



WEST VIRGINIA SECRETARY OF STATE

MAC WARNER

ADMINISTRATIVE LAW DIVISION

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Office of West Virginia
Secretary Of State

NOTICE OF RULE MODIFICATION OF A PROPOSED RULE

AGENCY: Election Commission

RULE TYPE: Legislative

TITLE-SERIES: 146-03

RULE NAME: Regulation of Campaign Finance

CITE AUTHORITY: §3-1A-5, §3-8-2, §3-8-7, §3-8-8, §3-8-9,
and §29A-3-1 et seq,

The above proposed Legislative rules, following review by the Legislative Rule Making Review Committee, is hereby modified as a result of review and comment by the Legislative Rule Making Review Committee. The attached modifications are filed with the Secretary of State.

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.

146CSR3

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 five 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.~~ 2.4.1. Has filed a certificate of announcement under W. Va. Code §3-5-7 or a municipal charter;

~~2.4.b.~~ 2.4.2. Has filed ~~declaration of candidacy~~ nomination certificate under W. Va. Code §3-5-23;

~~2.4.c.~~ 2.4.3. Has been named to fill a vacancy on a ballot; or

~~2.4.d.~~ 2.4.4. 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" or "candidate 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 committee, those committees shall be considered one committee for the purpose of contribution limits.

2.6. "Caucus campaign committee" means a West Virginia House of Delegates or West Virginia Senate political party caucus campaign committee that receives contributions and makes lawful expenditures in accordance with W. Va. C.S.R. §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 West Virginia House of Delegates or West Virginia 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, in writing, of satisfying the criteria contained in this section. Any changes to the status of the designation of chairperson shall be submitted to the Secretary of State without delay.

2.7. "Clearly identified" means that the nickname, photograph, drawing, or other depiction of the candidate appears in a communication or on a material, 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. "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.

2.8.1. A coordinated expenditure is considered to be a contribution.

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

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

2.9. "Coordinated expenditure" is defined in W.Va. C.S.R. §146-3-14.

2.10. "Corporation" means any separately incorporated entity, whether under the laws of West Virginia, 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.

2.10.1. 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 election 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 W. Va. Code §3-8-1 et seq. and this rule series.

2.6-2.11. "Election" means any primary, general, or special election conducted under the provisions of this code or under the charter of any municipality.

2.12. "Election cycle" means the period beginning the day following the last general election in which the office appeared on the ballot and ending on the day of the general election in which the office next appears on the ballot.

2.13. "Election officer" means the officer or official who receives the Statement of Organization of a political committee, and includes the Secretary of State, the county clerk, and the municipal clerk or recorder, as set forth in W. Va. Code §3-8-4.

2.14. "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 in W. Va. Code §3-8-1a.

2.15. "Expressly advocating" means any communication that:

2.15.1. 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;"

2.15.2. 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., such as "Smith's the One," "Jones '06," "Baker," etc.; or

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

2.16. "Family" means spouses and unemancipated children.

2.17. "Fair market value" means:

2.17.1. The usual and normal charge for the goods in the market from which they ordinarily would have been purchased at the time of the contribution; or

2.17.2. The usual and normal charge for any services, other than those provided by an unpaid volunteer, at the hourly or piecework charge for the services at a commercially reasonable rate prevailing at the time the services were rendered.

2.18. "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.

2.19. "Firewall" means a written 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.

2.20. “Foreign national” means the following:

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

2.20.1.a. A government of a foreign country;

2.20.1.b. A foreign political party;

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

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

2.20.1.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

2.20.1.c.3. 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.

2.20.2. 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.~~ 2.21. “Grossly incomplete or grossly inaccurate” means that a financial statement, as defined under required by 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 W. Va. C.S.R. §146-3-1 et seq.

2.22. “Independent expenditure” means an expenditure by a person expressly advocating for the election or defeat of a clearly identified candidate, including supporting or opposing the candidates of a political party, that is not a coordinated expenditure with the candidate, his or her agents, the candidate’s authorized political committee, or a political party committee or its agents.

2.22.1. An expenditure which does not meet the criteria for an independent expenditure is considered a contribution: Provided, That a coordinated expenditure in an amount that does not exceed \$5,000 by state party executive committees and caucus campaign committees in connection with certain statewide candidates is not a contribution, as provided in W. Va. Code §3-8-9a W. Va. Code §3-8-9b.

~~2.8.~~ 2.23. “Independent expenditure-only political action committee” means a political action 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: Provided, That if an independent expenditure-only political action committee makes a contribution to a candidate or engages in a coordinated expenditure with a candidate that committee is no longer considered to be an independent expenditure-only political action committee and is subject to limits on contributions that a political action committee may receive, according rule series and W. Va. Code §3-8-1 et seq.

2.24. “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.~~ 2.25. “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.~~ 2.25.1. Pays membership dues, at least annually, of a specific amount predetermined by the organization; or

~~2.9.b.~~ 2.25.2. 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.~~ 2.26. "Membership Organization" means an organization that:

~~2.10.a.~~ 2.26.1. 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.b.~~ 2.26.2. Expressly states the qualifications and requirements for membership in its articles, bylaws, constitution, or other formal organizational documents;

~~2.10.c.~~ 2.26.3. Makes its articles, bylaws, constitution, or other formal organizational documents available to its members upon request;

~~2.10.d.~~ 2.26.4. Expressly solicits persons to become members;

~~2.10.e.~~ 2.26.5. Expressly acknowledges the acceptance of membership, such as by sending a membership card or including the member's name on a membership newsletter list; and

~~2.10.f.~~ 2.26.6. Is not organized primarily for the purpose of influencing the nomination for election, or election, of any individual to political office.

~~2.11.~~ 2.27. "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.

~~2.12.~~ 2.28. "Nominal noncash expressions of appreciation" means a token of appreciation, having a cash value of ~~ten dollars~~ \$10 or less, given to volunteer or paid campaign workers following the close of the polls or within 30 days thereafter.

~~2.13.~~ 2.29. "Occupation" means the principal work activity which is described by a general term such as teacher, miner, business executive, homemaker or doctor.

~~2.14.~~ 2.30. "Person" means an individual, corporation, partnership, committee, association, and any other organization or group of individuals.

~~2.15. 2.31.~~ “Political action committee” means a committee organized by one or more persons 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:

2.31.1. In determining a committee’s primary purpose, the factors that will be considered include, but are not limited to:

2.31.1.a. Whether the committee 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;

2.31.1.b. Whether the committee 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

2.31.1.c. Whether the committee 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.a.~~ 2.31.2. The following are types of political action committees:

~~2.15.b.~~ 2.31.2.a. A separate segregated fund established by a corporation or a membership organization, as defined by this rule; in this section;

~~2.15.c.~~ 2.31.2.b. An unaffiliated political action committee, meaning a political action committee that is not affiliated with a corporation or membership organization; or

~~2.15.d.~~ 2.31.2.c. Any political committee may also identify as an independent expenditure-only political action committee when meeting the definition of such a committee contained in this section.

~~2.15.~~ 2.31.3. A committee established as a joint fundraising committee pursuant to W. Va. C.S.R. 146-3-13 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 in any manner modify such a committee’s obligation to comply with the reporting requirements of W.Va. Code §3-8-5, W. Va. C.S.R. §146-3-8, and W. Va. C.S.R. §146-3-13.

~~2.16. 2.32.~~ “Political committee” means any candidate committee, political action committee or political party committee.

~~2.16.a.~~ 2.32.1. This definition includes but is not limited to:

2.32.1.a. Political party executive committees and political party caucus campaign committees;

2.32.1.b. Other committees operating in conjunction with a political party or using a political party name; or

2.32.1.c. Political action committees. And any other organizations, whether temporarily or permanently established, using any portion of their funds for political purposes.

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

~~2.17.~~ 2.33. “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

~~18.~~ 2.34. “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.~~ any of the following:

2.34.1. Expressly advocating or opposing the nomination, election, or defeat of one or more candidates or the passage or defeat of a ballot issue;

2.34.2. Supporting the administration or activities of a political committee;

2.34.3. Supporting the administration or activities of a political committee engaged in determining the advisability of a person becoming a candidate under the pre-candidacy financing provisions;

2.34.4. Supporting the retirement of the debt of a candidate or political committee incurred for any of the purposes set forth in this section; or

2.34.5. Making permissible contributions to political committees in accordance with the applicable limits of W. Va. Code §3-8-5c and this rule series.

~~2.19.~~ 2.35. “Pre-candidate” means, for the purpose of this rule series, 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.~~ 2.36. “Restricted Group” means ~~the membership organization’s members and the executive or administrative personnel of the membership organization and their families~~ the following persons:

2.36.1. In relation to a corporation:

2.36.1.a. A stockholder;

2.36.1.b. A stockholder’s family;

2.36.1.c. Executive and administrative personnel of any subsidiaries, branches, divisions, and departments; or

2.36.1.d. A family member of executive and administrative personnel of any subsidiaries, branches, divisions, and departments.

2.36.2. In relation to a membership organization, the organization’s members.

2.37. “Separate segregated fund” means a fund created by a corporation or membership organization, pursuant to W. Va. Code §3-8-8, that collects contributions from the corporation’s or membership’s

restricted group for political purposes.

~~2.21.~~ 2.38. “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.~~ 2.39. “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 series, 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.

3.1. Candidate Committee Contributions. –

~~3.1.~~ 3.1.1. A contribution to a ~~pre-candidate or~~ pre-candidate’s committee is a contribution in connection with a primary election when the candidate seeks to be nominated to a general election ballot by the voters on a primary election ballot or a party convention, as prescribed by law. Contributions to a pre-candidate’s committee for a pre-candidate who does not seek a party nomination are contributions in connection with a general election.

~~3.1.~~ 3.1.2. ~~A contribution~~ The following contributions to a ~~candidate or~~ candidate’s committee ~~is a contribution~~ are contributions in connection with a primary election: ~~in the following circumstances~~

~~3.2.a.~~ 3.1.2.a. For a ~~pre-candidate or~~ candidate for nomination ~~or election~~ in the primary, ~~all contributions~~ every contribution received on or before the primary election day that is not expressly designated as a contribution in connect with the general election;

~~3.2.b.~~ 3.1.2.b. 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.~~ 3.1.2.c. 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~~ bills, loans, or other financial obligations incurred for the primary election; and

~~3.2.d.~~ 3.1.2.d. For a candidate for nomination in a party convention, ~~all contributions~~ any contribution received on or before the day of that convention that is not expressly designated as a general election contribution.

~~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.~~

3.1.3. A contribution received by a candidate's committee is a contribution in connection with the general or special election in the following circumstances:

3.1.3.a. Contributions received by a candidate's committee after the candidate's nomination in a primary election or party convention: Provided, That a contribution received after nomination in a primary election or party convention that is designated to offset debts incurred in a primary election as described in subdivision 3.1.3.b of this section is a contribution in connection with the primary election;

3.1.3.b. Contributions received by a candidate's committee for a candidate who has been appointed to fill a vacancy on the general or special election ballot by a party executive committee;

3.1.3.c. Contributions received by a candidate's committee for a candidate who has been nominated by certificates of nomination, as provided in W.Va. State Code §3-5-23;

3.1.3.d. Contributions received by a write-in candidate's committee; and

3.1.3.e. Any contribution received by a candidate's committee prior to the primary election or nominating convention if expressly designated by the contributor as a contribution in connection with the general or special election: Provided, That funds from these contributions may not be expended until after the subsequent candidacy in the general election has been declared by:

3.1.3.e.1. The Board of Canvassers, if the election is within a single county or municipality; or

3.1.3.e.2. The Secretary of State, if the political subdivision includes more than one county.

3.1.4. If a 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.

3.2. Political Action Committee Contributions. –

~~3.4. 3.2.1. 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. 3.2.1.a. In connection with a primary or special primary election, if the contribution is received after the last Saturday in the general election and by on or before the date of the next statewide primary or special primary election in the following calendar year (for example, from March 28, November 4, 2014 to May 12, 2016); and~~

~~3.4.b.~~ 3.2.1.b. In connection with a general election or special 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 or special election (for example, from May 13, 2016 to ~~March 25, 2017~~ November 8, 2016).

~~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~~ State 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.~~ 4.3.1. The full name of each person, firm, association, or committee;

~~4.3.b.~~ 4.3.2. The residence and mailing address of the contributor and ~~may include~~ a business telephone number, if available;

~~4.3.c.~~ 4.3.3. In the case of an individual, his or her major business affiliation and occupation; and

~~4.3.d.~~ 4.3.4. 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~~ detailed records 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 ~~assets~~ funds, as defined in ~~section~~ W. Va. C.S.R. §146-3-7, may not be transferred to an inaugural committee.

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

~~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. Aggregate Limits on Contributions to Candidates. –

5.1.1. No person shall make, and no candidate's or pre-candidate's committee shall accept:

5.1.1.a. Contributions to any candidate's committee in connection with any primary election or other nominating event which, in the aggregate, exceed \$2,800;

5.1.1.b. Contributions to any candidate's committee in connection with a general or special election which, in the aggregate, exceed \$2,800; or

5.1.1.c. Contributions to any candidate's committee in connection with an election to a nonpartisan office which, in the aggregate, exceed \$2,800.

5.1.2. When a person, with the approval or control of a candidate, designates all or part of a contribution to a political party committee or a political action committee for the benefit of a that particular candidate and makes that contribution to a political committee acting with the approval or control of that candidate, the designated contribution shall be is a contribution to the designated candidate and is subject to the candidate contribution limits contained in this section.

5.1.3. Notwithstanding any other provision of this rule and in accordance with W. Va. Code §3-8-9b, the state committee of a political party and a caucus campaign committee may make coordinated expenditures of up to \$5,000 in connection with a general election campaign for each of the following offices: Governor, Attorney General, Auditor, Commissioner of Agriculture, Secretary of State, Treasurer, State Senate, and House of Delegates. Pursuant W. Va. Code §3-8-9a and §3-8-9b, a coordinated expenditure described in this subsection is not a contribution.

5.2. Aggregate Limits on Contributions to Political Action Committees. –

5.2.1. No person shall make, and no political action committee shall accept:

5.2.1.a. Contributions to a political action committee after the general election and prior to the subsequent primary election which, in the aggregate, exceed \$5,000.

5.2.1.b. Contributions to a political action committee after the state's primary election and prior to the state's subsequent general or special election which, in the aggregate, exceed \$5,000.

5.3. Aggregate Limits on Contributions to Political Party Committees. –

5.3.1. No person shall make, and no political party committee shall accept contributions to a political party committee which, in the aggregate, exceed \$10,000 per calendar year.

5.4. Sourcing of Contributions for Purposes of Aggregate Limits. –

~~5.3.~~ 5.4.1. A contribution made by a business licensed as a sole proprietorship is a contribution made by the owner of that sole proprietorship and must be reported as having been received from the owner. The aggregate contribution limits apply to all contributions to a candidate candidate's committee

or political committee made by that owner, whether from personal or business funds.

~~5.4.~~ 5.4.2. 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 must be reported as having been received from each of the aforementioned partners. The aggregate contribution limits apply to contributions to a ~~candidate~~ candidate's committee or political committee made by each partner whether from personal funds or from the contributor's share of partnership funds.

~~5.5.~~ 5.4.3. A husband and wife may each ~~contribute one thousand dollars (\$1,000)~~ make contributions to the same ~~candidate~~ candidate's committee or political committee in connection with the same election, up to the contribution limits contained in this section, regardless of the source of family income.

~~5.6.~~ 5.4.4. 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.

5.5. Contributions by Minor Children. –

~~5.7.~~ 5.5.1. Minor children (children under ~~eighteen~~ 18 years of age) may ~~contribute up to one thousand dollars (\$1,000)~~ make contributions to a ~~candidate~~ candidate's committee or political committee up to contribution limits contained in this section if:

~~5.7.a.~~ 5.5.1.a. The decision to contribute is made knowingly and voluntarily by the minor child;

~~5.7.b.~~ 5.5.1.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

~~5.7.c.~~ 5.5.1.c. The contribution is not made from the proceeds of a gift, the purpose of which was to provide funds to be contributed, ~~or~~ and is not in any other way controlled by another individual.

~~5.8.~~ When a contributor designates all or part of a contribution 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.

5.6. Transfers Between Committees; Excess Campaign Funds and Debts. –

~~5.9.~~ 5.6.1. 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~~ cycle, 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.

~~5.12.~~ 5.6.2. 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.

~~5.13.~~ 5.6.3. 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.

~~5.14.~~ 5.6.4. 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.

5.7. Corporate and Membership Organization Contribution Restrictions. –

5.7.1. Corporations and membership organizations may not accept contributions to a separate segregated fund from any contributor who is not part of their restricted group, as defined in W. Va. C.S.R. §146-3-2.

5.7.2. A separate segregated fund of a corporation or membership organization, the primary purpose of which is to influence the election or defeat of a candidate in any election, is a political action committee and may not:

5.7.2.a. Accept contributions prior to filing a statement of organization with the Secretary of State, as required by W. Va. Code §3-8-4 and W. Va. C.S.R. §146-3-10.

5.7.2.b. Accept contributions above the limits applying to political action committees, contained in W. Va. Code 3-8-5c or W. Va. C.S.R. §146-3-5.

5.7.3. Corporations and membership organizations are prohibited from facilitating contributions, other than contributions to the separate segregated funds of the corporation or membership organization, as provided in W. Va. Code §3-8-8 and W. Va. C.S.R. §146-1-3.

5.8. Foreign Nationals. –

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

5.8.1.a. A contribution, donation, or an express or implied promise to make a contribution or donation to a candidate's committee, a political committee, or a political party, or in connection with any federal, state, or local election held in West Virginia; or

5.8.1.b. An independent expenditure or any disbursement for an electioneering communication related to a federal state or local election held in West Virginia.

5.8.2. No person may solicit, accept, or receive contributions or donations from a foreign national.

5.9. General Requirements and Exemptions to Limits on Contributions. –

5.9.1. A non-monetary contribution is to be considered at its fair market value for the purposes of reporting requirements and contribution limitations.

5.9.2. Notwithstanding any other provision of this section, a candidate may contribute to his or her own campaign committee without limitation.

5.9.3. Notwithstanding any other provision of this section, contributions to an independent expenditure-only political action committee are not subject to limits: Provided, That an independent expenditure-only political committee is prohibited from making any contribution, including a coordinated expenditure with a candidate's committee or a political party committee: Provided, however, That if an independent expenditure-only political action committee makes any contribution, that committee is no longer an independent expenditure-only political action committee and may not accept contributions above the limits in section 5.2 of this section.

5.9.4. Notwithstanding any other provision of this rule series, contributions to a ballot issue committee are permissible and are not subject to limits.

5.9.5. Limits on contributions to candidates for federal elective office (including President of the United States, Vice President of the United States, United States Senator, and United States Representative) are established in 52 U.S.C. Chapter 301 and the corresponding federal regulations and are not subject to West Virginia laws and rules.

§146-3-6. Lawful Expenditures.

~~6.1. Funds belonging to or received by a candidate candidate's committee or political committee may be used to employ persons to perform those functions as lawful payment for goods provided, services rendered, or reimbursement of expenses incurred for political purposes, including for the permissible purposes 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. As lawful payment for goods provided, services rendered or reimbursement of expenses incurred for political purposes as defined in Section 2.18 of this Rule;~~

~~6.3.b. As food, entertainment or costs incidental to a fund-raising event or public meeting;~~

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

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

~~6.4.~~ 6.2. A candidate or person acting on behalf of a political committee may be reimbursed ~~for~~ from 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 Section 6.4 of this Rule.~~

6.3. Funds belonging to or received by a candidate's committee or a political committee may not be expended for personal use.

6.3.1. "Personal use" of campaign funds includes any use of funds, belonging to or received by a candidate's committee or political committee, to fulfill a commitment, obligation, or expense of any person that would exist irrespective of the candidate's campaign, candidacy, or duties as an officeholder. Examples of personal use of campaign funds, includes but is not limited to, use of moneys in a campaign account for:

6.3.1.a. The purchase of household food items or supplies;

6.3.1.b. The payment of funeral, cremation, or burial expenses;

6.3.1.c. The purchase or rental of clothing, other than items of de minimis value that are used in the campaign, such as campaign "T-shirts" or caps with campaign slogans;

6.3.1.d. Tuition payments, other than those associated with training campaign staff;

6.3.1.e. Mortgage, rent, or utility payments for:

6.3.1.e.1. Any part of any personal residence of the candidate or a member of the candidate's family; or

6.3.1.e.2. For real or personal property that is owned by the candidate or a member of the candidate's family and used for campaign purposes, to the extent the payments exceed the fair market value of the property usage;

6.3.1.f. Admission to a sporting event, concert, theater event, or other form of entertainment, unless the event is part of a specific campaign or officeholder activity;

6.3.1.g. Dues, fees, or gratuities at a country club, health club, recreational facility, or other nonpolitical organization, unless they are part of the costs of a specific fundraising event that takes place on the organization's premises;

6.3.1.h. Salary payments to a member of the candidate's family, unless the family member is providing bona fide services to the campaign. If a family member provides bona fide services to the campaign, any salary payment in excess of the fair market value of the services provided is considered personal use; and

6.3.1.i. The cost of a vacation or other non-campaign related travel.

~~6.6.~~ 6.4. No candidate may utilize campaign funds to pay civil or criminal penalties or fines.

~~6.7.~~ 6.5. No person may utilize campaign funds to seek a court order to prohibit another person from being placed on a ballot.

~~6.8.~~ 6.6. 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.

6.7. No payment of fines imposed by the Secretary of State may be paid from contributions received by a political committee. The responsible party for the fines imposed is the candidate of a candidate's committee or, for a political committee that is not a candidate committee, the treasurer of the political 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.~~ 7.1.1. 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.~~ 7.1.2. 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.~~ 7.1.3. Belong to a political committee which wishes to discontinue activity and dissolve.

7.2. Excess campaign assets may be lawfully:

~~7.2.a.~~ 7.2.1. 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.~~ 7.2.2. ~~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:

7.2.2.a. A county or political subdivision executive committee of a political party, or

7.2.2.b. Any other candidate committee; in accordance with the existing limitations on contributions

~~7.2.c.~~ 7.2.3. Returned on a pro-rata basis to each contributor;

~~7.2.d.~~ 7.2.4. 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, subject to Internal Revenue Service regulations relating to personal income;

~~7.2.e.~~ 7.2.5. Contributed to any charitable organization without limitation; ~~or~~

~~7.2.f.~~ 7.2.6. 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.~~ 7.2.7. Contributed to any national committee in accordance with federal requirements.

7.3. Candidate committees that possess funds received for the general election prior to nomination, and whose candidate fails to receive the nomination for the general election ballot from the nominating

party, shall unconditionally return all the contributions designated for the general election to the contributors in the amounts equal to each contribution received.

~~7.3.~~ 7.4. No person may receive or utilize excess campaign assets for personal economic benefit or use.

~~7.3.a.~~ 7.4.1. ~~Subject to subdivision Subsection 7.2.d. 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, pursuant to subsection 7.2.3. of this section. becomes the property of the state, ~~or the district, county, or municipality in which the office is held.~~

~~7.4.~~ 7.5. 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).~~ W. Va. Code §3-8-1 et seq.

~~7.5.~~ 7.6. A political committee which is solvent and has no outstanding debts or obligations may terminate its existence by according to the following procedure:

~~7.5.a.~~ 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

7.6.1. For the committee 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, the committee shall file and Statement of Dissolution with the Secretary of State and a final report of financial information, as required by W. Va. Code §3-8-5; or

~~7.5.b.~~ 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

7.6.2. For the committee of candidate for nomination or election to any local office, the committee shall file and Statement of Dissolution with the county clerk or municipal clerk or recorder, or other local election officer determined to be proper by the Secretary of State;

~~7.5.c.~~ Stating within the written request

7.6.3. The committee shall certify in the Statement of Dissolution that the political committee will no longer receive any contributions or make any disbursements; and,

~~7.5.d.~~ Stating within the written request

7.6.4. The committee shall certify in the Statement of Dissolution that the political committee has no outstanding debts or obligations; and

~~7.5.e.~~ Stating within the written request

7.6.5. The committee shall certify in the Statement of Dissolution 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~~ section 7.2. of this rule section.

~~7.6.7.7.~~ The Secretary of State's Office may, upon the ~~request of the committee~~ submission of the Statement of Dissolution, make determinations as to the solvency or insolvency of a political committee, including:

~~7.6.a. 7.7.1.~~ The orderly liquidation of an insolvent political committee;

~~7.6.b. 7.7.2.~~ The orderly application of the assets of an insolvent political committee toward reduction of its outstanding debts;

~~7.6.c. 7.7.3.~~ The assessment of any forgiven debts as being political contributions; and

~~7.6.d. 7.7.4.~~ 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~~ is the treasurer and financial agent for his or her own campaign.

8.3. Every person permitted to engage in and required to report activities under W. Va. Code §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 for political purposes, including all loans of money or things of value, all expenditures and disbursements, and all liabilities incurred by the candidate, treasurer, person, organization, or committee.

~~8.3. 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~~ of W. Va. Code §3-8-5. of this code

~~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.~~

8.5. Any person or political committee who is required to file a statement to the Secretary of State under this section shall file the statement electronically in a Campaign Finance Reporting System that is offered by the Secretary of State.

8.6. Every person required to keep detailed accounts under W. Va. C.S.R. 146-3-8.3 shall file a detailed, itemized, sworn statement, as prescribed in W. Va. Code §3-5-8, §3-8-5, and §3-8-5e.

8.6.1. On April 1 of each year, financial transactions dating from January 1 to March 31 of the same year shall be filed within six days thereafter.

8.6.2. On July 1 of each year, financial transactions dating from April 1 to June 30 of the same year shall be filed within six days thereafter: Provided, That the campaign finance statement required by this subsection for the year 2019 will include financial transactions dating from March 30, 2019 to June 30, 2019 and shall be filed within six days following the end of that period.

8.6.3. On October 1 of each year, financial transactions dating from July 1 to September 30 of the same year shall be filed within six days thereafter.

8.6.4. On January 1 of each year, financial transactions dating from October 1 to December 31 of the previous year shall be filed within six days thereafter.

8.7. 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 years, records of receipts and expenditures which are made for political purposes.

~~8.5.~~ 8.8. Financial reports may shall be filed pursuant to W. Va. Code §3-8-5b, as follows:

8.8.1. For candidates for Governor, Secretary of State, Attorney General, Auditor, Treasurer, Commission of Agriculture, West Virginia Senate, West Virginia House of Delegates, Supreme Court of Appeals, circuit judge, or family court judge, financial reports shall be filed electronically via the online Campaign Finance Reporting System established by the Secretary of State unless the candidate is permitted to file a statement by other methods, according to the exceptions enumerated in W. Va. Code §3-8-5b.

8.8.2. For all other candidates, reports may be filed:

~~8.5.a.~~ 8.8.2.a. Electronically via the online Campaign Finance Reporting System established by the Secretary of State; if applicable

~~8.5.b.~~ 8.8.2.b. By facsimile or other electronic means of transmission to be established by the Secretary of State; if applicable

~~8.5.c.~~ 8.8.2.c. By mail; or

~~8.5.d.~~ 8.8.2.d. In person.

~~8.6.~~ 8.9. Filing dates for each method of delivery shall be determined as follows:

~~8.6.a.~~ 8.9.1. For mailings, the filing date is the date of the postmark of the United States Postal Service;

~~8.6.b.~~ 8.9.2. 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

~~8.6.e.~~ 8.9.3. For the facsimile or other electronic means of transmission, the filing date is the date of delivery to the appropriate reporting agency or entity.

~~8.7.~~ 8.10. 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 24 hours of the date of the facsimile or other means of electronic transmission.

~~8.8.~~ 8.11. 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.

~~8.9.~~ 8.12. 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.

~~8.10.~~ 8.13. 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.

~~8.11.~~ 8.14. Persons making independent expenditures shall report those expenditures according to W. Va. Code §3-8-2 and §3-8-5b.

~~8.12.~~ 8.15. Persons making electioneering communications shall report those expenditures according to W. Va. Code §3-8-2b and §3-8-5b.

§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~~ is in compliance with the state financial reporting requirements in W. Va. Code §3-8-5 if all requirements are met in reporting ~~with to~~ to the Federal Election Commission. With respect to candidate committees, only candidate committees for candidates 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 ~~federal~~ 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. No person may lawfully solicit ~~and~~ or accept funds for political purposes on behalf of any ~~individual before that individual~~ pre-candidate or candidate before that individual becomes a pre-candidate or a candidate and appoints a treasurer, as defined in this rule as required by law.

10.2. No person may lawfully solicit ~~and~~ or accept funds on behalf of any political committee ~~other than a~~ that is not a candidate's committee before that committee files a statement of organization and appoints a treasurer.

10.3. No person may lawfully solicit ~~and~~ or accept funds on behalf of any previous 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, or special 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. United States~~ Senate or ~~U.S. United States~~ 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 Virginia.~~

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

11.1. The Secretary of State shall assess a civil penalty of \$10 a day, provided as required by West Virginia Code §3-8-7(b), may not be assessed until after when an independent expenditure report, electioneering communication report, or a political committee's financial 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.e, 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.e. 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 list of delinquent filers, as required by W. Va. Code §3-8-7, shall be published on the Secretary of State's online Campaign Finance Reporting System and/or on the official agency website. The list shall be published no later than 10 days following the close of each campaign finance report filing deadline and shall remain online for a period of five years.

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

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

11.3.2. For reports submitted by mail, it bears a United States Postal Service postmark dated after the deadline.

11.4. If 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, by 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:

11.4.1. The statement is filed late due to the death, serious illness, or medical emergency of the candidate, treasurer, or other individual responsible for filing the reports; or

11.4.2. 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; and

11.4.3. A written notification of the extenuating circumstance is received by the election officer no later than 30 days after the financial statement is due. Upon receipt of the notification, the election officer may grant an extension of time for the filing of the financial statement.

11.5. Grossly Inaccurate or Incomplete Statements. –

11.5.1. Any person who files a grossly inaccurate or grossly incomplete statement shall be assessed a civil penalty by the Secretary of State in the amount of \$10 for each day occurring after the due date for the statement and prior to the date on which the person files a corrected statement that complies with the requirements of this rule series and §3-8-1 et seq.

11.5.2. Upon receiving a grossly inaccurate or grossly incomplete statement, the Secretary shall notify the person responsible for the filing, in writing, that the statement is grossly inaccurate or incomplete and that the person will be fined according to W. Va. Code §3-8-7. The notice shall contain a brief description of the deficiencies or inaccuracies making the statement grossly incomplete or grossly inaccurate.

11.5.3. As provided in W. Va. Code §3-8-7, any person, candidate, financial agent, or political party committee treasurer who willfully files a grossly inaccurate or grossly incomplete 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.

11.6. Any county or municipality election official that determines that any campaign finance report is grossly inaccurate or grossly incomplete shall report the political committee to the Secretary of State for penalty assessment. Funds received from any penalty assessed shall be deposited into the General Revenue Fund of the State of West Virginia.

11.7. For all statements or other information that must be filed pursuant to this rule series and W. Va. Code §3-8-1 et seq., if the deadline or due date falls on a Saturday, Sunday, or legal holiday, the statement must be filed on the next day that is not a Saturday, Sunday, or legal holiday as provided in W. Va. Code §2-2-1.

§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~~ this requirement if, on the communication, the ~~words~~ statement “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.

12.2. Any communication paid for by an independent expenditure shall include a clear and conspicuous statement that:

12.2.1. Clearly indicates that the communication is not authorized by the candidate or the candidate’s committee, if applicable; and

12.2.2. Clearly identifies the person making the expenditure.

12.3. Each electioneering communication shall include a clear and conspicuous statement that:

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

12.3.2. Clearly identifies the person making the expenditure for the electioneering communication.

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

12.5. If any communication that is subject to the requirements of this section is disseminated by broadcast, cable, or satellite transmission, any statement(s) required to be included in the communication shall be both spoken clearly and appear in clearly visible and legible writing at the end of the communication.

~~§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 pursuant to W. Va. Code §3-8-9c. For the purposes of this rule series, the committees engaging in a joint fundraising activity are referred to as “participants.”

13.2. Establishing separate committee; Authority, requirements, and prohibitions. –

13.2.1. Political committees may participate in joint fundraising activities with other political committees registered with the Secretary of State of West Virginia or with the Federal Election Commission, subject to the following:

13.2.1.a. To lawfully engage in joint fundraising activities, the participants in a joint fundraising activity shall first enter into a joint fundraising agreement and establish a separate joint fundraising committee, appoint a joint fundraising representative, and establish a formula for allocation of contributions received from the fundraising activity.

13.2.1.b. If a participant in a joint fundraising activity may lawfully receive certain contributions that the other participant(s) may not lawfully receive (e.g. federally-registered political committees engaged in joint fundraising with state-registered committees), that participant may solicit and accept the contributions according to the provisions of this rule series and the applicable state or federal laws: Provided, That the contributions described in this subdivision may not be deposited in the separate joint fundraising account and must instead be deposited directly in the account(s) of the committee or committees engaged in the joint fundraising activity that may lawfully receive such contributions or a secondary separate joint fundraising account, as described in W. Va. C.S.R. §146-3-13.6.d.

13.2.1.c. The participants in a joint fundraising activity may hire a commercial fundraising firm or other agent to assist the joint fundraising representative with conducting joint fundraising activity.

The joint fundraising representative shall oversee and direct the services of the commercial fundraising firm or other agent.

13.2.1.d. 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:

13.2.1.d.1. The name of the separate committee;

13.2.1.d.2. The date the joint fundraising agreement was executed;

13.2.1.d.3. The name, address, phone number, and email address of the agent authorized to act as the joint fundraising representative on behalf of the separate joint fundraising committee;

13.2.1.d.4. The names and addresses of all committees participating in the joint fundraising agreement;

13.2.1.d.5. The name and address of the depository institution holding the joint fundraising committee's account;

13.2.1.d.6. An original signed copy of the joint fundraising agreement; and

13.2.1.d.7. Any additional information deemed necessary by the Secretary of State.

13.2.1.e. Nothing in this rule modifies the provisions of W. Va. Code §3-8-8, §3-8-9a, and §3-8-9b prohibiting corporate contributions, including coordinated expenditures by a corporation.

13.2.1.f. An independent expenditure-only political committee may not engage in joint fundraising activity with a candidate's committee, a political party committee, or a campaign caucus committee. Nothing in this rule series modifies the prohibition against independent expenditure-only political committees making contributions to, or coordinated expenditures with, a candidate, a candidate's committee, or a political party committee, as set forth in W. Va. C.S.R. §146-3-5.

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. Preparing records, keeping records, and reporting all activities as required by law and this rule series;

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 of the joint fundraising agreement.

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

13.3.4. A joint fundraising representative may act as a joint fundraising representative for multiple separate committees: Provided, That all activities, funds, and records of each joint fundraising 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 according to the allocation formula in 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 agreement requirements; procedures; limitations. –

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

13.5.1.a. A separate committee through which all joint fundraising activity shall be conducted, subject to the exception described in subdivision 13.2.1.b. of this section;

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 pursuant to the joint fundraising agreement;

13.5.1.d. The allocation formula by which fundraising proceeds will be distributed 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 terms deemed necessary by the participants.

13.5.2. The allocation formula shall provide the exact amount or percentage of funds to be distributed to each participant of 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 in each solicitation for contributions and fundraising event advertisement. The notice shall include the following information:

13.5.3.a. The names of all participants 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 to a participant which exceeds the maximum contribution 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 such 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 joint fundraising 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 that must be disclosed according to 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, if any, that may not lawfully be received by one or more participants, and of all transfers of such 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 a committee engaged in a joint fundraising activity may lawfully receive certain contributions that the other committee or committees participating in the activity may not lawfully receive (e.g. federally registered political committees engaged in joint fundraising with state registered

committees), the participants or joint fundraising representative may either establish a second depository account for such contributions or may forward such contributions directly to the committee(s) that may legally receive such contributions and shall keep clearly indicate the separate disbursements in the financial and accounting records 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 by the deadline for the reporting period in which they are received by the joint fundraising representative or separate committee regardless of whether 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 by 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. A separate committee, or the joint fundraising representative, shall not accept contributions above 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 specific participants. In this case, the contribution shall be applied toward the maximum lawful contribution amount for the specific participant(s) for which the contributions are designated or earmarked, in addition to any contributions previously received by such participant(s) from the particular contributor(s).

13.7.1.b. For contribution limitation purposes, gross proceeds from each contribution shall be considered to calculate the amount of funds received by each participant.

13.8. Allocation of gross proceeds. –

13.8.1. The fundraising representative shall distribute proceeds from a fundraising activity according to the allocation formula in the joint fundraising agreement or as otherwise permitted by this rule.

13.8.1.a. For a joint fundraising activity that is undertaken to extinguish debt of the participants, if distribution according to the allocation formula provides a participant with more funds than are necessary to extinguish that participant's debt, the joint fundraising representative shall reallocate such additional funds to any other participant(s) with remaining debt 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 13.8.1.c. of this rule, any specifically designated or earmarked contributions which exceed the contribution limit or amount of funds needed 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 financial and accounting records of the separate committee.

13.9.1.b. The joint fundraising representative shall calculate each participant's 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 may cover fundraising expenses on behalf of another participant: Provided, That the amount provided to another participant's share of expenses is a contribution and is subject to the contribution limits in W. Va. Code §3-8-5c and §3-8-9b, as well as the prohibitions against certain activities by candidate committees and political action committees in W. Va. Code §3-8-9.

13.9.3. The expenses from a series of fundraising events or activities shall be divided 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 by the deadline for 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 and W. Va. C.S.R. §13.6.5.

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, United States mail, facsimile, or hand delivery.

13.10.3. For cash balance purposes, each participant shall report gross proceeds received as contributions and shall report the portion of contributions allocated to fundraising expenses as expenditures. The amount of each contribution and in-kind contribution applied to each participant 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" means an expenditure made in concert with, in cooperation with, or at the request or suggestion of a candidate's committee, political party committee, or caucus campaign committee, and meeting the criteria provided in W. Va. Code § 3-8-9a.

14.1.1. For the purpose of this rule, "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.

14.1.2. For the purpose of this rule, the term "communication" includes electioneering communications.

14.2. A coordinated expenditure 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 coordinated when the expenditure is used to pay for a communication:

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

14.3.2. In which the candidate, candidate committee, or party committee is involved in the creation, production, or distribution of such 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; or

14.3.3. In which any person involved in the creation, production, or distribution of such communication has, in the four 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 whom or which it was coordinated.

14.5. A state-level political party committee and a 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, West Virginia Senate, or West Virginia House of Delegates.

14.6. Any communication that results from a political expenditure and is coordinated between a state-level political party committee 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.

14.7. A person making a communication that results from an independent expenditure must establish a written firewall policy to prohibit the flow of information between employees or consultants of the person paying for the communication and employees or consultants currently or previously providing services to any candidate who is mentioned in the communication or an opponent of the candidate mentioned in the communication. The written firewall policy shall include, but is not limited to, provisions requiring:

14.7.1. A separation between staff who provide a service related to any independent expenditure benefiting a candidate or committee from other staff who have engaged, or will engage, in any coordinated activity with the candidate or committee;

14.7.2. Prohibitions against a supervisor or manager from simultaneously overseeing the work of staff members who are separated by the firewall; and

14.7.3. Physical and technological separations to help ensure that strategic, non-public information does not, in fact, pass to the candidate, committee, or to staff members separated by the firewall.

14.8. A written firewall policy shall be distributed to all relevant employees, consultants, and clients affected by the policy.