenses incurred for political purposes as defined in subsection 2.18 of this rule;

6.3.~~b.~~2. As lawful payment for legal and accounting services rendered to a candidate or candidate committee if the services are solely related to the candidacy campaign;

~~6.3.b.~~ 6.3.~~c.~~3. As food and drink, entertainment or costs incidental to a fund-raising event, or public meeting, for political purposes;

~~6.3.c.~~ 6.3.~~d.~~4. As printed campaign promotional items of nominal value which clearly identify the candidate, or party;

~~6.3.d.~~ 6.3.~~e.~~5. As a nominal noncash expression of appreciation to campaign workers as defined in subsection 2.12 of this rule, following the close of the polls or within 30 days thereafter; or

6.3.~~f.~~6. As payment for services provided, bonds, and other expenses related to the costs of recounts and contesting elections.

6.3.7. As payment for necessary traveling and hotel expenses.

6.4. A candidate or persons acting on behalf of a political committee may be reimbursed for contributions received for lawful election expenses paid from the personal funds of the candidate, providing receipts are retained and those itemized expenditures are reported in a timely manner as required by law.

6.5. No candidate may receive any payment of money or other thing of value for personal use from funds solicited or received for political purposes on his or her behalf, except as reimbursement as provided in subsection 6.4 of this rule.

6.6. No candidate may utilize campaign funds to pay civil or criminal penalties or fines.

6.7. No person may utilize campaign funds to seek a court order to prohibit another person from being placed on a ballot.

6.8. No person may utilize campaign funds for any expense related to defending legal actions seeking to remove the person from office by impeachment or pursuant to any provision of the West Virginia Code.

6.9. No payment of fines imposed by the Secretary of State may be expended from contributions received by a political committee. The responsible party of the fines imposed are the candidate of a candidate's committee or the treasurer of a political committee that is not a candidate committee. Any nonpolitical committee that is responsible for any fine imposed by the Secretary of State will be paid from general treasury funds of the nonpolitical committee.

§146-3-7. Disposing of Excess Campaign Assets, Terminating a Political Committee.

7.1. Excess campaign assets are those monies, materials, equipment or other things of value derived from contributions which:

7.1.~~a.~~1. Remain in the possession of the pre-candidate or pre-candidate's committee at the conclusion of pre-candidacy when the pre-candidate decides not to become a candidate;

7.1.~~b.~~2. Remain in the possession of the candidate or candidate's committee after the candidate loses in the primary election or after the candidate's general election and after debts, loans and other liabilities are repaid; or

7.1.~~c.~~3. Belong to a political committee which wishes to discontinue activity and dissolve.

7.2. Excess campaign assets may be lawfully:

7.2.~~a.~~1. Transferred without limitation from a candidate's committee organized for one election year to the same candidate's committee for a subsequent election year, providing that candidate has filed a pre-candidacy statement ~~and~~ or a statement of organization of the new committee before the transfer is made;

7.2.~~b.~~2. ~~Distributed for a lawful election expense enumerated in W. Va. Code §3-8-10~~ Contributed by a candidate's committee, in accordance with the existing limitations on contributions, to;

7.2.~~b.1.~~2.a. A county or political subdivision executive committee of a political party, or

7.2.~~b.2.~~2.b. Any other candidate committee ~~in accordance with the existing limitations on contributions~~;

7.2.~~c.~~3. Returned on a pro-rata basis to each contributor;

7.2.~~d.~~4. Subject to Internal Revenue Service regulations relating to personal income, used by the candidate to defray any usual and customary expenses incurred in connection with his or her duties as a holder of public office;

7.2.~~e.~~5. Contributed to any charitable organization without limitation; ~~or~~

7.2.~~f.~~6. Transferred to any state party~~,~~ executive committee or ~~state party legislative caucus committee~~ political party caucus campaign committee, in an amount not to exceed fifteen thousand (15,000) dollars in a calendar year; or

7.2.~~g.~~7. Contributed to any national ~~committee~~, state, or local political party committee when that committee is acting in the role of a vendor, ~~in accordance with federal requirements~~ and, so long as no such transfer may involve any coordination between the candidate and the political party committee without being considered as a contribution.

7.2.~~h.~~8. Candidates that possess funds received for the general election prior to nomination and fail to receive the nomination for the General Election ballot from that party shall unconditionally return all the contributions attributed to the General Election to the contributors at the amounts equal to the contribution received.

7.3. No person may receive or utilize excess campaign assets for personal economic benefit or use.

7.3.~~a.~~1. Subject to subdivision 7.2.~~d.~~4. of this section, supplies or equipment purchased by an office holder and used to defray any usual and customary expenses incurred in connection with his or her duties as a holder of public office becomes the property of the state, or the district, county, or municipality in which the office is held.

7.4. No candidate, financial agent or treasurer may distribute excess campaign assets through personal gifts, promotional items or other expenditures not authorized by W. Va. Code §3-8-10 or W. Va. Code §3-8-9(a)(13).

7.5. A political committee which is solvent and has no outstanding debts or obligations may terminate its existence by:

7.5.~~a.~~1. Filing a statement of dissolution with the Secretary of State, if the political committee was formed in support of a candidate for nomination or election to any office to be filled by voters of the entire state, or a candidate for nomination or election for any office encompassing an election district larger than a county, ~~or the passage or defeat of any issue, thing or item to be voted upon, encompassing an election larger than a county;~~ and filing a final report of financial information required in §3-3-5.

7.5.~~b.~~2. Filing a statement of dissolution with the county clerk or municipal clerk or recorder, or other such election officer as defined in State Election Commission, Regulation of Campaign Finance, 146 CSR 3, as may be determined proper by the Secretary of State, if the political committee was formed in support of a candidate for nomination or election to any office to be filled by voters of a county or district therein, ~~or for the passage or defeat of any issue, thing or item to be voted upon,~~ encompassing the electorate of a county or district therein; and,

7.5.~~c.~~3. Stating within the written request that the political committee will no longer receive any contributions or make any disbursements; and,

7.5.~~d.~~4. Stating within the written request that the political committee has no outstanding debts or obligations; and,

7.5.~~e.~~5. Stating within the written request that any excess funds of the political committee will be transferred to a political committee established by the same candidate, ~~or established for the passage or defeat of the same issue, thing or item,~~ or will be otherwise disbursed pursuant to subsection 7.2 of this rule.

7.6. The Secretary of State's Office may, upon the request of the committee, make determinations as to the solvency or insolvency of a political committee, including:

7.6.~~a.~~1. The orderly liquidation of an insolvent political committee;

7.6.~~b.~~2. The orderly application of the assets of an insolvent political committee toward reduction of its outstanding debts;

7.6.~~c.~~3. The assessment of any forgiven debts as being political contributions; and,

7.6.~~d.~~4. The termination of an insolvent political committee after the liquidation and application of assets.

§146-3-8. Receiving, Distributing and Reporting Contributions and Expenditures.

8.1. The treasurer of a political committee receives all contributions and disburses all funds, and it is unlawful for a person or persons other than the treasurer to receive and disburse funds without the treasurer's knowledge and participation.

8.2. A candidate who does not appoint another person as financial agent or organize a candidate's committee and appoint a treasurer ~~at least twenty-eight (28) days prior to the election at which he or she is to act~~ shall be considered to be the financial agent for his or her own campaign.

8.3. Every candidate, treasurer, person, association of persons, organization, or corporation supporting a political committee or engaging in other activities permitted by 3-8-5a and 3-8-5b shall keep detailed accounts of every sum of money or other thing of value received by him or her, including all loans of money or things of value and of all expenditures and disbursements made, liabilities incurred, by the candidate financial agent, person, organization or the committee for political purposes.

8.4. A financial report shall include all financial transactions occurring during the accounting period just completed, and any other financial transactions which have not been reported previously. Financial reports shall be in the form prescribed by the State Election Commission and meet the requirements under §3-8-5 of this code.

8.5. Any person or political committee who is required to file a statement to the Secretary of State under this section ~~may~~ shall file the statement ~~by facsimile device or electronic mail in accordance with such rules as the Secretary of State may promulgate~~ electronically in a Campaign Finance Reporting System that is offered by the Secretary of State.

~~8.5. For the purpose of financial accounting and reporting, an election cycle is divided into accounting periods. The first accounting period begins on the date of the first financial transaction. The last day of each accounting period is the day before the next financial report may be filed. Accounting periods end on the following dates:~~

~~8.5.a. The day before the last Saturday in March of each year;~~

~~8.5.b. The sixteenth day before the primary and general election;~~

~~8.5.c. The twelfth day after the primary election;~~

~~8.5.d. The forty-fourth day preceding the general election;~~

~~8.5.e. The sixteenth day before the general election; and~~

~~8.5.f. The twelfth day after the general election.~~

8.6. Every person required to keep detailed accounts under subsection (a) of this section shall file a detailed, itemized, sworn statement, as prescribed in W. Va. Code §3-8-5(b)(1)(A) through §3-8-5(b)(1)(D).

8.6.~~a.~~1. On April 1 of each year, financial transactions dating from January 1 to March 31 of the same year shall be filed within six (6) days thereafter.

8.6.~~b.~~2. On July 1 of each year, financial transactions dating from April 1 to June 30 of the same year shall be filed within six (6) days thereafter.

8.6.~~c.~~3. On October 1 of each year, financial transactions dating from July 1 to September 30 of the same year shall be filed within six (6) days thereafter.

8.6.~~d.~~4. On January 1 of each year, financial transactions dating from October 1 to December 31 of the previous year shall be filed within six (6) days thereafter.

8.6.~~e.~~5. Provided, the campaign finance statement that is required by 146-3-8.6.2. for the year 2019 will include financial transactions dating from March 30, 2019 to June 30, 2019 and shall be filed within six (6) days thereafter.

8.7. Except for candidates for party committees and federal offices, including delegates to national convention for presidential nomination, all candidates for nomination or election to state or local offices and all persons supporting, aiding, or opposing the nomination, election, or defeat of any such candidate shall keep, for a period of two (2) years, records of receipts and expenditures which are made for political purposes.

8.~~7.~~8. Financial reports may be filed, pursuant to W. Va. Code §3-8-5b,

8.~~7.a.~~8.1. Electronically via the online Campaign Finance Reporting System established by the Secretary of State, if applicable;

8.~~7.b.~~8.2. By facsimile or other electronic means of transmission to be established by the Secretary of State, if applicable;

8.~~7.c.~~8.3. By mail, if applicable; or

8.8.4. In person, if applicable.

8.~~8.~~9. Filing dates for each method of delivery shall be determined as follows:

8.~~8.a.~~9.1. For mailings, the filing date is the date of the postmark of the United States Postal Service;

8.~~8.b.~~9.2. For hand delivery, the filing date, is the date of delivery to the proper reporting agency or entity during regular business hours of such office; and

8.~~8.c.~~9.3. For the facsimile or other electronic means of transmission, the filing date is the date of delivery to the appropriate reporting agency or entity.

8.~~9.~~10. Financial statements which are delivered by facsimile or other means of electronic transmission shall be limited in length to fifteen (15) pages, including a cover page. When delivered by a facsimile or other electronic means of transmission, original signed and sworn financial statements shall be postmarked or hand delivered to the appropriate reporting agency or entity within twenty-four (24) hours of the date of the facsimile or other means of electronic transmission.

8.~~10.~~11. For the purpose of reporting contributions, a contribution occurs on the date the check, cash or other thing of value is received by the treasurer or agent of the political committee No person acting as agent for the candidate, treasurer or committee shall knowingly withhold a contribution from the treasurer to prevent the reporting of the contribution until a later reporting period.

8.~~11.~~12. For the purpose of reporting unpaid bills, a liability is incurred on the date a bill for goods received or services rendered is received by the treasurer or agent of the political committee.

8.~~12.~~13. For the purpose of reporting expenditures, an expenditure is made on the date the treasurer or agent of the political committee writes the check or transfers cash to any person to pay for goods or services rendered. No transfer may be made to an intermediary to avoid reporting an expenditure in a particular reporting period.

8.~~13.~~14. Persons making independent expenditures shall report those expenditures according to W. Va. Code §3-8-2.

8.~~14.~~15. Persons making electioneering communications shall report those expenditures according to W. Va. Code §3-8-2b.

§146-3-9. State and Local Activity by Federal Committees.

9.1. A political committee ~~other than a candidate's committee~~ which properly establishes and maintains an account with the Federal Election Commission shall be in compliance with the state financial reporting requirements in §3-8-5 if all requirements are met in reporting with the Federal Election Commission. Of candidate committees, only candidate committees that are seeking election to a federal position qualify for this exemption. ~~No additional reporting requirements are applicable to meet the requirements of W. Va. Code §3-8-1 et seq.~~

9.2. When a federally registered political committee also maintains a state registered account, the treasurer shall not place in its federal account, funds which have been designated by the contributor for use in state, district, county and municipal election activities. The funds shall be placed directly into the state account, and are subject to state reporting requirements, restrictions, and contribution limits.

~~9.3. The treasurer of a federal committee may not knowingly transfer into a state account or disburse on behalf of a state or local candidate or political committee any portion of an individual contributor's contribution which exceeds one thousand dollars ($1,000) per election.~~

9.3. A person required to file reports with the Federal Election Commission is not exempt from the state-level electioneering communication reports requirements in §3-8-2b or the independent expenditure reporting requirements in §3-8-2.

§146-3-10. Solicitation for Political Purposes.

10.1. Solicitations by a candidate committee:

10.1.1. No person may lawfully solicit and accept funds for political purposes on behalf of any individual before that individual becomes a pre-candidate or a candidate as defined in this rule.

10.2. No person may lawfully solicit and accept funds on behalf of any political committee, other than a candidate's committee, before that committee files a statement of organization and appoints a treasurer.

10.3. No person may lawfully solicit and accept funds on behalf of any candidate or any elected official if no outstanding debt remains from a previous election, except in that a pre-candidate, candidate or political committee may solicit or accept funds if pre-candidacy papers have been filed for an upcoming primary or general election.

10.4. A person who solicits funds to retire a debt incurred for political purposes by a candidate or committee during a previous primary or general election is soliciting funds in connection with that campaign for ~~nomination~~ primary or general election.

10.5. A solicitation which is broadcast by radio or television or published in a newspaper or other publication of general circulation shall not be considered to violate any prohibition against solicitation of the members of specific groups.

10.6 . A solicitation which is conducted randomly by such means as bulk mail to boxholders, broad literature distribution in a geographic area, or random-number telephone solicitations shall not be considered to violate any prohibition against solicitation of the members of specific groups, providing solicitations of the members of specific groups are not knowingly and purposely included in the random solicitation.

10.7. A solicitation directed to individuals by name shall not be considered to violate the prohibition against solicitation of public employees if that solicitation prominently contains the words "Please disregard if you are a public employee" or words to that effect, providing solicitations of members of prohibited groups are not knowingly and purposely included in the solicitation.

10.8. A solicitation specifically on behalf of one or more candidates for President, Vice President, U.S. Senate or U.S. House of Representatives is governed by the United States Code and the Code of Federal Regulations and is not subject to regulation by the state.

10.9. A solicitation within the state by a federal committee is subject to the W. Va. Code and State Election Commission, Regulation of Campaign Finance, 146 CSR 3, if all or part of any contribution received as a result of the solicitation is used to ~~support one or more candidates in~~ expressly advocate the election or defeat of a candidate or candidates in non-federal races in West Virginia.

§146-3-11. Procedures for Levying Civil Penalties.

11.1. A civil penalty of $10 a day, provided by West Virginia Code §3-8-7(b), ~~may not~~ shall be assessed by the Secretary of State ~~until after~~ when a mandated report for independent expenditures, electioneering communications or a political committee's campaign finance statement as required by §3-8-5 is filed delinquently.

~~11.1.a. The filing officer has notified, by certified mail, except as provided in subdivision 11.1.c, the individual or committee responsible for filing the report that the report is incomplete or inaccurate;~~

~~11.1.b. corrections to the report have not been received by the filing officer within ten (10) days after the mailing of notice to the individual or committee; and~~

~~11.1.c. in the case of a financial statement due not less than eleven nor more than fifteen days preceding each primary or other election, corrections to the report have not been received by the filing officer within twenty-four (24) hours after the individual or committee has been notified by email or telephone call of the inaccuracies or deficiencies. If the inaccuracies or deficiencies are not detected by the filing officer until after the election, the notice and corrections provisions of subdivisions 11.1.a and 11.1.b, apply.~~

11.2. A report shall be considered to be delinquent and a $10 a day fine assessed if:

11.2.1. It is received after the deadlines established by W. Va. Code §3-8-5; or

11.2.2. It bears a U.S. Postal Service postmark dated after the deadline.

11.3. If through or by no fault of the candidate or committee the person responsible for filing the campaign financial statement is unable to file the statement on time, the candidate or committee shall then file said statement in person, via facsimile or other electronic means of transmission, or by certified mail postmarked at the first reasonable opportunity. A campaign financial statement shall not be considered delinquent if:

11.3.1. The statement is filed late due to the death of the candidate, treasurer, or other individual responsible for filing the reports;

11.3.2. The statement is filed late due to a technical or computer error that is beyond the control of the person responsible for filing the statement; or

11.3..3. The statement is filed late due to a serious illness of the candidate, treasurer, or other individual responsible for filing the reports; and

11.3.3.a. A written notification of either death or serious illness is received by the filing officer no later than thirty (30) days after the financial statement is due. Upon receipt of the notification, the filing officer may grant an extension of time for the filing of the financial statement.

11.4. Grossly inaccurate:

11.4.1. Any person, candidate, financial agent, or political party committee treasurer who files a grossly inaccurate or grossly incomplete statement shall be assessed a civil penalty by the Secretary of State of $10 each day after the due date the statement is deemed grossly inaccurate, or grossly incomplete after the following process.

11.4.1.a. The filing officer has notified, by certified mail, except as provided in subdivision 11.4.1.c, the individual or committee responsible for filing the report that the report is incomplete or inaccurate;

11.4.1.b. Corrections to the report have not been received by the filing officer within ten (10) days after the mailing of notice to the individual or committee; and

11.4.1.c. In the case of a financial statement due not less than eleven (11) nor more than fifteen (15) days preceding each primary or other election, corrections to the report have not been received by the filing officer within twenty-four (24) hours after the individual or committee has been notified by email or telephone call of the inaccuracies or deficiencies. If the inaccuracies or deficiencies are not detected by the filing officer until after the election, the notice and corrections provisions of subdivisions 11.4.1.a and 11.4.1.b, apply.

11.4.2. Any person, candidate, financial agent or political party treasurer who willfully files a grossly incomplete or grossly inaccurate statement is guilty of a misdemeanor and, upon conviction thereof, shall be fined not less than $500 or confined in jail for not more than one year, or both fined and confined.

11.5. Reporting delinquent filings to the Secretary of State by local election officials:

11.5.1. Any county or municipality election official that determines that any campaign finance report meets the criteria set for in CSR 146-3-11.1. through 11.4. for a delinquent or grossly inaccurate for civil penalty, the county shall report the political committee to the Secretary of State for penalty assessment. Funds received from any penalty assessed shall be assessed and deposited into the general treasury of the State of West Virginia.

§146-3-12. Political Disclaimers.

12.1. No person may publish, issue or circulate, or cause to be published, issued or circulated, any anonymous letter, circular, placard, radio or television advertisement or other publication supporting or aiding the election or defeat of a clearly identified candidate.

12.2. No person will be in violation of subsection 12.1 above if on the communication the words "Paid for by (name of the person paying for the communication)" are visible and legible on the face of the communication or spoken clearly in an audio advertisement.

12.3. Any communication paid for by an independent expenditure shall include a clear and conspicuous public notice that:

12.3.1. Clearly states that the communication is not authorized by the candidate or the candidate's committee;

12.3.2. Clearly identifies the person making the expenditure; and

12.3.3. If the communication appears on or is disseminated by broadcast, cable or satellite transmission, the statement required by this subsection shall be both spoken clearly and appear in clearly readable writing at the end of the communication.

12.4. In each electioneering communication, a statement shall appear or be presented in a clear and conspicuous manner that:

12.4.1. Clearly indicates that the electioneering communication is not authorized by the candidate or the candidate's committee; and

12.4.2. Clearly identifies the person making the expenditure for the electioneering communication: Provided, that if the electioneering communication appears on or is disseminated by broadcast, cable or satellite transmission, the statement required by this subsection shall be both spoken clearly and appear in clearly readable writing at the end of the communication.

12.5. Any communication that results from a coordinated expenditure shall contain an additional disclaimer that clearly identifies that the expenditure is coordinated with the candidate, the candidate committee, or the party committee with which it was coordinated.

~~**§146-3-13. Membership Organization Activity**~~

~~13.1. Any membership organization which for political purposes desires to involve itself outside the organization's restricted group must establish a separate segregated account to receive funds for such purpose.~~

~~13.2. Any membership organization which raises funds for political purposes by payroll deduction, as an assessment of a part of its membership dues, or as a separate assessment, may report the amount raised as follows:~~

~~13.2.a. If the portion of dues or assessments designated for political purposes equals twenty-five dollars or less per member over the course of a calendar year, the total amount raised for political purposes through membership dues or assessments during the period is reported by showing the amount required to have been paid by each member and the number of paying members.~~

~~13.2.b. If the total payroll deduction for political purposes of each participating member equals twenty-five dollars or less over the course of a calendar year or fiscal year, as specified by the organization, the organization shall report the total amount received for political purposes through payroll deductions during the reporting period and, to the maximum extent possible, the amount of yearly payroll deduction contribution level and the number of members contributing at each such specified level. The membership organization shall maintain records of the name and yearly payroll deduction amounts of each participating member.~~

~~13.2.c. A membership organization may accept contributions by its members by means other than payroll deductions, membership dues, or assessments, but shall be reported in accordance with the provisions of WV Code §3-8-5a(a)(3).~~

~~13.3. Administrative functions performed by a membership organization that shall not be deemed contributions to the separate segregated fund established for political purposes and shall not need to be reimbursed by the separate segregated fund include:~~

~~13.3.a. Expenditures made for public editorials or commentaries produced in the ordinary course of business by membership organization whose primary purpose is journalism or public communications.~~

~~13.3.b. Direct communications by a membership organization to its restricted group on any subject, by any means not intended to reach the general public. Such communications by a membership organization to its restricted group may be made by, but are not limited to, the following means:~~

~~13.3.b.1. The distribution of printed material by a membership organization to its restricted group: Provided, That~~

~~13.3.b.1.A. The material is disseminated at the expense of the membership organization; and~~

~~13.3.b.1.B. The material clearly states that it constitutes a communication of the views of the membership organization.~~

~~13.3.b.2. The allowing of a candidate or party representative to address the restricted group of the membership organization at any meeting, convention or other regularly scheduled function of the membership organization which is primarily held for other purposes. The membership organization shall pay no compensation whatsoever to such candidates. The candidate or party representative may address members of the restricted group in their individual rather than membership organization capacities, and may at such time ask for individual contributions to his or her campaign or party, ask that such contributions to be sent to his or her campaign or party, or ask that contributions to a separate segregated fund established by the membership organization be designation for his or her campaign or party.~~

~~13.3.b.3. The establishment and operation of phone banks by a membership organization to communicate with its restricted group urging them to register and/or vote for a particular candidate or candidates.~~

~~13.3.b.4. The conducting of nonpartisan registration and get-out-the-vote drives, as by providing transportation to the polls, by a membership organization aimed at its restricted group. If a registration drive is undertaken, assistance in registering or voting may not be withheld or refused on a partisan basis, and if transportation or other services are offered in connection with a registration or get-out-the-vote drive, such transportation or services may not be withheld or refused on a partisan basis.~~

~~13.4. The establishment and administration of a separate segregated fund of a membership organization, or persons acting on its behalf, may, subject to the authorization of such membership organization, use the real or personal property, facilities and equipment of any membership organization that participated in the establishment or participates in the administration or solicits contributions on behalf of such separate segregated fund established by the membership organization. The cost of such use of property, real or personal, facilities or equipment need not be reimbursed to the membership organization so long as such costs are incurred in setting up and running the separate segregated fund established by the membership organization. Such costs that need not be reimbursed include the costs of office space, phones, utilities and supplies.~~

§146-3-13. Joint Fundraising Agreements.

13.1. Applicability.

13.1.1. The provisions of this section, in addition to all applicable laws, shall govern all joint fundraising activity conducted under W. Va. Code § 3-8-9c.

13.2. Establishing separate committee; authority, requirements and prohibitions.

13.2.1. Registered political committees may engage in joint fundraising activities with other political committees registered in West Virginia or with the Federal Election Commission. Participants authorized to engage in joint fundraising activity shall only include political party committees, caucus campaign committees, candidate committees, and political action committees. *Provided*, that nothing in this Rule modifies the provisions of W. Va. Code §§ 3-8-8, 3-8-9a and 3-8-9b regarding the prohibition against corporate contributions and coordinated expenditures respectively. *Provided, however*, that committees which are permitted to receive otherwise prohibited contributions (*e.g.* certain Federal committees) may solicit and accept such contributions according to the provisions of this Rule and applicable state or Federal laws so long as the otherwise prohibited contributions are deposited into an account that is separate from the separate committee's account.

13.2.2. To lawfully engage in joint fundraising activities, the participants shall enter into a joint fundraising agreement and establish a separate committee, allocation formula and a joint fundraising representative.

13.2.3. The participants are permitted to hire a commercial fundraising firm or other agent to assist the joint fundraising representative with conducting joint fundraising activity. The commercial fundraising firm or other agent shall be answerable to the joint fundraising representative. *Provided*, this subsection does not absolve the joint fundraising representative of any responsibilities or duties set forth in the law or this Rule.

13.2.4. Prior to soliciting or accepting any funds or engaging in any fundraising activities, the joint fundraising committee shall file a Statement of Organization with the Secretary of State, which shall include:

13.2.4.a. The name of the separate committee;

13.2.4.b. The date the joint fundraising agreement was executed;

13.2.4.c. The name, address, phone number and email address of the agent authorized to act as the joint fundraising representative on behalf of the separate committee;

13.2.4.d. The names and addresses of all committees participating in the joint fundraising agreement;

13.2.4.e. The name and address of the depository institution holding the joint fundraising committee's account;

13.2.4.f. Attach an original signed copy of the joint fundraising agreement; and

13.2.3.g. Any additional information deemed necessary by the Secretary of State.

13.3. Joint fundraising representative; separate committee activities.

13.3.1. The joint fundraising representative shall report the separate committee's activities in the same manner provided by law for a political committee.

13.3.2. The joint fundraising representative shall be responsible for managing all activities of the separate committee including but not limited to the following:

13.3.2.a. Record keeping, preparing and reporting all activities required by law and this Rule;

13.3.2.b. Collecting all contributions to the separate committee on behalf of the participants;

13.3.2.c. Paying for all costs incurred by the separate committee with gross proceeds from the separate committee's account and/or from funds contributed to the separate committee by participants; and

13.3.2.d. Distributing net proceeds to each participant according to the terms established under joint fundraising agreement.

13.3.3. The separate committee shall not be a participant in any other joint fundraising effort. *Provided*, that the separate committee may conduct more than one fundraising event for the participants consistent with the terms of the joint fundraising agreement.

13.3.4. Joint fundraising representatives shall be permitted to act as a joint fundraising representative for multiple separate committees. *Provided*, that all activities of each separate committee shall be kept separate.

13.4. Funding advancements by participants to joint fundraising committee.

13.4.1. Prior to a fundraising event, participants may advance funds to the joint fundraising committee for the costs of the fundraiser. *Provided*, that participants may contribute funds following a fundraising event only if the costs of the fundraiser exceed funds advanced and raised by participants.

13.4.2. The amount of funds advanced by each participant for fundraising costs shall be in proportion to the allocation formula agreed upon under the joint fundraising agreement. *Provided*, that the amount advanced may exceed any participant's proportionate share so long as the amount advanced does not exceed the amount that the participant may legally contribute to the remaining participants according to the contribution limits set forth in W. Va. Code § 3-8-5c.

13.4.3. Following the event, the joint fundraising representative shall pay fundraising costs from gross proceeds and from funds advanced by participants. After paying the specific fundraising event costs, the joint fundraising representative shall disburse net proceeds to each participant according to the allocation formula set forth in the joint fundraising agreement.

13.5. Joint fundraising; requirements; procedures; limitations.

13.5.1. The participants in joint fundraising activity shall enter into a written agreement and establish the following:

13.5.1.a. A separate committee through which all joint fundraising activity shall be conducted;

13.5.1.b. The name, address, phone number and email address of the agent authorized to act as the joint fundraising representative on behalf of the separate committee;

13.5.1.c. The names and addresses of all committees participating in joint fundraising activity under the joint fundraising agreement;

13.5.1.d. The allocation formula by which fundraising proceeds are disbursed to each participant;

13.5.1.e. The name and address of the depository institution holding the joint fundraising committee's account; and

13.5.1.f. Any additional information deemed necessary by the participants.

13.5.2. The allocation formula shall provide the exact amount or percentage to be allocated to each participant for all contributions and advancements received by the separate committee. The fundraising representative shall provide the written agreement to the Secretary of State prior to soliciting or accepting any funds, which agreement shall be made publicly available on the Secretary of State's campaign finance reporting system website.

13.5.3. A joint fundraising notice shall be included with each solicitation for contributions and fundraising event advertisement. The notice shall include the following information:

13.5.3.a. The names of all committees participating in the joint fundraising activity;

13.5.3.b. The allocation formula for distributing the joint fundraising proceeds;

13.5.3.c. A statement informing contributors that, notwithstanding the stated allocation formula, contributions may be designated for a particular participant or participants; and

13.5.3.d. A statement informing contributors that the allocation formula may change if a contributor makes a contribution which exceeds the maximum contribution amount to a participant than is permitted by law.

13.5.4. In the following special situations, the joint fundraising notice shall include the following additional information:

13.5.4.a. If one or more participants engage in joint fundraising activity solely to raise funds for outstanding debts, a statement informing contributors that the allocation formula may change if a participant receives sufficient funds to pay its outstanding debts; and

13.5.4.b. If one or more participants may not lawfully accept contributions from any particular source, a statement informing contributors that contributions from prohibited sources will be distributed only to those participants that may lawfully accept them.

13.6. Separate depository account; record keeping requirements.

13.6.1. The participants or joint fundraising representative shall establish a separate depository account to be used solely for the receipt and disbursement of joint fundraising proceeds. Only lawful contributions and advanced funds shall be deposited into the separate depository account.

13.6.2. Each separate committee shall disclose the name, location and account number of the separate depository account in the joint fundraising agreement.

13.6.3. The fundraising representative shall collect and forward to participants all contributor information required under W. Va. Code § 3-8-5a.

13.6.3.a. Participants shall make their contributor records available to the fundraising representative for screening purposes.

13.6.3.b. The fundraising representative and participants shall review and determine whether any contributions violate the provisions of W. Va. Code §§ 3-8-5c, 3-8-5g or 3-8-8.

13.6.3.c. The fundraising representative shall keep a record of the total amount of contributions received from prohibited sources, if any, and of all transfers of prohibited contributions to participants that may lawfully accept them.

13.6.3.d. For compliance purposes, the fundraising representative and all participants are individually responsible for following all applicable laws and this Rule.

13.6.4. If one or more participants may lawfully accept prohibited contributions (*e.g.* corporate contributions), the participants or joint fundraising representative may either establish a second depository account for contributions received from prohibited sources, or may forward such contributions directly to the appropriate participant(s) and shall keep clearly indicate the separate disbursements in the books of the separate committee.

13.6.5. The fundraising representative shall deposit all joint fundraising proceeds in the separate depository account. The fundraising representative may delay distribution of the fundraising proceeds to participants until all contributions are received and all expenses are paid.

13.6.5.a. The fundraising representative shall report contributions for the separate committee in the reporting period during which they are received.

13.6.5.b. For reporting purposes, the date of receipt of a contribution by the joint fundraising representative or separate committee shall be deemed the date that the contribution is actually received. For electronic transmission of a contribution, the date of completed transmission is the date of receipt.

13.6.5.c. Participants shall report joint fundraising proceeds in accordance with W. Va. Code § 3-8-5 in the reporting period in which they are received by the joint fundraising representative or separate committee regardless the funds have been distributed to participants. *Provided*, that if any contributor's information is not known by the close of the reporting period, the participant(s) shall report all available information and amend the appropriate report once all contributor information is known.

13.6.6. The joint fundraising representative shall retain all records required under W. Va. Code § 3-8-5 regarding fundraising disbursements for a period of two years. Commercial fundraising firms or agents shall provide such information to the fundraising representative.

13.7. Contribution limitations.

13.7.1. The maximum contribution that may be accepted by a separate committee or the joint fundraising representative on behalf of the separate committee shall not exceed the contribution limitations set forth in W. Va. Code § 3-8-5c for each participant in the aggregate less any contributions previously received by each respective participant from the specific contributor(s).

13.7.1.a. Contributions may be designated or earmarked for a specific participant or group of participants. In this case, the calculation of the maximum contribution limitation for that specific contribution shall only include the maximum lawful amount for the participant(s) to which the contributions are intended less any contributions previously received by any such participant(s) from the particular contributor(s).

13.7.1.b. For maximum contribution limitation calculation purposes, gross proceeds shall be considered for the calculation of the amount of funds received by each participant.

13.8. Allocation of gross proceeds.

13.8.1. The fundraising representative shall allocate proceeds according to the allocation formula stated in the joint fundraising agreement or otherwise in accordance with this Rule.

13.8.1.a. For a fundraiser to extinguish debt of the participants, if distribution according to the allocation formula extinguishes the debt of any participant and results in a surplus, the joint fundraising representative shall either reallocate the surplus funds to other participants that may lawfully accept the funds, or otherwise return the surplus funds to the contributor(s).

13.8.1.b. If distribution of funds under the allocation formula results in a violation of the contribution limits under W. Va. Code § 3-8-5c, the joint fundraising representative shall either reallocate the excess funds to other participants that may lawfully accept the funds, or otherwise return the surplus funds to the contributor(s).

13.8.1.c. Reallocation of surplus funds shall be based upon the remaining participants' proportionate shares under the allocation formula. If reallocation results in a violation of a contribution limit under W. Va. Code § 3-8-5c, the joint fundraising representative shall return to the contributor the amount of the contribution that exceeds the limit.

13.8.2. Notwithstanding Subdivision 1.c. of this subsection, any specifically designated or earmarked contributions which exceed the contribution limit or needed funds to retire the debt of the designated participant(s) shall not be reallocated by the joint fundraising representative without express written consent of the contributor(s).

13.9. Calculation of expenses and distribution of proceeds.

13.9.1. Payment of expenses shall be made by the joint fundraising representative from gross proceeds of each fundraising event.

13.9.1.a. The joint fundraising representative shall calculate each participant's share of expenses based on the allocation formula set forth in the joint fundraising agreement. *Provided*, that if any contributions are received from prohibited sources and distributed to participants that may lawfully accept such contributions, those funds shall not be included in gross proceeds for the purpose of allocating expenses under this section. *Provided, however*, that such funds shall be recorded in the books of the separate committee.

13.9.1.b. The joint fundraising representative shall calculate each participants' share of the proceeds by subtracting fundraising expenses from gross proceeds and then distribute net proceeds to each participant based on the allocation formula set forth in the joint fundraising agreement.

13.9.2. A participant shall be permitted to cover fundraising expenses on behalf of another participant. *Provided*, that covering such expenses shall be subject to the contribution limits under W. Va. Code §§ 3-8-5c and 3-8-9b, as well as being subject to the prohibitions against certain activities by candidate committees and political action committees under W. Va. Code § 3-8-9.

13.9.3. The expenses from a series of fundraising events or activities shall be allocated among the participants under the allocation formula set forth in the joint fundraising agreement on a per-event basis. *Provided*, that if more than one event occurs on a single date, such events shall be considered separate events for reporting and allocation purposes.

13.10. Reporting receipts and disbursements.

13.10.1. The fundraising representative and all participants shall report all funds received during the reporting period in which they are received as contributions from each individual contributor pursuant to W. Va. Code §§ 3-8-5a and 3-8-5b, as well as Subsection 13.6.5. of this Rule.

13.10.2. The fundraising representative shall submit a statement detailing the total amount of contributions received from prohibited sources during the reporting period, if any, by submitting an addendum to the campaign finance report to the Secretary of State's Elections Division via email, U.S. mail, facsimile or hand delivery.

13.10.3. For cash balance purposes, each participant shall report net proceeds received as contributions and shall report the portion of contributions allocated to fundraising expenses as in-kind contributions. The amount of each contribution and in-kind contribution shall be calculated based on the allocation formula set forth in the joint fundraising agreement and itemized in the report by each original contributor. *Provided*, that the sum of the contribution and in-kind contribution from each donor, which should equal each participant's share under the allocation formula of the gross proceeds, shall not exceed the contribution limitations of W. Va. Code § 3-8-5c.

§146-3-14. Coordinated Activity.

14.1. "Coordinated expenditure" is an expenditure made in concert with, in cooperation with, or at the request or suggestion of a candidate's committee and meeting the criteria provided in §3-8-9a of this code.

14.1.1. For the purpose of this section, "In concert or cooperation with or at the request or suggestion of," means that a candidate or his or her agent consulted with:

14.1.1.a. The sender regarding the content, timing, place, nature, or volume of a particular communication or a communication to be made; or

14.1.1.b. A person making an expenditure that would otherwise offset the necessity for an expenditure of the candidate or candidate's committee.

14.2. Coordinated activity includes the making of expenditures in cooperation with a candidate or committee so long as the communication resulting from the expenditure is paid, in whole or in part, by another person other than the candidate, committee. or party.

14.3. Expenditures are considered coordinated when:

14.3.1. The communication is created, produced, distributed, or undertaken at the request or suggestion of a candidate, candidate committee, or party committee;

14.3.2. The candidate, candidate committee, or party committee is involved in the creation, production, or distribution of the communication, or has had discussions about the communication with any person or the agents of a person who has paid for or played a role in the creation, production, or distribution of the communication;

14.3.3. Any person involved in the creation, production, or distribution of the communication has, in the four (4) months preceding the date on which the expenditure is made, been an employee or vendor of campaign services for the candidate, candidate committee, or party committee;

14.4. Any communication that results from a coordinated expenditure shall contain a disclaimer that clearly identifies that the expenditure is coordinated with the candidate, candidate committee, or party committee with which it was coordinated.

14.5. The state committee of a political party and caucus campaign committee may make coordinated expenditures in an amount not to exceed $5,000 in connection with the general election campaign for offices of Governor, Attorney General, Auditor, Commissioner of Agriculture, Secretary of State, Treasurer, State Senate, and House of Delegates.

14.6. Any communication that results from a political expenditure and is made in coordination with a state committee of a political party and caucus campaign committee shall contain a disclaimer that clearly identifies that the expenditure is coordinated with the candidate or candidate's committee with whom it was coordinated.