

RULES OF THE ETHICS COMMISSION PROPOSED AMENDMENTS and/or DRAFTS

for the 2007 Legislative Session

[Section 257:1-1-1 et seq., 74 O.S. Supp. 2006, Ch. 62, App.]
for consideration at the January 22, 2007 Public Hearing and
Regular Meeting of the Ethics Commission¹

SUMMARY

Amendment	Section	Subject
1.	257:1-1-2	would remove from the definition of “things of value” :
	ALTERNATIVE A	<ul style="list-style-type: none">• tickets to a cultural, educational or sports event given to an elective officer by an Oklahoma institution of higher education or a public school district for an event at the institution or school district;• tickets to any other cultural, educational or sports event at a venue within the State of Oklahoma; and• tickets to any other cultural, educational or sports event at a venue outside the state of Oklahoma if the state, one of the state’s political subdivisions or one of its citizens is participating in or being specifically recognized or honored at the event; it further would apply to any funds, whether personal, reimbursed or business funds of either; finally, it adds “member” to the exception for officers and directors of charities or professional associations
	ALTERNATIVE B	<ul style="list-style-type: none">• tickets or registration fees or meals served at a meeting or educational, civic or charitable events at which the elected official is participating as a speaker, member of a panel, etc. which is sponsored by the organizers or promoters of the event.• tickets for academic, cultural, sporting or other competitive events at which primary or secondary school students attending schools located in an

¹Commission procedure is to receive oral or written comments on rule amendments at each regular meeting throughout the year, with formal public hearings held in November and December. A vote will then be taken on proposals at the January 2007 Regular Meeting.

elected official's district are participating, or any “play off”, "regional" or "state" events within Oklahoma at which such students are participating which the elected official is expected to attend.

2. 257:23-1-3 would conform electronic filing language to current developments
3. 257:20-1-9(c) and (f) clarifies that the \$300 calendar year limit on “things of value” which can be solicited or accepted by a state officer or state employee would apply to either a lobbyist or the lobbyist principal or principals or “other persons” on whose behalf the “things of value” are given. The same limit would pertain to all lobbyist principals contracting with one lobbyist and all lobbyists contracting with one lobbyist principal; it further would apply to any funds, whether personal, reimbursed or business funds of either 257:23-1-2(b) and (c)
4. 257:1-1-2 [definition of “electioneering communication”] and 257:10-1-16(b) would include within the definition of “electioneering or communication” and the disclosure requirement a group or series of communications mentioning the same candidate(s) or ballot measure(s), include within the definition of “electioneering communication” and the disclosure requirement a group or series of communications mentioning the same candidate(s) or ballot measure(s), eliminate, as a response to the purpose of the communication, whether a candidate or ballot measure is supported or opposed
5. 257:1-1-6(h) would allow the Ethics Commission to issue ethics interpretations at the request of one of its members or employees
6. 257:10-1-2(f) would prohibit a political action committee from making a contribution to another political action committee unless the recipient PAC were an affiliated or connected entity of the donor PAC
7. 257:10-1-20(a) would prohibit a candidate committee from transferring funds to a future election campaign unless the candidate were seeking the same office

ETHICS COMMISSION

STATE OF OKLAHOMA

DISPOSITION BY COMMISSION

RULE AMENDMENT

No. 1

(Date)

Mr. Chairman:

I agree to sponsor Ethics Commission Rule No. 257:1-1-2 [definition of “anything of value”] as follows:

ALTERNATIVE A

257:1-1-2. Definitions

* * *

(2) These terms do not include:

* * *

(S) a meal or other food served at a meeting at which the state officer or state employee is an invited guest; ~~and~~

(T) any gratuity provided at a meeting, conference, or seminar by sponsors, exhibitors, etc., the cost of which is not borne by a registrant to such meeting, conference, or seminary; and

(U) tickets given by an Oklahoma institution of higher education or a public school district to an elective officer for a cultural, educational or sports event involving the institution or school district or tickets to any other cultural, educational or sports event at a venue within the State of Oklahoma or, if Oklahoma as a state, one of the state’s political subdivisions or one of its citizens is participating in or being specifically recognized or honored at the event, at a venue outside the State of Oklahoma. In all cases such tickets must be used exclusively by the elective officer or members of his or her immediate family.

257:23-1-2. Anything of value reporting by lobbyists--Preservation of accounts, books, etc.

* * *

(b) **Disclosure of things of value exceeding \$50.** The report shall be signed by the lobbyist, who shall attest to the report's accuracy and veracity, and the signature shall be notarized. The reports shall include the information specified in Subsection (d) of this section for things of value given to a state officer or state employee or the immediate family member of a state officer or state employee by the lobbyist or any lobbyist principal by whom the lobbyist is employed or retained, the costs of which exceed fifty dollars (\$50) in the aggregate during a six-month period beginning January 1 and ending June 30 or beginning July 1 and ending December 31. In

addition to listing things of value, the report also shall include disclosure as provided by Subsection (d) of this section of expenditures for tickets provided to an elective officer or members of his or her immediate family as provided in Subparagraph (U) of Paragraph (2), Section 2, definition of "anything of value", Chapter 1 of this Title; provided further that no institution of higher education or public school district shall be required to report such information.

Submitted by

Commissioner [At the December meeting
Commissioner Elliott withdrew
sponsorship of this alternative. Staff
includes it in the event another
member wishes to take over its
sponsorship]

ALTERNATIVE B

257:1-1-2. Definitions

* * *

(2) These terms do not include:

* * *

(S) a ticket or registration fee or the cost of a meal or other food served at a meeting or an educational, civic or charitable event conducted within the State of Oklahoma at which the state officer or state employee is an invited guest participating as a principal speaker or as a member of a panel, forum or discussion group, which is sponsored by the organizers or promoters of the meeting or event; and

(T) any gratuity provided at a meeting, conference, or seminar by sponsors, exhibitors, etc., the cost of which is not borne by a registrant to such meeting, conference, or seminary; and

(U) a ticket or the face value of a ticket:

(i) for any academic, cultural, sporting or other competitive event at which a student or students of a primary or secondary school, located within the district represented by an elected official, are participating, or

(ii) for any "play off", "regional" or "state" event within the State of Oklahoma at which such student or students are participating, and

which such elected official is expected to attend in order to support and maintain contact with, or provide availability to, his or her constituency.

Submitted by

Commissioner John Raley

ALTERNATIVE A

Explanation: (as drafted by Lee Slater) This amendment would remove from the definition of “things of value” the following:

- Tickets to a cultural, educational or sports event given to an elective officer by an Oklahoma institution of higher education or a public school district for an event at the institution or school district;

Comment. This provision would allow elected officials to receive tickets for events within their districts or within the state generally. This would include plays, concerts, seminars, public addresses and amateur sports and similar events, the tickets for a majority of which are of nominal value. One reason is that it often is politically necessary for elected officials to attend such events. Another reason is that attendance at such events should be encouraged to familiarize elected officials with the activities being conducted at public educational facilities within the state. Attendance at such events is no different in kind than attendance by elected state officers or state agency-sponsored conferences on healthcare or environmental issues. (No disclosure would be required if the tickets are provided by the institution or school. However, full disclosure would be required if the tickets are provided by a lobbyist or lobbyist principal. See discussion below.)

- Tickets to any other cultural, educational or sports event at a venue within the State of Oklahoma; and

Comment. This provision would permit attendance at plays, concerts, issue seminars, public addresses and professional and amateur sports and similar events at locations in Oklahoma but outside the system of higher education and public schools. It would, for example, permit elected officials to attend a performance by the Oklahoma City Philharmonic, an address by former U.S. Senator and astronaut John Glenn or a Hornets NBA game. The reason is to encourage state elected officials to fully participate in the leading events in Oklahoma without personal financial sacrifice. (Full disclosure of gifts from lobbyists or lobbyist principals would be required. See discussion below.)

- Tickets to any other cultural, educational or sports event at a venue outside the state of Oklahoma if the state, one of the state’s political subdivisions or one of its citizens is participating in or being specifically recognized or honored at the event.

Comment. This provision would permit limited attendance at locations outside Oklahoma. Only if the state itself, or one of its political subdivisions or citizens was being recognized or honored would the provision apply. It would, for example, include tickets to the opening of the stage play Oklahoma! on Broadway, or recognition of an Oklahoma municipality or citizen at a national conference. (Full disclosure of gifts from lobbyists or lobbyist principals would be required. See discussion below.)

In all cases, the tickets must be used exclusively by the elective officer or members of his or her immediate family.

In no case would anything other than tickets be exempted from the definition of “things of value.” For example, current Rules that apply to transportation or lodging would remain unchanged.

Gifts of tickets from lobbyists much be disclosed on reports used to report things of value given by a lobbyist to state officers and employees. Neither state institutions of higher education nor school districts would be required to make such disclosures. One reason for disclosure presumably is to minimize the potential for undue financial influence by private entities. Since there is a completely different relationship between state elected officials and state educational entities than the relationship between those same officials and private entities, no similar disclosure is necessary to protect against potential abuse.

Purpose: The purpose of this amendment is stated by Mr. Slater above.

Person requesting amendment: This amendment was drafted by Lee Slater.

ALTERNATIVE B

Explanation: This amendment would exclude:

- tickets or registration fees or meals served at a meeting or educational, civic or charitable events at which the elected official is participating as a speaker, member of a panel, etc. which is sponsored by the organizers or promoters of the event.
- tickets for academic, cultural, sporting or other competitive events at which primary or secondary school students attending schools located in an elected official's district are participating, or any “play off”, "regional" or "state" events within Oklahoma at which such students are participating which the elected official is expected to attend.

Purpose: The purpose of this amendment is to provide an alternative to Alternative A.

Person requesting amendment: This amendment was requested by Commissioner John Raley.

ETHICS COMMISSION

STATE OF OKLAHOMA

DISPOSITION BY COMMISSION

RULE AMENDMENT

No. 2

(Date)

Mr. Chairman:

I agree to sponsor Ethics Commission Rule No. 257:23-1-3 as follows:

257:1-1-6. Powers and responsibilities of Commission

* * *

(d) **Distribution of forms.** The Commission shall distribute, and make available for downloading from its website, forms, ~~and computer diskettes with form software,~~ upon which information shall be provided as required by this title and copies of Article XXIX of the Oklahoma Constitution and this title ~~to the persons required to submit forms and provide an adequate supply of such forms and computer diskettes with form software~~ to all candidates, committees, officers, and employees required to submit or electronically transmit such forms.

257:10-1-11. Registration requirements

(a) A committee other than a candidate committee, including an out-of-state committee, which accepts one or more contributions or makes one or more expenditures in excess of five hundred dollars (\$500) in the aggregate in this state in a calendar year shall file, or electronically transmit, a statement of organization with the Commission no later than five (5) days after accepting the contribution(s) or making the expenditure(s). A new statement of organization shall be filed or electronically transmitted between January 1 and January 31 of each year thereafter. ~~Electronic filings shall be followed by mailing or faxing a signed and certified paper copy of the form. . . .~~

* * *

257:10-1-12. Statement of organization

(a) **Candidate committee statement of organization.**

(1) The statement of organization for a candidate committee shall include the following:

* * *

(l) the actual signature of the candidate or ~~electronic signature of the candidate, as defined and governed by Section 15-101 et seq. of Title 15 of the Oklahoma Statutes,~~ typed name on an electronically filed form certifying that each officer has provided the candidate with

written acceptance of the appointment and that the information provided is true, complete and correct.

* * *

(b) **Statement of organization for a committee other than a candidate committee.**

(1) The statement of organization for a committee other than a candidate committee shall include the following:

* * *

(N) ~~the actual signature of the treasurer or electronic signature of the treasurer, as defined and governed by Section 15-101 et seq. of Title 15 of the Oklahoma Statutes,~~ typed signature of the treasurer on electronically filed forms certifying that each officer has provided the committee with written acceptance of the appointment and that the information provided is true, complete and correct.

* * *

257:10-1-14. Report contents

(a) **Basic reporting form.** The campaign contributions and expenditures report shall include:

* * *

(20) ~~the signature, or digital typed signature created according to the methodology included in the Commission's electronic filing system in lieu thereof,~~ on electronically filed forms of the treasurer or, in the treasurer's absence, the deputy treasurer, who shall certify that prior to accepting any contribution requiring a contributor statement during this campaign-to-date for candidate committees or calendar year-to-date for other committees, the treasurer, or deputy treasurer in the treasurer's absence, received a contributor statement therefor and who shall each attest to the report's accuracy and veracity. Within five (5) business days of the treasurer or deputy treasurer of a candidate committee filing a required report, the candidate, or the treasurer of a candidate committee for a candidate seeking judicial office, shall confirm in writing that the report filed was true and correct. The signature shall be verified.

* * *

257:10-1-15. Report of last minute contributions/ receipts

A contribution or contributions of five hundred dollars (\$500) or more in the aggregate accepted from one (1) person or family or loan proceeds received in the amount of five hundred dollars (\$500) or more after the closing date for the pre-election reporting period, but before the election, except for prior reported contributions or loan proceeds, shall be reported by the name and address, occupation and employer, or principal interest or principal business activity of the contributor, the date accepted, the amount of the contribution or contributions, and the total of contributions accepted from the contributor for the campaign-to-date or

calendar year-to-date or the name and address, occupation and employer, or principal interest or principal business activity of the lender and the date of the loan, promissory note, or security agreement resulting in the loan proceeds. Reports shall not be required by a candidate committee which does not have its candidate on the following ballot or a ballot measure committee which is not supporting or opposing a ballot measure on the following ballot nor by committees which are not supporting or opposing candidates in that election cycle or ballot measures on the following ballot. Reports shall be made on the appropriate form by United States mail, hand delivery, facsimile transmission, telegram, or express delivery service to the Commission or electronically transmitted to the Commission office within twenty-four (24) hours of acceptance. The report shall include the signature; or ~~electronic signature in lieu thereof;~~ typed signature on electronically filed forms of the treasurer or, in the treasurer's absence, the deputy treasurer of said committee. Within five (5) business days of the treasurer or deputy treasurer of a candidate committee filing a required last minute contributions or receipts report, the candidate, or the treasurer of a candidate committee for a candidate seeking judicial office, shall confirm in writing that the report filed was true and correct. The signature shall be verified. This contribution shall also be included on the next report filed or electronically transmitted by the committee.

257:10-1-16. Report of last minute independent expenditures and electioneering communications

(a) **Independent expenditures.** A person that makes an independent expenditure of five hundred dollars (\$500) or more after the closing date for the pre-election reporting period, but before the election, shall report the total amount, the date, the name and address of the entity to which the independent expenditure was made; items purchased, description of the consideration for the expenditure and the purpose, whether support or opposition; and the beneficiary, whether candidate or ballot measure, for each individual independent expenditure on the paper form or electronically transmitting the information on the form to the Commission office by United States mail, hand delivery, facsimile transmission, telegram, or express delivery service within twenty-four (24) hours of making the expenditure. The report shall include the signature; or ~~the electronic signature in lieu thereof;~~ typed signature on electronically filed forms of the person making the expenditure, or the treasurer or, in the treasurer's absence, the deputy treasurer of a reporting committee, who shall attest to the report's accuracy and veracity. This information shall be included on the next report filed on paper, or electronically transmitted by the reporting committee or person.

* * *

257:15-1-3. Individuals required to file--Exemption

(a) The following individuals shall file, ~~by paper form or computer diskette, or electronically transmit~~ a statement of financial interests or a statement of no change with the Commission:

- (1) a state officer except for those excluded from the definition of a public member;

- (2) the chief administrative officer and the first assistant administrative officer of a governmental entity;
- (3) a state employee who determines state policy or who makes final spending decisions for the state or any governmental entity;
- (4) an individual who is a candidate to become an elective officer; and
- (5) a public member.

~~Electronic filings shall be followed by delivering, faxing or mailing a signed paper copy of the statement received or postmarked by the date the statement was due.~~

257:15-1-5. Liaison to Commission

Every governmental entity created by the Oklahoma Constitution or by state statute, except those exempted in the definition of "public member" in Section 2 of Chapter 1 of this title, shall designate an employee or member who shall be responsible for filing, ~~by paper form or computer diskette, or electronically transmitting in any manner specified by the agency~~ on or before December 31 of each year, a list of employees and/or members of governing boards or commissions required under Section 3 of this chapter to file statements of financial interests. The employee or member so designated shall notify each person identified on the list in writing of his or her obligation to file a statement of financial interests. Only those persons identified on the list shall be required to file a statement of financial interests. The intentional or inadvertent omission by another of a person from the list shall not subject such person to any liability resulting from the omission. The employee or member so designated shall notify the Commission of newly employed or appointed employees or members of governing boards or commissions required under Section 3 of this chapter to file statements of financial interests as soon as practicable after such employees or members assume the duties of office.

257:15-1-7. Information required

* * *

(c) **Supplement.** A supplement to the statement of financial interests required by Subsection (a) of this section shall be filed, ~~by paper form or computer diskette or electronic transmission,~~ with the Commission within ten (10) days of a filer or a filer's spouse contracting with or receiving payments from new clients required to be reported under Paragraph (8) of Subsection (a) of this section. ~~Electronic filings must be followed by delivering, faxing or mailing a signed paper copy.~~

257:23-1-3. Things of value to state officers or state employees of regulatory governmental entities

Any person who:

- (1) is employed or retained by another for financial or other compensation to perform services that include promoting, opposing or attempting to influence any executive or administrative action by a governmental entity, including, but not limited to, the promulgation of rules and regulations and the setting of rates, other

than an individual whose lobbying activities are only incidental to, and are not a significant part of, the services provided by such individual to the client;

(2) is seeking to do business or doing business with a governmental entity;
or

(3) has *an economic* interest in actions or matters before or affecting a governmental entity;

shall be required to file, by paper form ~~or computer diskette, or electronically transmit~~ the same report required to be filed by lobbyists by Section 2 of this chapter if, and only if, such person gives anything or things of value to a state officer or state employee the cost of which exceeds fifty dollars (\$50.00) in the aggregate during a six-month period beginning January 1 and ending June 30 or beginning July 1 and ending December 31. ~~Electronic filings shall be followed by delivering, mailing or faxing a signed and notarized paper copy of the form.~~ This provision shall not apply, however, to things of value received as a result of or arising out of employment by, or doing business with, a lobbyist or lobbyist principal; and things of value received from any director, stockholder, partner, agent, affiliate, member, employee or officer of a lobbyist principal as a result of a personal or casual relationship with the recipient. Provided further, this provision shall not apply to things of value given to a public member when not given as a result of the public member's status as a public member.

Submitted by

Commissioner

Explanation: This amendment would clean up electronic filing language to conform to current developments.

Purpose: The purpose of this amendment is to amend electronic filing language.

Person requesting amendment: This amendment was requested by Staff.

ETHICS COMMISSION

STATE OF OKLAHOMA

DISPOSITION BY COMMISSION

RULE AMENDMENT

No. 3

(Date)

Mr. Chairman:

I agree to sponsor an alternative for Ethics Commission Rule No. 257:20-1-9(c) and 257:23-1-2(b) and (c) as follows:

**257:20-1-9. Restraints on solicitation or acceptance of anything of value—
Disclosure**

* * *

(c) Calendar year limits on things of value.

(1) **Elective officers.** No elective officer, or an immediate family member of an elective officer shall, directly or indirectly, ask, demand, exact, solicit, seek, accept, assign, receive, or agree to receive things of value in a calendar year which, in the aggregate, are valued at more than three hundred dollars (\$300); and

(2) **Other state officers and state employees.** Except for an elective officer, no state officer, state employee or an immediate family member of such state officer or state employee shall, directly or indirectly, ask, demand, exact, solicit, seek, accept, assign, receive or agree to receive things of value in a calendar year which, in the aggregate, are valued at more than one hundred dollars (\$100);

from a person who the state officer or state employee knows or should know:

(A) is a lobbyist or lobbyist principal, provided that the following shall not be subject to this subsection:

(i) things of value received as a result of or arising out of employment by, or doing business with, a lobbyist or lobbyist principal; and

(ii) things of value received from any director, stockholder, partner, agent, affiliate, member, employee or officer of a lobbyist principal if the donor is excepted in subparagraph (D) of Paragraph (2) from the definition of "anything of value" in Section 2 of Chapter 1 of this title, or if there exists between the recipient and the donor a close personal relationship of long standing in which the mutual exchange of gifts on special occasions, such as holidays or anniversaries, has become customary;

(B) is seeking to do business or doing business with the governmental entity of which the state officer's or state employee's office or employment is a part; or

(C) has an economic interest in actions or matters before or affecting the governmental entity of which the state officer's or state employee's office or employment is a part.

A thing or things of value given by a lobbyist; the lobbyist principal or lobbyist principals by whom the lobbyist is employed or retained; or a stockholder, partner, agent, affiliate, member, employee or officer of the lobbyist principal or lobbyist principals by whom the lobbyist is employed or retained are aggregated for purposes of the disclosure threshold and calendar year limits, regardless of how the thing or things of value are funded. If more than one lobbyist is retained or employed by a lobbyist principal, the disclosure and calendar year limits of the first lobbyist to register on behalf of the lobbyist principal for a calendar year are aggregated with each additional lobbyist employed or retained by the same lobbyist principal.

* * *

257:23-1-2. Anything of value reporting by lobbyists--Preservation of accounts, books, etc.

* * *

(c) **Limit on things of value and exceptions.** Lobbyists or lobbyist principals shall not give things of value which, in the aggregate, are valued at more than \$300 annually to any elective officer, or the immediate family member of elective officer, or things of value which, in the aggregate, are valued at more than \$100 annually to any other state officer or state employee, or the immediate family member of a state officer, excluding an elective officer, or a state employee, provided that the following shall not be subject to this subsection:

- (1) things of value given by a lobbyist or lobbyist principal as a result of or arising out of employment of, or the lobbyist or lobbyist principal doing business with a state officer or state employee or the recipient; and
- (2) things of value given to the recipient by any director, stockholder, partner, agent, affiliate, member, employee or officer of a lobbyist principal if the donor is excepted in subparagraph (D) of Paragraph (2) from the definition of "anything of value" in Section 2 of Chapter 1 of this title, or if there exists between the recipient and the donor a close personal relationship of long standing in which the mutual exchange of gifts on special occasions, such as holidays or anniversaries, has become customary.

A thing or things of value given by a lobbyist; the lobbyist principal or lobbyist principals by whom the lobbyist is employed or retained; or a stockholder, partner, agent, affiliate, member, employee or officer of the lobbyist principal or lobbyist principals by whom the lobbyist is employed or retained are aggregated for purposes of the disclosure threshold and calendar year limits, regardless of how the thing or things of value are funded. If more than one lobbyist is retained or employed by a lobbyist principal, the disclosure and calendar year limits of the first lobbyist to register on behalf of the lobbyist principal for a calendar year are aggregated with each additional lobbyist employed or retained by the same lobbyist principal.

Submitted by

Commissioner John Raley

Explanation: This amendment would clarify that the \$300 calendar year limit on “things of value” which can be solicited or accepted by a state officer or state employee would apply to either a lobbyist or the lobbyist principal or principals or “other persons” on whose behalf the “things of value” are given. That same limit would pertain to all lobbyist principals contracting with one lobbyist and all lobbyists contracting with one lobbyist principal; it further would apply to any funds, whether personal, reimbursed or business funds of either.

Purpose: The purpose of this amendment is to clarify the aggregation of things of value given to state officers or state employees.

Person requesting amendment: The drafting of this amendment was requested by Commissioner Raley.

ETHICS COMMISSION

STATE OF OKLAHOMA

DISPOSITION BY COMMISSION

RULE AMENDMENT

No. 4

_____ (Date)

Mr. Chairman:

I agree to sponsor Ethics Commission Rule No. 257:1-1-2 [definition of “electioneering communication”] and 257:10-1-16 as follows:

257:1-1-2. Definitions

* * *

“Electioneering communication”

(1) means any communication or series of communications that ~~is~~ are sent by handbill or direct mail; broadcast by radio, television, cable or satellite; or ~~appears~~ appear in a newspaper, magazine or on a billboard which –

(A) ~~refers~~ refer to one candidate or one or more of the same clearly identified candidates for state office or one ballot measure or one or more of the same ballot measures;

(B) ~~is~~ are made within –

(i) 60 days before a general or special election for the office sought by the candidate or candidates or the ballot measure or ballot measures; or

(ii) 30 days before a primary or runoff primary election for the office sought by the candidate or candidates; and

(C) ~~is~~ are targeted to the relevant electorate;

(2) does not mean –

(A) a communication or series of communications appearing in a news story, commentary, or editorial distributed through the facilities of any broadcasting station, newspaper, magazine, or other periodical publication, unless such facilities are owned or controlled by any political party, political action committee, candidate, candidate committee or ballot measure committee;

(B) a communication or series of communications which ~~constitutes~~ constitute an expenditure or an independent expenditure under this chapter; or

(C) a communication or series of communications which ~~constitutes~~ constitute a candidate debate or forum or which solely promotes such a debate or forum and is made by or on behalf of the person sponsoring the debate or forum;

(3) For purposes of this definition, a communication or series of communications which ~~refers~~ refer to one or more clearly identified candidates for state office or one or more ballot measures ~~is~~ are 'targeted to the relevant electorate' if the communication ~~has~~ or series of communications have been or can be received by –

(A) 2,500 or more persons in the district the candidate seeks to represent in the case of a candidate for the Oklahoma State House of Representatives;

(B) 5,000 or more in the district the candidate seeks to represent in the case of a candidate for district attorney, district judge, associate district judge, or the Oklahoma State Senate; or

(C) 25,000 or more persons in the State of Oklahoma in the case of a candidate for a statewide elective office or ballot measure.

257:10-1-2. Contributions

* * *

(d) **Prohibitions and exceptions to corporate and labor organization contributions and expenditures.**

* * *

(5) The provisions of this subsection shall not apply to independent expenditures or electioneering communications made by a corporation that:

(A) has as an express purpose promoting social, educational, or political ideas and not to generate business income;

(B) does not have shareholders or other persons which have a financial interest in its assets and earnings; and

(C) was not established by a business corporation or other business entity, by a professional association, or by a labor organization and does not receive substantial revenue from such entities. Substantial revenue is defined as more than ten percent (10%) of total revenues or \$10,000, whichever is less, in a calendar year.

257:10-1-16. Report of last minute independent expenditures and electioneering communications

* * *

(b) **Electioneering communications.**

(1) Any person who makes a payment or payments or promise of payment or payments totaling five thousand dollars (\$5,000) or more for an electioneering communication or series of communications shall file a statement with the Commission disclosing the name of such person and street address, city, state and zip code, occupation and employer, along with the recipient's name, street address, city, state and zip code, description of the payment, the amount, the name of one or more candidates mentioned, the purpose of the communication or series of communications, ~~whether support or opposition~~, and how much was spent on each candidate mentioned. The report shall be filed within twenty-four (24) hours of making the payment or payments or the promise to make the payment or payments.

(2) Except as provided in paragraph (1), if any person has received a payment or payments or a promise of payment or payments from other persons totaling fifty dollars (\$50) or more for the purpose of making an electioneering communication or series of communications, the person receiving the payments shall disclose on the report the name, street address, city, state, zip code, occupation and employer, date and amount received from each person who has made a payment of fifty dollars (\$50) or more since the beginning of the calendar year.

(3) A person who receives or is promised a payment or payments that ~~is~~ are otherwise reportable under Paragraph (1) is not required to report the payment or payments if the person is in the business of providing goods or services and receives or is promised the payment or payments for the purpose of providing those goods or services.

Submitted by

Commissioner John Raley

Explanation: This amendment would include within the definition of "electioneering communication" and the disclosure requirement a group or series of communications mentioning the same candidate(s) or ballot measure(s) and eliminate reporting whether the candidate(s) or ballot measure(s) was/were supported or opposed.

Purpose: The purpose of this amendment is to shore up the definition and disclosure requirement to include a group or series of communications which individually do not meet the \$5,000 threshold, but which, when aggregated, require disclosure; and to require the purpose of the communication(s) but not whether the candidate(s) or ballot measure(s) was (were) supported or opposed.

Person requesting amendment: The drafting of this amendment was requested by members of the Ethics Commission while in executive session at the regular meeting held August 4, 2006.

ETHICS COMMISSION

STATE OF OKLAHOMA

DISPOSITION BY COMMISSION

RULE AMENDMENT

No. 5

(Date)

Mr. Chairman:

I agree to sponsor Ethics Commission Rule No. 257:1-1-6(h) as follows:

257:1-1-6. Powers and responsibilities of Commission

* * *

(h) **Ethics interpretations.** The Commission may, in its discretion and where appropriate, issue ethics interpretations pertaining to the provisions of this title when requested by any person or committee, including a member of the Commission or an employee of the Commission, who may be subject to the jurisdiction of the Commission. Before issuing an ethics interpretation, the Commission shall announce its consideration of an ethics interpretation at a meeting of the Commission, provide interested persons with a copy of the request for the ethics interpretation with sufficient deletions to prevent the disclosure of the identity of the person or persons involved in the situations presented in the request for the ethics interpretation, schedule and provide notice of a hearing on the request no fewer than thirty (30) days after the announcement and accept both written and oral comments on the request at the hearing. At least five (5) days before the hearing, Commission staff comments and/or draft ethics interpretations shall be made available to the public for comment. Should the Commission determine that a request requires a response more quickly than the notice and hearing would permit, the Commission may issue a confidential "emergency opinion" without notice and a hearing, and such an emergency opinion shall apply only to the person making the request and shall be limited to the specific fact situation included in the request. Notwithstanding the issuance of such an emergency opinion, the request for an ethics interpretation shall be scheduled for notice and hearing, the same as any other request. If the ethics interpretation thereafter adopted is different than the emergency opinion, the ethics interpretation shall be given prospective effect. The Commission shall make all ethics interpretations issued available to the public within thirty (30) days of the date of issuance. Provided, failure of a person to request an ethics interpretation shall have no relevance in any subsequent proceeding under this title involving such person. Provided further, such interpretation shall be binding on the Commission in any subsequent proceeding under this title. The Commission shall publish its ethics interpretations annually; provided that sufficient deletions shall be made by the

Commission in published ethics interpretations or ethics interpretations made available to the public to prevent the disclosure of the identity of the person or persons involved in the situations presented in the ethics interpretations. The executive director or the general counsel may issue informal written opinions, as time permits and with the prior approval of the chair or vice chair, pertaining to the provisions of this title on questions that are susceptible to a single analysis by the clear language of the rule and are not the subject of litigation, investigation or legislation. The Commission shall publish informal written opinions annually; provided that sufficient deletions shall be made by the Commission in published informal written opinions or informal written opinions made available to the public to prevent the disclosure of the identity of the person or persons involved in the situations presented in the informal written opinions. If the matter is subject to more than one analysis, the executive director or general counsel may give an oral opinion but shall inform the petitioner of the dual analysis and the need to request a formal ethics interpretation and shall provide the Commission with an account of the question or questions asked and the rule provision or provisions to which they pertain.

Submitted by

Commissioner John Raley

Explanation: This amendment would allow the Ethics Commission to issue ethics interpretations at the request of one of its members or employees.

Purpose: The purpose of this amendment is to provide guidance by allowing the Commission itself or one of its staff to request advisory opinions.

Person requesting amendment: The drafting of this amendment was requested by Commissioner John Raley.

ETHICS COMMISSION

STATE OF OKLAHOMA

DISPOSITION BY COMMISSION

RULE AMENDMENT

No. 6

_____ (Date)

Mr. Chairman:

I agree to sponsor Ethics Commission Rule No. 257:10-1-2(f) as follows:

257:10-1-2. Contributions

* * *

(f) **Prohibition on transfer of funds between committees.**

(1) **Candidate committee transfers.**

(A) A candidate committee shall not make a contribution to another candidate or make an independent expenditure on behalf of another candidate. The principal candidate committee or an authorized committee of a person, as such terms are defined in Section 431 of Title 2 of the United States Code, shall not make a contribution to a candidate or make an independent expenditure on behalf of a candidate. A candidate or candidate committee shall not accept such a contribution.

~~(2)~~ (B) This subsection shall not prohibit a candidate or any other person from making a contribution from the candidate's or person's personal funds to his or her own candidate committee or on behalf of his or her own candidacy or to the committee of another candidate for a different office.

~~(3)~~ (C) This subsection shall not prohibit a candidate committee from providing its surplus funds or material assets to the state or local central committee of a political party in accordance with the procedures for dissolution of a candidate committee under Sections 19 and 20 of this chapter.

(2) Political action committee transfers. A political action committee shall not make a contribution to another political action committee. This subsection shall not prohibit a political action committee from making a transfer to its own affiliated or connected entity in accordance with the definition of contribution, Section 2, Paragraph (2), Subparagraph (B) of Chapter 1 of this title.

* * *

Submitted by

Commissioner

Explanation: This amendment would prohibit a political action committee from making a contribution to another political action committee unless the recipient PAC were an affiliated or connected entity of the donor PAC.

Purpose: The purpose of this amendment is to eliminate PACs transferring funds to other PACs in order to give multiple contributions to the same candidate.

Person requesting amendment: The drafting of this amendment was requested by Representative Mike Reynolds.

ETHICS COMMISSION

STATE OF OKLAHOMA

DISPOSITION BY COMMISSION

RULE AMENDMENT

No. 7

(Date)

Mr. Chairman:

I agree to sponsor Ethics Commission Rule No. 257:10-1-20(a) as follows:

257:10-1-20. Use of campaign contributions and use of surplus funds

(a) Candidate committees.

(1) **Use of campaign contributions.** Contributions accepted by a candidate committee may not be converted by any person to any personal use, but shall be used, together with any interest income earned on such contributions, to defray any campaign expenditures or any ordinary and necessary nonreimbursed expenses incurred by the person in connection with his duties as a holder of the state office, including, but not limited to:

- (A) payment of debts of a former election campaign of the same candidate,
- (B) payment of expenses for use in a future election campaign for the same office only of the same candidate,
- (C) for political activity,
- (D) for community activity or
- (E) for nonreimbursed office related expenses.

Said contributions shall not be used for any other purposes except as permitted in Paragraph (3) of this subsection.

(2) **Designation of use of surplus funds.** A candidate whose candidate committee has an unexpended balance of funds not otherwise obligated for the purposes specified in Paragraph (1) of this subsection shall designate how the surplus funds are to be distributed. Uses are limited to those included in Paragraph (3) of this subsection and shall be set forth on the committee's statement of organization. Surplus funds may not be expended for any other purpose. The designated use or uses for surplus funds may be changed by the candidate committee by filing an amended statement of organization, provided that no contributions received prior to the date the amended

statement of organization is filed with the Commission may be used for the amended use or uses.

- (3) **Use of surplus funds.** The surplus funds may:
- (A) be deposited with the State Treasurer to the credit of the General Revenue Fund;
 - (B) be returned to the contributors pursuant to any formula approved by the candidate; provided, any amount returned to a contributor shall not exceed the amount of the original contribution;
 - (C) be contributed to a charitable organization;
 - (D) be retained by the candidate or candidate committee for use in a future election for the same office only for a six-year period following the General Election for the same or a different office;
 - (E) be used to defend legal actions or proceedings arising out of the campaign, election, or the performance of the candidate's official duties as a state officer; provided that such funds shall not be used to defend criminal charges;
 - (F) be used for a community activity;
 - (G) be used for political activity;
 - (H) be transferred to the state or local central committee of a political party; or
 - (I) be distributed using a combination of these options.

* * *

Submitted by

Commissioner

Explanation: This amendment would prohibit a candidate committee from transferring funds to a future election campaign unless the candidate were seeking the same office.

Purpose: The purpose of this amendment is to eliminate the incentive to solicit funds to a former campaign for use in a future campaign for a different office, thereby allowing maximum contributions twice for the same office.

Person requesting amendment: The drafting of this amendment was requested by Representative Mike Reynolds.

Comment: Chairman Loy asked the Director to report the downside for banning transfers of funds from one race to another. She advised that the Rules provide the following:

Contributions

(a) **Limitations on contributions from a person.**

* * *

(4) For purposes of this subsection, if a candidate:

(A) begins a campaign for a specific state office;

(B) accepts one or more contributions for such campaign but prior to the election therefor chooses not to run for such office and becomes a candidate for a different office; and

(C) transfers all or any part of the contributions accepted for the first campaign to the second campaign;

the second campaign shall be deemed to have begun when the candidate began the first campaign.

* * *

257:10-1-2

Under this paragraph, Staff has advised candidates who file a committee for one office, then decide to run for another, that they must amend the original statement of organization, thereby changing the office sought but retaining their current committee. They are told they may not close that campaign, then start a new one, since the two campaigns must be aggregated together.

The history of this provision goes back to the early days when the Commission considered changing a 1984 provision from the Oklahoma Statutes which made its way into the Rules. That language specified uses of campaign contributions and allowed them to be “retained by the person for use in a future election.” Paragraphs (4) and (5) of Subsection (a) were actually written by Senate staff and adopted by the Commission as amendments in 1995. They were meant to eliminate any advantage from switching from one race to another and keeping two committees open simultaneously. The reason was to close a potential loophole that could enable skirting contribution limits, because a maximum donor to the campaign for one office could immediately give a second maximum contribution into a new committee for a different office.

If a transfer to a different office is not allowed, Paragraph (4) would need to be amended to require the committee for the original race be dissolved and contributions returned to contributors on a pro rata basis. Contributors would then be able to give to the new race without adding their aggregate total from the original.