

STATE BOARD OF ELECTIONS

NOTICE OF PROPOSED AMENDMENTS

- 1) Heading of Part: Campaign Financing
- 2) Code Citation: 26 Ill. Adm. Code 100
- 3)

<u>Sections Numbers:</u>	<u>Proposed Action:</u>
100.10	Amendment
100.20	Amendment
100.40	Amendment
100.60	Amendment
100.70	Amendment
100.75	Amendment
100.85	Amendment
100.120	Amendment
100.125	Amendment
100.150	Amendment
100.175	Amendment
100.180	Amendment
100.185	Amendment
100.Table A	Amendment
100.Table B	Amendment
- 4) Statutory Authority: Implements Section 1A-8 (9) of the Illinois Election Code (10 ILCS 5/12A) and is authorized to adopt rulemaking by that Section
- 5) A Complete Description of the Subjects and Issues Involved: This rulemaking establishes procedures to implement the provisions of PA 97-766 that made numerous changes to the Illinois Campaign Finance Act. Specifically, this rulemaking implements the provisions of PA 97-766 that established a fifth type of political committee, the Independent Expenditure committee, which may accept unlimited contributions but may only make independent expenditures. In addition, this rulemaking clarifies the election cycle for candidates running in the Consolidated Primary and Consolidated Elections; establishes procedures for political committees that support candidates running for multiple offices and for former public officials and deceased candidates/public officials. This rulemaking also makes clearer the circumstances under which a Political Party committee may receive contributions in connection with a primary election and establishes additional procedures that the Board must follow when assessing civil penalties against committees that exceed the statutory contribution limits. This rulemaking establishes additional procedures related to self-funding candidates and Independent Expenditure committees in terms of their exemption from the contribution

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limits. Lastly, this rulemaking corrects the inconsistency between candidate committees supporting candidates running in the General election and those candidates running in the Consolidated Election. With regard to the rulemaking pertaining to Business Entities and their prohibited contributions, these proposed amendments establish additional duties on the chief procurement officer of agencies responsible awarding contracts to those entities.

- 6) Published studies or reports, and sources of underlying data, used to compose this rulemaking: None
- 7) Will this rulemaking replace any emergency rule currently in effect? No
- 8) Does the rulemaking contain an automatic repeal date? No
- 9) Does this rulemaking contain incorporations by reference? No
- 10) Are there any other proposed rulemakings pending on this Part? No
- 11) Statement of Statewide Policy Objectives: This rulemaking does not create or expand a State mandate as defined in Section 3(b) of the State Mandates Act [30 ILCS 805/3(b)].
- 12) Time, Place and Manner in which interested persons may comment on this proposed rulemaking: Interested persons may present their comments concerning this proposed rulemaking in writing within 45 days after publication of this Notice to:

Ken Menzel, General Counsel
Illinois State Board of Elections
2329 S MacArthur Blvd.
Springfield IL 62708

217/782-4141
kmenzel@elections.il.gov
- 13) Initial Regulatory Flexibility Analysis:
 - A) Types of small businesses affected: None
 - B) Reporting, bookkeeping or other procedures required for compliance: None

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- C) Types of professional skills necessary for compliance: Accounting, Bookkeeping or legal experience if appearing before the board.
- 14) Regulatory Agenda on which this rulemaking was summarized: This rulemaking was not included on either of the two most recent agendas because: at the time the Regulatory Agenda was required to be filed, this rulemaking was not anticipated.

The full text of the Proposed Amendments begins on the next page:

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TITLE 26: ELECTIONS

CHAPTER I: STATE BOARD OF ELECTIONS

PART 100

CAMPAIGN FINANCING

Section	
100.10	Definitions
100.20	Official Forms
100.30	Forwarding of Documents (Repealed)
100.40	Vacancies in Office – Custody of Records
100.50	Multiple Filings by State and Local Committees (Repealed)
100.60	Filing Option for a Federal Political Committee
100.70	Reports of Contributions and Expenditures
100.75	Limitation on Campaign Contributions
100.80	Report Forms
100.85	Independent Expenditures
100.90	Provision Circumvention
100.100	Proof of Identification; Application for Inspection and Copying (Repealed)
100.110	Loans by One Political Committee to Another
100.120	Receipt of Campaign Contributions
100.125	Receipt by Mail of Quarterly Reports of Campaign Contributions and Expenditures
100.130	Reporting by Certain Nonprofit Organizations (Repealed)
100.140	Prohibited Contributions – State Property
100.150	Electronic Filing of Reports
100.160	Good Faith
100.170	Sponsoring Entity
100.175	Audit Findings for Political Committees
100.180	Business Entity Registration Procedures
100.185	Assessment of Civil Penalties
100.APPENDIX A	Contributions Allowed Per Election Cycle
100.TABLE A	Contribution Limits Per Election Cycle
100.TABLE B	Election Cycles

AUTHORITY: Implementing Article 9 of the Election Code [10 ILCS 5/Art. 9] and authorized by Section 9-15(3) of the Election Code [10 ILCS 5/9-15(3)].

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SOURCE: Amended at 5 Ill. Reg. 1337, effective January 30, 1981; amended at 5 Ill. Reg. 12115, effective October 26, 1981; codified at 6 Ill. Reg. 7211; amended at 7 Ill. Reg. 225, effective December 16, 1982; amended at 14 Ill. Reg. 10824, effective June 22, 1990; amended at 16 Ill. Reg. 6982, effective April 21, 1992; amended at 18 Ill. Reg. 14707, effective September 9, 1994; amended at 21 Ill. Reg. 10044, effective July 21, 1997; emergency amendment at 23 Ill. Reg. 719, effective January 4, 1999, for a maximum of 150 days; amended at 23 Ill. Reg. 6796, effective May 24, 1999; emergency amendment at 24 Ill. Reg. 13039, effective August 9, 2000, for a maximum of 150 days; emergency expired January 5, 2001; amended at 24 Ill. Reg. 14214, effective September 11, 2000; amended at 29 Ill. Reg. 18785, effective November 7, 2005; amended at 30 Ill. Reg. 10261, effective June 1, 2006; amended at 30 Ill. Reg. 17496, effective November 3, 2006; amended at 31 Ill. Reg. 7142, effective May 1, 2007; emergency amendment at 33 Ill. Reg. 332, effective January 1, 2009, for a maximum of 150 days; emergency expired May 30, 2009; emergency amendment at 33 Ill. Reg. 9809, effective June 29, 2009, for a maximum of 150 days; emergency expired November 25, 2009; amended at 34 Ill. Reg. 274, effective December 15, 2009; amended at 34 Ill. Reg. 10521, effective July 9, 2010; amended at 35 Ill. Reg. 2295, effective February 4, 2011; amended at 35 Ill. Reg. 12973, effective July 19, 2011; amended at 39 Ill. Reg. _____, effective _____.

Section 100.10 Definitions

a) General Definitions

"Article 9" means Article 9 of the Election Code (campaign disclosures, contributions and expenditures).

"Board" means the Illinois State Board of Elections.

"Election Code" or "Code" means 10 ILCS 5.

"File", "Filed" or "Filing" means:

The statement, report or document being filed is in apparent and substantial conformity with the requirements of the Election Code. Apparent and substantial conformity requires that the filing contain the following:

The signature of the person making the filing;

Completion of all applicable sections of the report; and

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Attachment of all appropriate schedules.

Inadvertent error or omission of a de minimus nature in the completion of a report, statement or document shall not be deemed to be a "willful failure to file or a willful filing of false or incomplete information" under Code Section 9-26 ~~of the Election Code~~.

"Immediate Family" means the spouse, parent or child of the public official, candidate or any other person referred to in this Part. A parent shall include a stepparent or adoptive parent. A child shall mean a biological, adopted or stepchild.

"Labor Union" means any organization of any kind, or any agency or employee representation committee or plan, in which employees participate and that exists for the purpose, in whole or in part, of bargaining with employers concerning grievances, labor disputes, wages, rates of pay, hours of employment or conditions of work.

"Public Office" means, among other things, an elective office. The term includes the political party offices of state central, county, ward, township and precinct committeeman.

"Signature" or "Signed", as used in Article 9 and this Part, includes electronic signatures attached and made a part of electronic records submitted to the State Board of Elections pursuant to Code Section 9-28 ~~of the Election Code~~.

"Submit" or "Submitting", as used in Code Section 9-11 ~~of the Election Code~~, means actually filing a report with the Board through the following methods:

uploading a report electronically or, if accomplished at a Board office or with the assistance of Board staff, the committee representative is present and/or authorizing the report filing;

using the U.S. Postal Service, overnight delivery, or any other delivery service;

hand delivering a report to the Board; or

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faxing a Schedule A-1 to the Board.

With the exception of the chairman or the treasurer, the person submitting the report on behalf of the committee must list himself or herself as having submitted the report.

- b) Definitions Interpreting Specific Sections of the Election Code
- 1) Assets
 - A) Reference: This definition of assets interprets or applies to Code Section 9-5 ~~of the Election Code~~.
 - B) An asset is an item of property, other than cash or services, of any kind, tangible or intangible, that has either a fair market or salvage value in excess of \$150.
 - 2) Candidate
 - A) Reference: This subsection (b)(2) interprets or applies to Code Section 9-1.3 ~~of the Election Code~~.
 - B) "Candidate", as that term is defined in Code Section 9-1.3 ~~of the Election Code~~, shall include, but not be limited to:
 - i) A person who circulates or authorizes the circulation of nominating petitions on his or her behalf for public office;
 - ii) An individual who receives contributions or makes expenditures or gives consent for any other person to receive contributions or make expenditures for the purpose of bringing about his or her nomination for election or re-election to any office;
 - iii) Any judicial incumbent who qualifies for retention.
 - 3) Contributions and Anything of Value
 - A) Reference: This subsection (b)(3) interprets or applies Code

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Sections 9-1.4, 9-1.5, ~~9-1.6~~, 9-1.8, ~~9-1.9, 9-1.10~~, 9-1.12, 9-1.14 and 9-1.15 ~~of the Election Code [10 ILCS 5/9-1.4, 9-1.5, 9-1.6, 9-1.8, 9-1.9, 9-1.10, 9-1.12, 9-1.14 and 9-1.15]~~.

- B) The term "anything of value", as used in Code Sections 9-1.4, 9-1.5 and 9-1.12 ~~of the Election Code~~, means any item, thing, service or goods, regardless of whether valued in monetary terms according to ascertainable market value.
- C) "Anything of value" that does not have an ascertainable market value may be reported by describing the item, thing, service or goods contributed; however, nothing in this subsection (b)(3) relieves a committee or a contributor of the duty to provide as accurate an assessment of value as possible.
- D) Interest, other investment income, earnings or proceeds, and refunds and returns shall not be reported as a contribution, but shall be reported as a receipt according to this subsection (b)(3). For purposes of reporting campaign receipts and expenses, income from investments shall be included as receipts during the reporting period they are actually received. The gross purchase price of each investment shall be reported as an expenditure at time of purchase. Net proceeds from the sale of an investment shall be reported as a receipt. During the period investments are held, they shall be identified by name and quantity of security or instrument on each quarterly report during the period. The value of each instrument as of the day the reporting period closes shall be included for each asset held as an investment.
- E) In addition to the items expressly excluded in the Election Code, the terms "anything of value" and "contribution" shall not be deemed to include:
- i) Any unreimbursed payments for travel or living expenses related to travel made by an individual who volunteers services on behalf of a candidate or political committee;
 - ii) Any news story, commentary, endorsement or editorial of any broadcasting station, newspaper, magazine or other

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periodical publication;

- iii) Any publication by a membership association or corporation to its officers, employees, members, stockholders, or members of the immediate families of these persons, so long as the membership association or corporation is not organized primarily for the purpose of influencing the nomination for election, election, or retention of any candidate, or supporting or opposing any question or questions of public policy;
 - iv) The occasional use of real property of a person or whoever, as defined in Code Section 9-1.6 ~~of the Election Code~~, and as defined in Section ~~100.10(b)(4)~~ 100.10(g) ~~of this Part~~, for the purpose of conveying information to officers, employees, members or stockholders of an association or a corporation, and the immediate families of these persons, including but not limited to the use of the premises for the purpose of a candidate communicating directly with officers, employees, members or stockholders and the immediate families of these persons;
 - v) Unrealized appreciation or loss of value of investments during the period they are held.
- F) A loan of money from a bank, credit union, or other financial institution to a candidate or public official, or his or her political committee, shall not be listed as a contribution from that institution. However, the loan must still be reported on political committees' quarterly reports. Security for a loan, if provided by a person other than the candidate or the candidate's political committee, does qualify as a contribution and shall be reported as having come from the person who provided it.
- G) Independent expenditures are not contributions, as that term is defined in Code Section 9-1.4 ~~of the Election Code~~. Independent expenditures are those made for the purpose of electioneering communication, as that term is defined in Code Section 9-1.14, or that expressly advocates the election, nomination or defeat of a

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public official or candidate or for or against any question of public policy to be submitted to the voters and that is not made in cooperation, concert or consultation with, or at the request or suggestion of, the public official or candidate. Communications that expressly advocate the election, nomination or defeat of a public official or candidate or for or against any question of public policy to be submitted to the voters are those that unequivocally state in the communication that the public official or candidate ought to be elected, nominated or defeated or the question of public policy ought to be approved or defeated. These communications typically contain the terms "vote for", "elect" or, in the case of expressly advocating the defeat of a candidate, "vote against", "vote no", "defeat", etc.

- H) "Clearly identifiable candidate" means the candidate's name (first name and surname) but does not necessarily have to include the candidate's middle name or middle initial. A clearly identifiable candidate can also be one that is described in such a way as to exclude any other candidate so as to leave no doubt in the mind of the person being communicated to as to whom the communication is referring. For example: "The Democratic Party's candidate for Mayor", "Congressman Jones", or "the former Republican candidate for Congressman who was defeated at the most recent General Election". A clearly identifiable candidate can also be described by use of a photograph or other visual image or likeness.
- I) A communication by a corporation, a limited liability company, or an association to its members or stockholders and executive or administrative personnel, or the immediate families of these persons, is not a contribution. For purposes of this Part, a corporation is one that is registered with the Business Services Division of the Illinois Secretary of State or is similarly registered with any other state in compliance with that state's laws or that operates as or holds itself out as a corporation so that it would be required to register with the Illinois Secretary of State, regardless if it has taken affirmative action to so register. For purposes of this Part, an association is defined broadly to include any group of persons or entities that have a common purpose and that have an organizational structure with an existing membership roster and

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governing by-laws or other similar rules. An association includes those that are both for-profit and not-for-profit (however the entity does not necessarily have to be organized under the laws of this or any other state) and includes a labor union as that term is defined in subsection (a).

- J) A voter registration campaign or other Get Out The Vote (GOTV) activity is not deemed to be "anything of value" or a "contribution", so long as the campaign or activity makes no mention of any clearly identified candidate, public question, political party, group or combination of these entities.
- 4) Person or Whoever
- A) Reference: This subsection (b)(4) interprets or applies Code Section 9-1.6 ~~of the Election Code~~.
- B) The terms "other organizations" and "groups of persons" as defined in Code Section 9-1.6 ~~of the Election Code~~ shall include, but not be limited to, all corporations, labor unions, trade associations or other such groups, religious organizations, fraternal societies, luncheon and dinner organizations, etc.
- 5) Political Committee
- A) Reference: This subsection (b)(5) interprets or applies Code Sections 9-1.8 and 9-1.9 ~~of the Election Code~~.
- B) A person or whoever, as defined in Code Section 9-1.6 ~~of the Election Code~~ and in subsection (b)(4) of this Section, does not qualify as a political committee pursuant to Article 9 of the Election Code by simply making a contribution from his or her personal income or profits, regardless of the amount of the donations. If an entity, other than a natural person, makes an independent expenditure or expenditures in aggregate within a 12 month period in excess of \$3,000 supporting or opposing public officials or candidates, then the entity qualifies as a political committee.

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- C) If a person or whoever solicits or receives funds for political purposes, he or she would, in fact, become a political committee and would have to comply with all provisions of Article 9 ~~of the Election Code~~. The provisions of this subsection (b)(5) shall not apply to those persons who accept contributions from at least 5 individuals as provided in Code Section 9-6 of the Code.
- D) Political committees shall include candidate committees, political party committees, political action committees, ~~and~~ ballot initiative committees and independent expenditure committees, as those terms are defined in Code Section 9-1.8 of the Election Code. Candidates who form a new political party under Code Section 10-2 of the Code ~~by running a full slate~~ may collectively form a political party committee to support their candidacy or each candidate may individually form a candidate committee ~~committees~~. Groups of candidates who run as either independents under Code Section 10-3 of the Code, or as non-partisan candidates by virtue of the office being non-partisan pursuant to statute, may collectively form a political action committee to support their candidacy, or each candidate may individually form a candidate committee. ~~In no case may a candidate form both a candidate committee and a political action committee to support his or her own candidacy or may individually form a candidate committee.~~ Candidates of established political parties may collectively form a political action committee to support their candidacy or each candidate may individually form a candidate committee. Candidates who exercise the option of forming a political action committee may not include the names of any of the candidates in the name of the political action committee. A political action committee must, however, include the name of the office that the candidates are seeking and the name of the political subdivision or unit of local government to which the office pertains. In all cases except political party committees, political committees are limited to those that accept contributions or make expenditures or independent expenditures in an aggregate amount exceeding ~~\$5,000~~ \$3,000 on behalf of or in opposition to candidates, or, in the case of a ballot initiative committee, in support of or opposition to questions of public policy.

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- i) Political Party Committees referred to in Code Section 9-1.8(c) ~~of the Election Code~~ include "legislative caucus committees" and are defined as caucuses that are established by either 5 or more members of the same caucus in the Senate or 10 or more members of the same caucus in the House of Representatives. These committees shall include any caucus declared by its membership to be a caucus. If the number of caucus members of a given caucus committee decreases below the designated threshold (5 Senate/10 House members), the caucus committee shall become a political action committee, as that term is defined in Code Section 9-1.8 ~~of the Code~~, and be subject to the contribution limits pertaining to political action committees established in Code Section ~~9-8.5(d)~~ ~~9-8.6(d)~~, unless the caucus committee either fills the vacancy or dissolves within 5 business days after the date the vacancy occurred.
- ii) A committee formed by a ward or township committeeman of a political party shall be designated as a political party committee. Pursuant to Code Section 7-8(b), only ward committeemen in the City of Chicago and township committeemen in Cook County qualify for this designation. Nothing in this subsection (b)(5)(D)(ii) shall be construed to limit the ability of a ward or township committeeman to form a candidate committee in support of his or her own candidacy.
- iii) For purposes of Code Section 9-1.9 ~~of the Code~~, a judicial candidate running for retention subsequent to his or her first retention candidacy following the candidate's election shall be subject to the election cycle established in Code Section 9-1.9(3), except that the period shall begin on January 1 following the candidate's retention (as opposed to his or her election) and extending to the day the candidate files his or her next declaration to seek retention and the period beginning after that day and extending to December 31 following the candidate's retention election. This judicial retention election cycle is subject to the fundraising restrictions contained in Canon 7 of Rule 67 of the Rules of

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the Illinois Supreme Court (committees established to support judicial candidates may not solicit contributions more than 1 year preceding the election in which the candidate is seeking judicial office or retention thereto, and no later than 90 days following such election).

- iviii) Any corporation, labor organization, political committee or association that acts as a conduit in facilitating the delivery of dues, levies or similar assessments to a political action committee as provided in Code Section 9-8.5(i) of the Code shall not be considered to be a political action committee within the meaning of the disclosure and regulation requirements of Article 9IX of the Code.
- viiv) These election cycles apply regardless of whether the candidate only appears on either the consolidated primary ballot or the consolidated election ballot. For purposes of Code Section 9-1.9(4) of the Code, the election cycle for a candidate political committee organized to support a candidate to be nominated or elected at a consolidated primary election or elected at a consolidated election, or municipal or runoff election in cities of 1,000,000 or more population occurring on the date of the regularly scheduled consolidated primary or consolidated election, shall run from:
- the period beginning July 1 following the consolidated election for which the candidate seeks ~~nomination or~~ election and ending on the day of the next consolidated primary election for that office; or
 - the period beginning the day after ~~the~~ consolidated primary election for the office to which the candidate seeks nomination or election and through June 30 following ~~the~~ consolidated election held that year.
- vi) If a candidate political committee established for multiple offices elected at different elections changes its election cycle pursuant to Code Section 9-2(b), the committee shall

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be subject to the new election cycle established under Code Section 9-1.9 and to the contribution limits for the new election cycle contained in Code Section 9-8.5(b). Contributions received by the committee prior to the date of the establishment of the new election cycle will be counted towards the contribution limit for each contributor, with the following exception: the contributions shall not be considered to have been received in excess of contribution limits if the limit was exceeded solely because of the establishment of the new election cycle. However, for the remainder of the new election cycle, the committee would be considered to have received the maximum allowable contribution from that contributor for that election cycle and would be prohibited from receiving any additional contributions from that contributor during the remainder of the new election cycle.

- E) If an entity forming a political action committee under Code Section 9-2(d) is not a clearly identifiable trust, partnership, committee, association, corporation or other organization, but rather a group of persons lacking any formal organizational structure, the name of the political committee shall include the name (first and last) of the person or persons responsible for its formation or its continuing operation. This Section shall not apply to established party candidates who collectively form a PAC to support their candidacies pursuant to subsection (b)(5)(D).
- F) The name of a ballot initiative committee must include a brief description of the question or questions and whether the committee is organized to support or oppose the question or questions. The name shall not exceed 70 characters (based on U.S. Post Office restrictions applicable to mailing labels) and shall include keywords that would provide a reasonable person with a general understanding of the subject matter of the question or questions and whether the committee was formed to support or oppose the question or questions.
- G) A candidate political committee of a former officeholder or supporting a now deceased candidate or officeholder may, subject

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to the applicable contribution limits, maintain the committee as a candidate committee, close the committee and dispose of any remaining funds as indicated on its D-1 Statement of Organization, or convert the committee to a political action committee by filing an amended D-1 Statement of Organization amending the committee type, as well as the name, purpose of the committee, and any other information that has changed. A political committee that fails to make the designation required by Section 9-2 of the Code on or before December 31, 2010 may be subject to a complaint filed by the Board or a third party. The complaint shall be filed under the provisions of Sections 9-20 and 9-21 of the Code.

- 6) Statement of Organization
- A) Reference: This subsection (b)(6) interprets Code Section 9-3 of the Election Code.
- B) A committee officer must, in filling out the Form D-1, use the name that appears on his or her birth certificate, baptismal record, voter's registration card, statement of candidacy or nominating petition, or any other name by which the officer is commonly known in the community in which the officer resides. Aliases created for the purpose of filing under Article 9 of the Election Code may not be used.
- C) The prohibitions~~prohibition~~ contained in Code Section 9-3(d)(iii) and (d-5)(iii) of the Election Code against making contributions from a ballot initiative committee or an independent expenditure committee to a candidate or candidates for nomination for election, election or retention to public office shall not include refunds of contributions to the candidate so long as the refund does not exceed the amount the candidate originally contributed. Nothing in Code Section 9-3(d)(i) prohibits an independent expenditure committee from making expenditures on its own behalf and for its own benefit, provided that the expenditures are not made in connection, consultation or concert with, or at the request or suggestion of, any other political committee, public official or candidate, or the agent or agents of the committee, public official

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or candidate.

- D) For the purpose of this subsection (b)(6), the term "person" contained in the definition of "sponsoring entity" shall not include a political committee. The term "sponsoring entity" is defined in Section 100.170.
- E) A complaint for willfully filing a false or incomplete Statement of Organization shall be subject to the provisions of Code Sections 9-20 and 9-21 ~~of the Code.~~

(Source: Amended at 39 Ill. Reg. _____, effective _____)

Section 100.20 Official Forms

- a) Reference: This Section interprets or applies Code Sections 9.75, 9-10(a) and 9-15(1) ~~of the Election Code.~~
- b) Political committees are required to use only the official forms or copies of official forms and appropriate schedules approved by the State Board of Elections when filing any disclosure reports, except as otherwise permitted under Section 100.80. Alternative methods of reporting are prohibited unless prior written approval has been received by the political committee from the State Board of Elections. Prior written approval will be given based on the compatibility of alternative methods with the Board's present system.

(Source: Amended at 39 Ill. Reg. _____, effective _____)

Section 100.40 Vacancies in Office – Custody of Records

Reference: This Section interprets or applies Code Sections 9-39-2, 9-5, 9-7, 9-10, 9-13 and 9-15 ~~of the Election Code.~~

- a) Death
Upon the death of the treasurer of a committee, the candidate or, if the candidate is unable or unwilling to act, the remaining officers of the committee shall appoint a new treasurer and amend the Statement of Organization (Form D-1) within 10 days after the date of death of the treasurer. In the event there is no candidate or remaining officers of the committee, the person or persons who succeed to the

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interests of the committee in its funds shall be responsible for filing all appropriate reports until such time as new officers are chosen or the committee terminates.

- b) **Removal from Office**
In the case of a single candidate related committee whose officers were originally named by the candidate, the candidate shall have the right to remove any and all officers of his or her committee, provided the removal be done in writing and that the candidate comply with all requirements of the Act in the absence of officers for the candidate related committee. If a candidate removes from office any or all officers of the committee, all records related to the committee shall be maintained by the candidate. If former officers request, the candidate shall allow them access to records and provide reasonable opportunity to make copies.
- c) **Resignation**
If the treasurer and all other officers resign and no new officers are appointed, the former treasurer and officers or, in the case of candidate related committees, the candidate shall be responsible for terminating the committee. When an individual vacates the position of treasurer, he or she shall verify the accuracy of his or her records to the succeeding treasurer. The succeeding treasurer shall not be held responsible for the veracity or accuracy of the records of the predecessors.
- d) **Inability to Sign**
All reports shall be verified, dated and signed by either the treasurer of the political committee making the statement or the candidate on whose behalf the statement is made. However, should it be impossible for the political committee to obtain the signature of the treasurer or candidate prior to the filing deadline, then another may sign for the treasurer, provided that the treasurer submits a letter within 30 days after the filing indicating that the substituted signature is authorized and the treasurer accepts responsibility as if he or she had signed. The substituted signature shall read, "treasurer's name, by name of person signing". If the treasurer failed to submit a letter within 30 days, then the report filed shall be considered a nonfiling.
- e) **All reports, original reports, and other campaign documents required to be kept by a political committee under Article 9 of the Election Code remain the property of the political committee. No chairman, treasurer or candidate shall have any proprietary or possessory interest in the documents in derogation of the rights of the committee itself.**

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- f) If any political committee changes any officers, all records, statements and reports in the possession of the outgoing officers shall be transferred within 10 days following the change to the person or persons newly responsible for the maintenance of those records and/or the filing of reports.
- g) If any outgoing officer fails to turn over the records in his or her care to a successor, in accord with this Section, or if any officer attempts to withhold records from other officers of the committee, the committee chairman, the treasurer, or the candidate may file a complaint before the Board requesting a turnover order.
- h) A committee that fails to preserve the records and accounts required by Code Section 9-7 ~~of the Election Code~~ or by this Part for the periods required by statute or rule may be required to reconstruct its records and accounts if doing so is necessary to the audit of its records. If a committee is required to reconstruct its records, it must pay all of the costs and charges, including bank or accountants fees, for the reconstruction of the records.

(Source: Amended at 39 Ill. Reg. _____, effective _____)

Section 100.60 Filing Option for a Federal Political Committee

- a) Reference: This Section interprets or applies Code Section 9-15 ~~of the Election Code~~.
- b) Any "person" or "whoever", as defined by Code Section 9-1.6 ~~of the Election Code~~, qualifying as a political committee under Article 9 of the Election Code and filing Federal Election Commission reports may choose to comply with the provisions of Article 9 ~~of the Election Code~~ by so indicating on a Statement of Organization (Form D-1) filed with the State Board of Elections.
- c) A political committee may choose to file reports pursuant to this Section, either by amendment or for the first time, by stating on Part 5 of the Statement of Organization (Form D-1) the following: "Campaign financing reports will be filed pursuant to Section 100.60, Campaign Financing Regulations, State Board of Elections."
- d) Pursuant to the state filing waiver program (2 USC 439), a federal political

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committee also qualifying as a political committee under Article 9 ~~of the Election Code~~ shall not file a copy of all Federal Election Commission reports with the State Board of Elections.

- e) A political committee filing reports pursuant to this Section that makes an independent expenditure of \$1,000 or more supporting or opposing a candidate for State or local office in Illinois during the 30 day period before an election must notify the State Board of Elections, in writing, within 5 business days after making the independent expenditure. The notification shall contain the information required in Code Section 9-11(c).
- f) This Section shall not authorize any person to receive or expend in Illinois an anonymous contribution on behalf of or in opposition to a candidate covered by Article 9 or in support of or in opposition to a question of public policy.

(Source: Amended at 39 Ill. Reg. _____, effective _____)

Section 100.70 Reports of Contributions and Expenditures

- a) Reference: This Section interprets or applies Code Sections 9-6, 9-10 and 9-11 ~~of the Election Code~~.
- b) All contributions, as that term is defined in Code Section 9-1.4 ~~of the Election Code~~, of \$1,000 or more, including loans and in-kind contributions, must be reported to the State Board of Elections on a Schedule A-1 within 5 business days after receipt, except that, if the contribution is received within 30 days prior to an election, the contribution must be reported on a Schedule A-1 within 2 business days after receipt. ~~In order to determine whether the report shall be filed within 2 business days rather than 5 business days after receipt, any contribution of \$1,000 or more that is received within 30 days prior to an election shall be reported within 2 business days.~~ The requirement to file a Schedule A-1 Report ~~within~~ with 2 business days shall only apply to ~~those~~ committees organized to support or oppose candidates, public officials or a public question that is on the ballot at that election, committees that spend an aggregate amount in excess of \$500 on a public official or officials, candidate or candidates, or a question or questions of public policy ~~public question~~ that is on the ballot at that election, or committees organized to support or oppose a candidates who has filed a declaration of intent to be a write-in candidate at that election.

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- c) An expenditure to a payee who is in whole or in part only a conduit for payment to another, such as a political consultant, ~~or a credit card issuer~~ or Paypal, must include by way of detail or separate entry the amount of funds passing to each vendor, business entity or person ~~receiving to receive~~ funds from the payment, together with the reason for each disbursement and the beneficiary of the disbursement. This provision shall not apply to a political consulting firm or political consultant, campaign worker, volunteer or political operative, etc., if the amount paid to that entity is less than \$3,000 in aggregate during the quarterly reporting period. Nothing in this Section shall be construed to impose a reporting obligation on any person not otherwise required to report under Article 9 of the Election Code or to require the itemization of expenditures not otherwise required to be itemized under Article 9.
- d) Quarterly and A-1 Reports
- 1) Every active political committee must file quarterly reports, as required by Code Section 9-10(b) of the Election Code.
 - 2) Every active political committee must file Schedule A-1 reports, as required by Code Section 9-10(c) of the Election Code when a contribution of \$1,000 or more from a single source is received ~~within a single quarterly reporting period.~~
 - A) The reports must be filed within 2 business days after receipt if the contribution is received within 30 days prior to an election and:
 - i) The political committee is, by the terms of its Form D-1 Statement of Organization, organized to support or oppose a candidate or a public question on the ballot at the next election; or
 - ii) The political committee makes expenditures in excess of \$500, including expenditures for in-kind contributions and electioneering communications, or for independent expenditures, made on behalf of or in opposition to any candidate or public question on the ballot at an election.
 - B) All other A-1 reports must be filed within 5 business days after receipt.

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- e) A committee that, having determined that it will not participate in an election, subsequently makes an expenditure or an independent expenditure in excess of \$500 or expends or has expended an aggregate amount in excess of \$500 on behalf of or in opposition to a candidate or candidates or on behalf of a question or questions of public policy that will appear on the ballot at the next election shall, beginning with the date of that expenditure, report contributions of \$1,000 or more received, as defined in Code Section 9-10(d) of the Election Code, ~~by the chairman, treasurer or candidate~~, within 30 days prior to the election, within 2 business days after receipt by that person.
- f) The authorization of persons to collect contributions on behalf of a political committee (see Code Section 9-6(a) of the Election Code) shall be in writing; shall state that the person is empowered to accept contributions on behalf of the committee; and shall include the signature of the officer or candidate granting the authorization. The authorization shall be provided to the person prior to acceptance of any contributions on behalf of the committee.
- g) Pursuant to Code Section 9-11(f), a political committee is required to provide a description of the amended information on each amended quarterly report. The description must be sufficiently specific to alert a reasonable person as to what has been amended, but does not have to individually address each item that has been amended, added or deleted.
- h) When determining the timeliness of any report, a filing received after 11:59:59 pm on the last actual business day of its required filing period shall be considered late. "Business day" means any day in which the office of the State Board of Elections is open to the public for a minimum of 7 hours.

(Source: Amended at 39 Ill. Reg. _____, effective _____)

Section 100.75 Limitation on Campaign Contributions

Political committees are limited in the amount of contributions that they can accept. Appendix A, Table A lists the 54 types of political committees (Candidate, Political Party, Political Action, ~~and~~ Ballot Initiative and Independent Expenditure Committees) and the specific contribution limitations applicable to each. Appendix A, Table B lists the election cycles for Candidate Committees (subdivided according to the office sought), Political Party Committees, Political Action Committees, ~~and~~ Ballot Initiative Committees and Independent Expenditure Committees.

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~~A political party committee that does not intend to make contributions to candidates to be nominated at a general primary election or consolidated primary election may file a Statement of Nonparticipation for the specified primary election with the Board. The Statement shall be filed with the Board no earlier than July 1 immediately prior to the first day candidates may begin circulating nominating petitions and ending on the day before the date candidates may begin circulating nominating petitions for that primary election. The Statement shall include a verification signed by the chairperson and the treasurer of the committee and shall state that:~~

- ~~a) The committee will not make contributions or coordinated expenditures in support of or opposition to a candidate or candidates to be nominated at the specified general primary election or consolidated primary election.~~
- ~~b) The political party committee may accept unlimited contributions from candidate political committees and political party committees, provided that the political party committee accepting the contributions does not make contributions to a candidate or candidates to be nominated at the primary election.~~
- ~~e) Failure to abide by the requirements of subsections (a) and (b) shall deem the political party committee to be in violation of Article 9 and subject to a fine of no more than 150% of the total contributions and/or coordinated expenditures made by the committee in violation of that Article.~~
- a) A candidate political committee formed by a candidate who seeks nomination at a general primary election or a consolidated primary election is subject to limitations as to what amount it may receive in contributions from a political party committee during a primary election cycle. For this purpose, the primary election cycle begins with the day the candidate may begin circulating petitions and ends on the day of the primary election.
- b) Political committees on file with the FEC that file pursuant to Section 100.60 may not make contributions to other political committees that are on file with the State Board of Elections exceeding the limits set forth in Code Section 9-8.5, except as provided in Code Section 9-8.5(c).
- cd) For political committees referred to in Code Section 9-1.8 (candidate, political party and political action), any contribution or transfer received in violation of Code Section 9-8.5(a) through (d) shall be disposed of within 30 days after being sent notice from the Board by:

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- 1) Returning the amount of the contribution or transfer that exceed the contribution limit, or an amount equal to that amount~~the contribution or transfer~~, to the contributor or transferor; or
 - 2) Donating the amount of the contribution or transfer that exceeds the contribution limit, or an amount equal to that amount~~the contribution or transfer~~, to a charitable organization.
- de) If a political committee is determined to have received a contribution or transfer in violation of Code Section 9-8.5(a) through (d), the Board shall send, by first class mail, a notice to the committee and its officers of the apparent violation. The notice shall identify the contributions at issue, along with the committee's options under Code Section 9-8.5(j) and subsection (c) of this Section for disposing of the contributions (returning the amount to the contributor or donating the amount to a charity), and informing the committee that whatever disposal action it takes must be completed within 30 days after the date on the notice.
- e) If a political committee fails to dispose of the contribution or transfer as provided in subsection (cd):
- 1) The amount of the contribution or transfer that exceeds the contribution limit shall escheat to the State's General Revenue Fund within 30 days after the expiration of the 30~~15~~ day period provided in subsection (cd); and
 - 2) The political committee shall be deemed to be in violation of this Section and be subject to a civil penalty not to exceed 150% of the ~~total~~ amount of the contribution that exceeds the contribution limit.
- f) When considering the amount of the civil penalty to be imposed, the Board will consider all relevant factors, including, but not limited to, the following:
- 1) Whether in the Board's opinion the violation was committed inadvertently, negligently, knowingly or intentionally;
 - 2) Whether any attempt was made by the committee to return the contribution or transfer; and

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- 3) Past violations of ~~Code Section 9-8.5~~~~Article 9 of the Election Code~~. Past violations of any committee composed of one or more of the same officers, or for the same purpose or for the support of the candidacy of the same person, irrespective of office, as the committee currently being assessed a civil penalty shall be considered relevant factors when considering the amount of the civil penalty to be imposed.
- g) When a contribution is determined to have been received by a political committee in violation of Section 9-8.5(a) through (d) and it is further determined that the committee has not taken the remedial action required by Code Section 9-8.5(j) and subsection (c) of this Section, the Board will send, by first class mail, notice of violation to the chairman and the treasurer of each political committee, and by certified mail to the address of the committee, together with an order assessing a civil penalty calculated in accord with this subsection (g). ~~The notice of violation and order shall also be sent to any candidate listed by name on that committee's Statement of Organization.~~ The notice of violation shall state that the Board has assessed a civil penalty that will be final unless the committee shows cause as to why the penalty should not be assessed. The provisions of 26 Ill. Adm. Code 125.425 relating to procedures to appeal civil penalty assessments shall apply to penalties assessed under this Section.
- h) For purposes of adjusting the amounts of contribution limitations under ~~Code Section 9-8.5(g) of the Election Code~~, the Board will base the adjustments on the Consumer Price Index for All Urban Consumers – US City Average (Not Seasonally Adjusted), as provided by the United States Department of Labor. Adjustments shall be calculated:
- 1) On January 1, or the first business day following January 1, of each odd-numbered year, whichever comes first;
 - 2) As a percent change, rounded to the nearest tenth, in the index point level of the 24 month period immediately preceding the most current month for which data is available. The change will then be applied to the existing contribution limits as of December 31 of the year immediately preceding the adjustment and rounded to the nearest \$100.
- i) For purposes of Code Section 9-8.5(b), an election cycle ending on the date of the consolidated primary election shall end on that date even if no consolidated primary election is held in that jurisdiction. The election cycle for the

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consolidated election shall begin on the day after the date of the consolidated primary election, even if no consolidated primary election is held in that jurisdiction. The election cycle for the consolidated election shall begin on the day after the date of the consolidated primary election and end on June 30 of that year even if the candidate was only on the ballot at the consolidated primary election and not on the ballot at the consolidated election.

- i) For purposes of Code Section 9-8.5(h);
- 1) Contributionse~~contributions~~ or loans from a public official or a candidate, or a public official's or candidate's immediate family, to the public official's or candidate's political committee shall not be subject to the contribution limits found in Section 9-8.5.
 - 2) "Candidate for the same office" shall be determined by candidate petition filings. Prior to the actual filing of petitions for a particular office, a candidate for that office wishing to receive official notice of a Self-Funding Notification from the Board must inform the Board in writing of his or her intention to seek nomination or election to the office in question.
- k) For purposes of Code Section 9-8.5:
- 1) Candidates running together for the offices of Governor and Lieutenant Governor shall be considered to be candidates for the same office, so that the removal of the contribution limits for candidates for one office shall also be applied to candidates for the other office. An expenditure made by a candidate on behalf of his or her own candidacy for one office shall not be deemed an in-kind contribution to that candidate's running mate, regardless of whether the expenditure is for the benefit of both candidates.
 - 2) In an election in which there are no more than two candidates on the ballot for a particular office, any combination of independent expenditures made by a single entity either supporting or opposing any candidate in the election or that office shall be considered in aggregate towards the calculation of whether the threshold allowing candidates to accept contributions in excess of the limits imposed by Code Section 9-8.5(b) has been reached.

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- l) For purposes of reporting of contributions, a contribution made via a check or other similar written instrument with more than one individual's name imprinted on it, but containing only one signature, shall be reported as coming solely from the signer, unless the instrument is accompanied by a written statement, signed by each individual making the contribution, declaring that the contribution was meant to be given by each of the undersigned individuals and declaring the amount of the contribution to be attributed to each of the individuals.
- m) For purposes of determining contribution limits under Code Section 9-8.5, the term "corporation, labor union or association" shall include any "business entity" organized as either for profit or not for profit, and shall include, but not be limited to, a partnership, sole proprietorship, limited liability company or partnership.

(Source: Amended at 39 Ill. Reg. _____, effective _____)

Section 100.85 Independent Expenditures

- a) When determining whether a natural person making an independent expenditure or expenditures has exceeded the \$3,000 threshold triggering the requirement to file a written disclosure with the Board, the phrase "a public official or candidate" shall also include a slate of candidates. An independent expenditure made by a natural person shall be reported if the expenditure exceeds \$3,000, regardless of how many public officials or candidates are supported or opposed by the expenditure. The report shall list the total amount expended and the names of all the public officials and candidates covered by the expenditure. The natural person shall not prorate the amount of the expenditure based on the number of covered public officials or candidates.
- b) An expenditure or expenditures in excess of \$3,000 made by an entity supporting or opposing a public official or candidate shall cause that entity to establish as a political committee regardless of how many public officials or candidates are supported or opposed by the expenditure. The entity shall not prorate the amount of the expenditure based on the number of covered public officials or candidates when determining whether it has to organize as a political committee.
- c) After the filing of the initial written disclosure, a natural person has a continuing obligation to report, within 2 business days, any independent expenditure mad prior to the election~~each time an additional independent expenditure in excess of \$150 is made~~ in support of or in opposition to the public official or candidate, in \$1,000

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~~increments, on an additional written disclosure shall be filed within 2 business days, until the natural person has not made any independent expenditures in support of or opposition to that public official or candidate for a period of 12 months.~~

- d) The written disclosure must include:
- 1) If a natural person, the name, address, occupation and each employer of the natural person.
 - 2) The name and address of the public official, candidate, or each candidate listed on the slate of candidates.
 - 3) The date and amount of each independent expenditure.
 - 4) The nature/description of each independent expenditure.

(Source: Amended at 39 Ill. Reg. _____, effective _____)

Section 100.120 Receipt of Campaign Contributions

- a) Every person or political committee that contributes goods or services to a committee shall provide to the treasurer of the political committee, within 5 business days after making the contribution, a detailed account of the contribution, including the name and address of the person or political committee making the contribution; a description and the market value of the goods or services; and the date on which the contribution was made. The ascertainable market value of goods and services assigned by the contributor or, if the contributor fails to provide the information to the recipient committee, by the recipient committee, shall be prima facie correct unless rebutted by clear and convincing evidence.
- b) An entity defined by Code Section 9-1.6 ~~of the Election Code~~ or a political committee as defined by Code Section Sections 9-1.8 ~~of the Election Code~~ shall acknowledge, to the donor, receipt of any notice it receives under subsection (a). No committee shall retain an in-kind contribution it has knowingly received unless it also receives the information from the contributor required by subsection (a) unless return of the contribution is impossible. If the contributor does not comply with subsection (a) and if the in-kind contribution cannot be returned, the

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beneficiary political committee shall nonetheless have the responsibility to report the in-kind contributions or expenditures from the contributor if it actually knows or reasonably should have known from the facts available to it that an in-kind contribution had been made in its behalf.

- c) A monetary contribution is any contribution other than a gift of goods or services. The receipt date of the contribution is determined as follows:
- 1) A monetary contribution to a political committee is deemed to have been received on the date the contribution was deposited in a bank, financial institution or other repository of funds for the committee.
 - 2) If not deposited into a bank, financial institution or other repository of funds, a monetary contribution is deemed to have been received as follows:
 - A) A cash contribution that is not deposited into a bank, financial institution or other repository of funds is deemed to be received on the date that the cash is given to any employee or agent of the committee.
 - B) A contribution in the form of a business check, personal check, money order, or cashier's check that is not deposited into a bank, financial institution, or other repository of funds is deemed to be received on the date the check is cashed and the cash becomes available to the committee. A contribution by credit card or other implement used for processing a monetary contribution that was deposited in a bank, financial institution or other repository of funds for the committee is deemed to be received on the date the committee received notice of the deposit.
- d) A contribution of goods or services (in-kind contributions) possession of which is not actually obtained by the recipient committee is deemed received on the date the public official, candidate or political committee received the notification of contribution of goods or services as required under Code Section 9-6(b) of the Election Code and subsection (a) of this Section. If no notification has been received, the in-kind contribution is deemed received on the date the candidate, chairman or treasurer of the recipient committee, or the public official, obtains knowledge of the in-kind contribution, including its value. A contribution of

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goods actually received by the committee is deemed to be made on the date the goods are transferred to the possession of the recipient. A contribution of services is deemed to be made on the date the services are actually performed.

(Source: Amended at 39 Ill. Reg. _____, effective _____)

Section 100.125 Receipt by Mail of Quarterly Reports of Campaign Contributions and Expenditures

- a) Quarterly reports of campaign contributions and expenditures must be received by the Board within the filing periods set forth in Code Section 9-10 ~~of the Election Code~~. Subject to subsections (b) and (c) of this Section, if the reports are filed by mail and received by the Board after the filing deadline, they shall be considered delinquent and subject to penalties as provided in Code Section 9-10 and 26 Ill. Adm. Code 125.425. However, pursuant to Code Section 9-10(b), if the envelope containing the reports bears a postmark showing that the envelope was mailed at least 72 hours prior to the due date, the reports shall be considered timely filed, regardless of when received in the office of the State Board of Elections.
- b) If the envelope containing the quarterly report is not received by the Board, the envelope is received but does not have a postmark printed by the United States Postal Service, or if the postmark is illegible, the report will either be deemed to have not been received or be deemed to have been received on the date the envelope officially arrives in the office of the State Board of Elections. However, if the political committee is assessed a civil penalty for failing to file or delinquent filing the report and, as part of the committee's appeal of the civil penalty assessment, it is alleged by the treasurer, chairman or candidate on a signed and notarized affidavit verifying that the report was mailed more than 72 hours prior to the filing deadline, and this is the first time the committee has made this claim as part of its appeal, the presumptive date of receipt will be rebutted by the testimony contained in the affidavit and the report will be deemed to have been timely received.
- c) When the committee raises the defense described in subsection (b) as part of its appeal for any subsequent civil penalty assessments, the appeal affidavit shall be accompanied by a certificate issued by the United States Postal Service showing the date on which the envelope was deposited with the United States Postal Service. The Board shall not consider this defense as valid in the absence of the certificate.

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- d) ~~When a political committee raises the defense described in subsection (b) at any time after an appeal has been granted pursuant to subsection (b), that defense will be denied without consideration by the Board unless a certificate, issued by the United States Postal Service, verifying the date upon which the transmitting envelope was deposited with the United States Postal Service, is attached to the appeal affidavit. If the certificate is attached to the appeal affidavit, the Board will hear and determine the appeal as it deems appropriate.~~

(Source: Amended at 39 Ill. Reg. _____, effective _____)

Section 100.150 Electronic Filing of Reports

- a) The State Board of Elections will make electronic filing software available to committees required to report electronically under Code Section 9-28 ~~of the Election Code~~.
- b) Once a committee exceeds the threshold that requires it to report electronically, it must continue to report electronically until it dissolves, whether or not its accumulation, receipts or expenditures fall beneath the levels set by statute for mandatory electronic filing.
- c) Once a committee is required to file its reports electronically under Code Section 9-28, it must continue to file all reports electronically, except as follows:
- 1) A paper report shall be considered a timely filing if it is received by the Board on or before the filing deadline, provided that it covers the initial reporting period during which the mandatory electronic filing threshold is exceeded and that the report is filed electronically within 30 days after receipt of notice from the Board that this report was required to have been filed electronically. If the report is not filed electronically within this 30 day period, it shall be considered as never having been filed and the civil penalties mandated by 26 Ill. Adm. Code 125.425 will accrue from the date of the filing deadline.
 - 2) A paper report shall be considered a non-filing if the committee has previously received the notification referred to in subsection (c)(1). If the report is not filed electronically by the filing deadline, it shall be considered as having never been filed and the civil penalties mandated by

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26 Ill. Adm. Code 125.425 will accrue until such time as it is filed electronically.

- 3) A paper report shall be considered a timely filing if at least one previous report was required to have been filed electronically and the committee had never been notified by the Board that it was required to electronically file its reports, provided that the report is filed electronically within 30 days after the notification referred to in subsection (c)(1). If the report is not filed electronically within this 30 day period, it shall be considered as never having been filed and the civil penalties mandated by 26 Ill. Adm. Code 125.425 will accrue from the date of the filing deadline.
- 4) A paper report shall be considered a timely filing if it is received on or before the filing deadline and the committee has never exceeded the \$10,000 threshold requiring the electronic filing of its reports, regardless of whether the committee filed previous reports electronically.
- 5) If a committee is assessed a civil penalty for delinquent filing a report ~~required to be filed~~ electronically and, in the course of its appeal, raises the defense that computer related issues ~~(including, but not limited to, software, firewalls, system failures)~~ prohibited the timely filing of an electronic report, the Board may consider that defense when determining the final outcome of the appeal.
- 6) The electronic filing requirement established in this Section shall not apply to Reports of Independent Expenditures required to be filed by natural persons pursuant to Code Section 9-8.6, as those persons are not necessarily political committees.

(Source: Amended at 39 Ill. Reg. _____, effective _____)

Section 100.175 Audit Findings for Political Committees

- a) The Board may order a political committee to conduct an audit of its financial records based upon criteria outlined in Code Section 9-13(b) ~~of the Election Code~~. These criteria are limited to a situation in which:
 - 1) there is a discrepancy between the committee's ending and beginning balances contained in 2 or more successive reports;

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- 2) there is a failure to account for a previous investment or loan in a subsequent report or reports; and
 - 3) there is a willful pattern of nonreconciliation of contributions received from or expenditures made from one political committee to another political committee, such that the reported amounts of the one committee do not correspond with the reported amounts of the other committee.
- b) Conditions Precedent to Requirement for an Audit Pursuant to Code Section 9-13(b)
- 1) Prior to ordering an audit pursuant to subsection (a), the Board will send to the committee address, the committee chairman, the committee treasurer, and any candidate designated on the Form D-1 Statement of Organization as being supported by the committee a notice in the form of a pre-audit letter stating that the Board intends to order the committee to conduct an audit based upon reasons outlined in the letter.
 - 2) Prior to conducting an audit pursuant to subsection (a), the committee will be afforded an opportunity for a closed preliminary hearing to give reasons why the committee should not be ordered to conduct an audit, and the committee will be given an opportunity to correct the deficiencies or omissions that gave rise to the issuance of the pre-audit letter. At the conclusion of the closed preliminary hearing, a recommendation will be issued stating whether grounds exist to order the audit.
 - 3) If, after the closed preliminary hearing, the Board determines that there are insufficient grounds upon which to order an audit, no further action will be taken.
 - 4) If, after the closed preliminary hearing, the Board determines that there are sufficient grounds upon which to order an audit, the committee will be ordered to conduct an audit as provided in Code Section 9-13 ~~of the Election Code~~.
 - 5) The procedures contained in 26 Ill. Adm. Code 125, Subparts A and B shall apply to the closed preliminary hearing to the extent that they are not inconsistent with the provisions of Code Section 9-13.

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- c) Selection of Committees for Random Audit~~Auditing~~
- 1) In each calendar year, the Board shall randomly select no more than 3% of the registered political committees to conduct an audit. No later than December 31 of the year preceding the selection, the Board will decide, based on staff recommendations, what percentage of political committees will be selected for audits in the year of the selection. The selection:
 - A) shall be made no later than the first business day in May~~February~~; and
 - B) shall be made from all political committees on file with the Board whose status is active at the time of the random selection.
 - 2) The method of selection shall be the same method that the Board uses to select the 5% of the total number of precincts in a given election authority jurisdiction for the purposes of conducting a post-election retabulation as provided in Code Sections 24A-15, 24B-15 and 24C-15 ~~of the Election Code~~. Once a committee has been selected to conduct an audit based on the random selection provided in subsection (c)(1), the Board shall send to the committee address, the committee chairman, the committee treasurer, and any candidate designated on the Form D-1 as being supported by this committee, a notice that the committee has been selected to conduct an audit. The provisions in subsection (b) relating to the closed preliminary hearing shall not apply to committees that have been randomly selected to conduct an audit; however, the committee may be excused from conducting an audit pursuant to subsection (h).
- d) Auditor
- 1) A political committee that has been ordered to conduct an audit pursuant to this Section~~subsection (a)~~ shall hire an entity qualified to perform the audit, i.e., a licensed certified public accountant (CPA) or other person qualified to perform an audit. The auditor shall:
 - A) have the proper training and experience to perform a financial analysis of campaign finance committees. The~~Such~~ training may be the result of possession of a CPA license, possession of a degree

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in accounting from an accredited accounting or business school and/or experience as an accountant gained from past employment; ~~and~~

- B) not have contributed to the political committee during the 4 year period immediately preceding the order of the audit; ~~and-~~
- C) not be a current officer, a previous officer, or otherwise affiliated with the committee.
- 2) If the person selected by the committee to perform an audit is not a CPA, the committee shall, prior to the person conducting the audit, submit to the Board for approval the person selected. The committee shall include with the submission any information regarding the qualifications of the person to perform an audit that would inform the Board of the qualifications. The committee may appear before the Board to argue the selected person's qualifications. The Board shall provide written notice to the committee stating whether the selected person is approved and, if not approved, the reasons for denial of approval. If the Board does not approve of the person selected, the committee shall, within 10 business days after the date of the nonapproval notice, select another person to conduct the audit and submit that person for Board approval in accordance with this subsection (d).
- e) Any audit ordered by the Board shall include and cover all financial records required to be maintained by the committee as provided in Code Section 9-7 ~~of the Election Code~~. The audit shall be conducted in such a way as to ensure compliance with the contribution limitations set forth in Code Section 9-8.5 and the reporting requirements set forth in Code Sections 9-3 and 9-10. The records shall include any and all financial records in the possession or under the control of the committee or the financial institution in which the committee's funds are held, including, but not limited to:
- 1) Bank statements;
 - 2) Deposit slips;
 - 3) Internal registers or ledgers; and

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- 4) Records maintained and stored in any type of electronic medium.
- f) The audit shall only cover the 2 year period immediately preceding the order of the audit or the period of time since the committee was last ordered to conduct an audit, whichever is shorter. However, if any portion of these time periods covers a time in which the contribution limits provision of Article 9 of the Election Code was not in effect, those limits shall not be included in the scope of the audit.
- g) If the Board determines that the committee is in violation of Code Sections 9-3, 9-8.5 or 9-10, it may assess a penalty for non-compliance consistent with the penalty provisions contained in those Sections and 26 Ill. Adm. Code 125.425. However, no additional penalty shall be imposed by the Board for any violation found as a result of a Board ordered audit if the Committee has previously been assessed a penalty for that violation.
- h) Excused~~Excused~~ from Random Audit~~Audit~~
- 1) Any political committee, other than a state central committee or a county central committee, ordered by the Board to conduct a random~~a~~ audit whose chairman, treasurer or candidate on whose behalf the committee was formed, that states under oath, in a signed and notarized affidavit, that the committee lacks the financial means to hire a CPA or other qualified person may, in lieu of conducting an audit, dissolve as a political committee and file a final report with the Board within 60 calendar~~10 business~~ days following the date of the notice of audit. The committee must remain dissolved for a period of at least 4 years.
- 2) If the committee fails to dissolve within 60 calendar~~10 business~~ days after the date of the notice of audit, the Board staff shall contact the committee within 2 business days and inform it that the option of excusing itself from conducting an audit will not be available to the committee unless it dissolves within 30 calendar~~5 business~~ days after notification being informed. If the committee does not dissolve within the 30 calendar~~5 business~~ days, the committee shall be required to conduct the audit under the provisions of Code Section 9-13~~of the Code~~ and Section 100.175 of this Part.
- 3) In order to be excused from conducting a random~~a~~ audit, the committee must have a funds balance that does not exceed the cost of hiring a CPA or

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other qualified person, ~~based on the~~ such cost being typical for the county in which the committee is located. The committee must submit with its affidavit a written cost estimate from at least one CPA or other qualified person located in the county in which the chairman, treasurer or candidate resides. The provisions of subsection (d) pertaining to restrictions on CPAs or other qualified persons chosen to conduct an audit shall also apply to the CPA or other qualified person whose fee is used as a basis to determine the financial ability of the committee to pay the cost of a CPA or other qualified person.

- 4) If a political committee dissolves as a result of its financial inability to conduct an audit, as provided in subsection (h)(1), and then reactivates during the 4 year period it was required to remain dissolved, as a condition of its reactivation, within 60 days after reactivation, the committee must conduct an audit covering the 2 year period immediately prior to the committee's dissolution.

(Source: Amended at 39 Ill. Reg. _____, effective _____)

Section 100.180 Business Entity Registration Procedures

- a) This Section and Section 100.185 are adopted to comply with Public Act 95-971, as amended by Public ~~Acts~~ Act 96-848, 97-411 and 97-895. Any business entity whose existing State contracts, whose bids and proposals on State contracts or whose bids and proposals on State contracts combined with the business entity's existing State contracts in aggregate annually total more than \$50,000 shall register with SBEL in accordance with Code Section 9-35 ~~of the Election Code~~ [10 ILCS 5/9-35]. Those business entities that wish to submit a bid or proposal on a State contract must register with SBEL prior to submitting their bid or proposal. SBEL will provide a certificate of registration upon successful completion of the registration process.
- b) Definitions
 - 1) For purposes of this Section, the terms "business entity", "contract", "State contract", "contract with a State agency", "State agency", "affiliated entity", "affiliated person", and "executive employee" shall have the meanings ascribed to those terms in Section 50-37 of the Illinois Procurement Code [30 ILCS 500/50-37] (Procurement Code).

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- 2) The term "annually", as used in Section 20-160 of the Procurement Code, when referring to the aggregation of State contracts, shall mean the calendar year in which the contracts are bid on or awarded.
 - 3) Unless otherwise indicated, any time frame involving a certain number of days shall refer to business days. Business days shall be those days in which the office of SBEL is open to the public for a minimum of 7 hours.
 - 4) The term "political committee" shall mean any political committee required to file as such under the provisions of Article 9 of the Election Code (campaign disclosure law), regardless of whether the committee has filed a Statement of Organization pursuant to Code Section 9-3-~~of the Election Code~~.
 - 5) The term "minor child" shall mean any affiliated person who has not attained 18 years of age as of the time of registration of the business entity with which the person is affiliated.
- c) Business entities shall register on a secure website provided by SBEL by first creating an on-line account. SBEL will verify the authenticity of that account at the time of registration.
- d) Registration Procedures
- 1) The following information must be supplied at the time of, and for the purpose of listing in, the registration:
 - A) The name and address of the business entity. The address shall be the office designated by the entity as its principal office or its headquarters.
 - B) The name and address of each affiliated entity of the business entity, including a description of the affiliation. The address shall be that of the principal office or headquarters of the affiliated entity.
 - C) The name and address of each affiliated person of the business entity, including a description of the affiliation. (Every affiliated

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person or persons within a business entity that is required to register electronically must be listed on the registration form. If there are no affiliated persons, the person whose position within the business entity comes closest to meeting the definition of affiliated person shall be listed on the registration form. The electronic registration system will not accept a blank entry where a name is required.) The name and address of a minor child who must be disclosed on the business entity's registration by virtue of the fact that such person falls under the definition of affiliated person shall not be posted on the SBEL website.

- D) The Federal Employer Identification Number (FEIN), if the business has obtained such a number. If the business does not have a FEIN, an Illinois Business Tax Number (IBT) must be provided. If the business has neither of these numbers, it must provide an identifying number unique to that business that is capable of verification by SBEL. A sole proprietorship may use a social security number as a unique identifier if it does not have a FEIN or an IBT.
- 2) Registration shall be accomplished in one of the two following methods:
- A) A web-based program through which information may be entered, saved and transmitted upon completion. Changes may be made by accessing the program, making the changes, and submitting those changes to SBEL via the program contained on SBEL's website.
 - B) A format, provided by SBEL, designed specifically for large business entities through which data may be submitted in lieu of completion of the web-based option. Though this method is geared toward larger business entities, any business entity may choose to use this method.
- e) The Board shall provide a certificate of registration to the business entity upon registration and upon any change of information submitted by the entity. The certificate shall be electronic and accessible to the business entity through the SBEL website and shall be password protected.

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- 1) Any business entity required to register under Section 20-160 of the Procurement Code shall provide a copy of the registration certificate, by first class mail, e-mail or hand delivery within 10 days after registration, to each affiliated entity and each affiliated person listed by the registrant.
- 2) Any business entity required to register under Section 20-160 of the Procurement Code shall provide a copy of the registration certificate, by first class mail, e-mail or hand delivery within 10 days after the addition of any affiliated entity or affiliated person whose identity is required to be disclosed, to that affiliated person or entity. The delivery of the registration certificate to a minor child who is an affiliated person shall be accomplished by providing it as described in this Section to either parent or the legal guardian of the minor child. The business entity shall document in writing the date of submission of the certificate of registration to the appropriate entities and persons.
- 3) Any business entity required to register under Section 20-160 of the Procurement Code shall notify each political committee to which it makes a contribution, in writing at the time of the contribution, that the business entity is registered with SBEL under Section 20-160. The business entity shall document in writing the date of submission of the notice of registration to the appropriate political committee. A copy of the certificate of registration may serve as the required written notice.
- 4) Any affiliated entity or affiliated person of a business entity required to register under Section 20-160 of the Procurement Code shall notify each political committee to which it makes a contribution that it is affiliated with a business entity registered with SBEL under Section 20-160 and the business entity with which it is affiliated. The notification shall be in writing and shall occur at the time the contribution is made to the committee. The affiliated entities or persons shall document in writing the date of submission of the notice of registration to the appropriate political committee. A copy of the certificate of registration may serve as the required written notice.
- 5) In the determination of a complaint alleging a failure to comply with any notification requirement contained in this subsection (e), the failure of a party responsible for providing the required notification to submit written

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documentation of compliance shall create a rebuttable presumption of noncompliance against that party.

- f) Pursuant to Section 30-ILCS 500/20-160 of the Procurement Code, each bid submitted to and every contract executed by the State on or after January 1, 2009 shall contain:
- 1) A certification by the bidder or contractor that either:
 - A) the bidder or contractor is not required to register as a business entity with SBEL pursuant to this Section; or
 - B) the bidder or contractor has registered as a business entity with SBEL and acknowledges a continuing duty to update the registration; and
 - 2) A statement that the contract is voidable under Section 50-60 of the Procurement Code as a result of the bidder's or contractor's failure to comply with Section 20-160 of the Procurement Code.
- g) A business entity whose aggregate bids and proposals on State contracts annually total more than \$50,000, or whose aggregate bids and proposals on State contracts combined with the business entity's aggregate annual total value of State contracts exceed \$50,000, has a continuing duty to ensure that the registration is accurate during the period beginning on the date of registration and ending on the day after the contract is awarded. Any change of information, including but not limited to changes in affiliated entities or affiliated persons, must be reported to SBEL within 5 business days following the change or no later than a day before the contract is awarded, whichever date is earlier (see Section 100.185(a)).
- h) A business entity whose contracts with State agencies, in the aggregate, annually total more than \$50,000 has a continuing duty to ensure that the registration is accurate for the duration of the term of office of the incumbent officeholder awarding the contract or for a period of 2 years following the expiration or termination of the contract, whichever is longer.
- 1) Any change in information, including but not limited to changes in affiliated entities or affiliated persons, shall be reported to SBEL on a

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quarterly basis within 10 business days following the final day of January, April, July and October of each year (see Section 100.185(c)).

- 2) If a business entity required to register under Section 20-160(d) of the Procurement Code has a pending bid or proposal on a State contract, then any change in information shall be reported to SBEL within 5 business days or no later than a day before the contract is awarded, whichever date is earlier (see Section 100.185(c)).
- i) Pursuant to Section 30 ILCS 500/20-160 of the Procurement Code, as to any bid or proposal for a contract with a State agency, the Chief Procurement Officer shall verify that the business entity is required to register and is in compliance with the registration requirements as of the date the bid or proposal is submitted, a copy of the business entity's certificate of registration must accompany any bid or proposal for a contract with a State agency by a business entity required to register. The chief procurement officer of the State agency shall not accept a bid or proposal unless:
 - 1) the business entity is in compliance with the registration requirements as of the date the bid or proposal is submitted~~the certificate of registration is submitted to the agency with the bid or proposal;~~ or
 - 2) a statement that the bidder or contractor is not required to register as a business entity with SBEL is submitted to the agency with the bid or proposal.
 - j) A registration, and any changes to a registration, must include the business entity's verification of accuracy.
 - k) The requirements of this Section apply regardless of the method of source selection used in awarding the contract.
 - l) ~~SBEL will keep and maintain the paper registrations filed in accordance with P.A. 95-1038 and the emergency rules enacted by SBEL in its principal office in Springfield for a period of 3 years following the creation of the electronic registration system on August 1, 2009. The public may view these paper registration submissions of business entities at SBEL's principal office in Springfield during normal business hours. Copies of registrations of business entities submitted to SBEL shall also be available for public inspection at SBEL's~~

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~~principal office in Springfield. The searchable database provided for in Section 9-35 of the Election Code shall be accessible to the public at all times following its creation.~~

m) Inactive Status

- 1) The provisions of this subsection apply to a business entity required to register with SBEL under Section 20-160 of the Procurement Code, that had an existing contract or had bid on a contract within the time periods set out in subsection (h), and that had a duty to maintain the accuracy of its registration. A business entity that has registered with SBEL may change its status to "inactive" provided that:
 - A) the entity bid on a contract the value of which exceeded the \$50,000 qualifying threshold, but was not awarded that contract;
 - B) the entity had a combination of bids and contracts that exceeded the \$50,000 qualifying threshold; however, the entity was not awarded the contract and/or the two year period following the expiration of the contract has lapsed or the term of office of the officeholder responsible for awarding the contract has concluded;
or
 - C) the entity ~~had~~has contracts exceeding the \$50,000 qualifying threshold; however, the two year period following the expiration of the contract has lapsed or the term of office of the officeholder responsible for awarding the contract has concluded.
 - D) the entity was not required to register as a business entity but did so anyway, provided that the reason for the registration was not to qualify for use of the Illinois Procurement Gateway (IPG) offered by the Chief Procurement Officer – General Services. The entity may not change its status to "inactive" until its registration through the IPG has expired.
- 2) Nothing in this Section shall affect the duty of a business entity to update its registration when required to do so, nor remove the entity from the prohibition against making contributions to the officeholder responsible for awarding the contract.

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- 3) This "inactive" designation shall be determined by the business entity. The Board shall provide a form in an electronic format accessible on the SBEL website for the entity to indicate that it is currently in inactive status. The form shall include the name and address of the entity; the contract or bid that created the obligation to register with ~~the~~ SBEL, ~~a~~ as well as the agency or office that was responsible for awarding the contract, or, if the entity was not required to register with ~~the~~ SBEL, a designation that registration was not required; and the beginning date on which the obligation to update the entity's registration relative to each contract or bid no longer existed. The form shall be signed by the Chief Executive Officer of the business entity or his/her designee, or a person who serves in that capacity, indicating that the signatory verifies that the entity qualifies to be in inactive status based on the criteria contained in this subsection (~~1m~~).
- 4) In the event a business entity that had previously declared its inactive status on the form prescribed by subsection (~~1m~~) (3) submits a bid for a State contract whose value ~~exceeds~~ ~~exceed~~ \$50,000, the entity shall rescind its inactive status prior to submitting a bid, shall update its registration so that the information required by Code Section 9-35(b)(1), (2) and (3) ~~of the Election Code~~ is current. In addition, the entity shall abide by the contribution prohibitions contained in Section 50-37(b) and (c) of the Procurement Code. The rescinding of an entity's inactive status shall be on an electronic form accessible on the SBEL website.
- ~~m~~) The complaint provisions contained in Code Sections 9-20 through 9-22 ~~of the Election Code~~ shall apply to complaints filed alleging a violation of this Section.

(Source: Amended at 39 Ill. Reg. _____, effective _____)

Section 100.185 Assessment of Civil Penalties

- a) The provisions of Code Sections 9-20 through 9-24 ~~of the Election Code~~ relating to complaints for violations of Article 9 of the Election Code shall apply to complaints for violations of Section 9-35(c) (failure to re-register electronically within 60 days following the establishment of the electronic registration system), Code Section 9-35(d) (failure to notify affiliated persons and entities of a business entity that the business entity is registered with the Board) and ~~Section 9-35(e)~~

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(the intentional, willful or material failure to disclose required registration information and failure to update a registration), except that the complaint shall be directed to the registered agent of the business entity or its chief executive officer. In addition, the provision of Code Section 9-21 pertaining to the 60 day period prior to an election shall not apply to complaints filed under this Section. Willful or intentional failure to disclose material information on a business entity's registration shall subject that entity to a civil penalty assessed by the Board not to exceed \$5,000 per occurrence. If the Board determines that a business entity has intentionally, willfully or materially failed to disclose required information on its registration, it shall refer that determination to the chief procurement officer of the agency or agencies that accepted a bid or entered into a contract with that business. Failure to provide notice under Code Section 9-35(d) is a business offense, the penalty for which shall not to exceed \$1,001.

- b) The provisions of 26 Ill. Adm. Code 125, Subparts A, B and C shall apply to complaints filed against business entities.
- c) Failure to update a registration as required by Section 20-160(d) and (e) of the Procurement Code and Section 100.180(i)(1) and (2) of this Part (any change in information must be reported to SBEL within 10 business days following the last day of the quarterly period or within 5 business days following that change or no later than a day before the contract is awarded, whichever date is earlier), will result in a \$1,000 per day penalty for each day the information remains unreported. For purposes of this Section, the information required to be updated is the information required of a business entity under Code Section 9-35(b) ~~of the Election Code~~, including name and address of the business entity and any affiliated person or entity. ~~In the event a request is made to view a paper-based Illinois Business Registration prior to its release to the requestor, SBEL will redact any information pertaining to minor children that is included on the paper based registration.~~
- d) Any penalty assessed against a business entity by SBEL for violation of Code Section 9-35 ~~of the Election Code~~ shall be paid within 30 days after the assessment of the penalty. The 30 day period shall commence on the date the letter is sent by SBEL to the business entity assessing the penalty. Any assessed penalty that remains unpaid more than 30 days after the issuance of the final order assessing the penalty shall be posted on the SBEL website, indicating the name of the business entity owing the penalty and stating that the penalty remains unpaid.

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(Source: Amended at 39 Ill. Reg. _____, effective _____)

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Section 100.APPENDIX A Contributions Allowed Per Election Cycle**Section 100.TABLE A Contribution Limits Per Election Cycle**

- a) CANDIDATE POLITICAL COMMITTEE
- 1) ~~\$5,300~~\$5,000 from an individual
 - 2) ~~\$10,500~~\$10,000 from a corporation, labor organization or association
 - 3) ~~\$52,600~~\$50,000 from a candidate political committee or political action committee
 - 4) No limits from political party committee except during an election cycle in which the candidate seeks nomination at a primary election
 - 5) During an election cycle in which the candidate seeks nomination at a primary election, a political party committee may contribute:
 - A) ~~\$210,500~~\$200,000 to a candidate for statewide office
 - B) ~~\$131,600~~\$125,000 to a candidate for Senate, Supreme or Appellate Court in Cook County, county-wide office in Cook County
 - C) ~~\$78,900~~\$75,000 to a candidate for House of Representatives, Supreme or Appellate Court outside of Cook County, county-wide office outside of Cook County, and local candidates within Cook County
 - D) ~~\$52,600~~\$50,000 to any other candidate
- b) POLITICAL PARTY COMMITTEE
- 1) ~~\$10,500~~\$10,000 from an individual
 - 2) ~~\$21,100~~\$20,000 from a corporation, labor organization or association
 - 3) ~~\$52,600~~\$50,000 from a political action committee

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- 4) No transfers permitted between legislative caucus committees
 - 5) ~~Primary Election Only (petition circulation through election)~~
 - A) ~~\$50,000 from a candidate political committee~~
 - B) ~~\$50,000 from another political party committee~~
 - 5C) ~~A~~ Not applicable if political party committee is not participating in election; a political party committee may accept contributions in any amount from a candidate committee or political party committee if the political party committee receiving the contribution filed a statement of nonparticipation in the primary
 - 6) No limits on transfers between a State political committee and a federal political committee
- c) POLITICAL ACTION COMMITTEE
- 1) \$10,500~~\$10,000~~ from an individual
 - 2) \$21,100~~\$20,000~~ from a corporation, labor organization, political party committee or association
 - 3) \$52,600~~\$50,000~~ from a political action committee or candidate political committee
- d) BALLOT INITIATIVE COMMITTEE
- No limits from any source – cannot contribute to any other type of committee
- e) INDEPENDENT EXPENDITURE COMMITTEE
- No limits from any source – cannot make direct contributions or coordinated expenditures.

(Source: Amended at 39 Ill. Reg. _____, effective _____)

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Section 100.APPENDIX A Contributions Allowed Per Election Cycle**Section 100.TABLE B Election Cycles**

- a) CANDIDATE POLITICAL COMMITTEE
- 1) Support candidate to be elected at a general primary election or general election
 - A) Beginning January 1 following a general election for office to which candidate seeks nomination or election and ending on day of general primary election for that office, or
 - B) Beginning day after a general primary election for the office to which the candidate seeks nomination or election and through December 31 following the general election
 - 2) Support candidate for General Assembly
 - A) Beginning January 1 following a general election and ending on day of next general primary election, or
 - B) Beginning day after a general primary election and ending on December 31 following a general election (2 year)
 - 3) Support candidate for retention
 - A) Beginning January 1 following general election when candidate was elected through day candidate files declaration of intent to seek retention, or
 - B) Beginning day after candidate files declaration of intent to seek retention through December 31 following retention election
 - 4) Support candidate to be elected at consolidated primary election or consolidated election (also applies to candidates in municipal or runoff elections in cities of 1,000,000 or more population, occurring on the dates of the regularly scheduled consolidated primary election or consolidated election)

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- A) Beginning July 1 following thea consolidated election for the office to which the candidate seeks election and ending on the day of the next consolidated primary election for that office, or
- B) Beginning the day after the consolidated primary election for the office to which the candidate seeks nomination or election and ending on June 30 following the consolidated election held that year
- b) POLITICAL PARTY COMMITTEE
- Beginning January 1 and ending on December 31 of each calendar year (1 calendar year)
- c) POLITICAL ACTION COMMITTEE
- Beginning January 1 and ending on December 31 of each calendar year (1 calendar year)
- d) BALLOT INITIATIVE COMMITTEE
- Beginning January 1 and ending on December 31 of each calendar year (1 calendar year)
- e) INDEPENDENT EXPENDITURE COMMITTEE
- Beginning January 1 and ending on December 31 of each calendar year (1 calendar year)

(Source: Amended at 39 Ill. Reg. _____, effective _____)

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- 1) Heading of Part: Practice and Procedure
- 2) Code Citation: 26 Ill. Adm. Code 125
- 3)

<u>Section Numbers:</u>	<u>Proposed Action:</u>
125.20	Amendment
125.40	Amendment
125.110	Amendment
125.252	Amendment
125.425	Amendment
125.430	Amendment
125.440	Amendment
- 4) Statutory Authority: Section 1A-8(9) of the Illinois Election Code [10 ILCS 5/12A]
- 5) A Complete Description of the Subjects and Issues Involved: This rulemaking establishes penalties to be assessed against Independent Expenditure committees that make impermissible direct contributions and expenditures consistent with the provisions set forth in PA 97-766; makes technical changes to the notice provisions of Board assessed penalties and third party complaints; and allows documents and motions to be filed by email, if agreed to by all parties.
- 6) Published studies or reports, and sources of underlying data, used to compose this rulemaking: None
- 7) Will this rulemaking replace any emergency rule currently in effect? No
- 8) Does this rulemaking contain an automatic repeal date? No
- 9) Does this rulemaking contain incorporations by reference? No
- 10) Are there any other proposed rulemakings pending on this Part? No
- 11) Statement of Statewide Policy Objectives: This rulemaking does not create or expand a State mandate as defined in Section 3(b) of the State Mandates Act [30 ILCS 805/3(b)].
- 12) Time, Place and Manner in which interested persons may comment on this proposed rulemaking: Interested persons may present their comments concerning this proposed rulemaking in writing within 45 days after publication of this Notice to:

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Ken Menzel, General Counsel
Illinois State Board of Elections
2329 S. MacArthur Blvd.
Springfield IL 62708

217/782-4141
kmenzel@elections.il.gov

- 13) Initial Regulatory Flexibility Analysis:
- A) Types of small businesses affected: None
 - B) Reporting, bookkeeping or other procedures required for compliance:
Accounting, bookkeeping or legal experience if appearing before the board.
 - C) Types of professional skills necessary for compliance: Accounting, bookkeeping or legal experience if appearing before the board.
- 14) Regulatory Agenda on which this rulemaking was summarized: This rulemaking was not included on either of the two most recent Agendas because at the time the Regulatory Agenda was required to be filed, this rulemaking was not anticipated.

The full text of the Proposed Amendments begins on the next page:

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TITLE 26: ELECTIONS

CHAPTER I: STATE BOARD OF ELECTIONS

PART 125

PRACTICE AND PROCEDURE

SUBPART A: DEFINITION AND GENERAL PROVISIONS

Section	
125.5	Applicability
125.10	Definitions
125.15	Board Offices and Business Hours
125.20	Documents Pertaining to Hearings
125.30	Form of Documents
125.40	Service of Documents
125.50	Computation of Time
125.55	Time of Notices
125.60	Appearances
125.70	Non-Legal Assistance
125.75	Parties
125.80	Answer
125.90	Qualifications of Hearing Officer
125.95	Authority of Hearing Officer
125.100	Disqualification of Hearing Officer
125.110	Motions
125.115	Consolidation and Severance of Claims: Additional Parties
125.120	Amendments
125.130	Intervention
125.135	Pre-hearing Conferences
125.140	Settlement Pursuant to Conference
125.150	Record of Conferences
125.160	Continuances
125.170	Order of Proceedings
125.175	Failure of Party to Appear
125.180	Evidence
125.185	Official Notice
125.190	Examination of Adverse Party or Agent
125.192	Participation by Board Members and Staff
125.195	Hostile Witnesses

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- 125.197 Admission of Business Records in Evidence
125.199 Compelling Appearance at Hearing

SUBPART B: CLOSED PRELIMINARY HEARINGS

- Section
125.210 Applicability
125.220 Commencement of Proceeding
125.230 Form of Complaint
125.235 Board Members as Complainants
125.240 Service of Complaint
125.245 Appointment of Hearing Officer – Order of Closed Preliminary Hearing
125.250 Time of Preliminary Hearing (Repealed)
125.252 Scope of Preliminary Hearing – Procedures – Evidence
125.253 Responsibilities of the General Counsel
125.254 Stipulated Settlement
125.255 Transcript of Preliminary Hearing (Repealed)
125.260 Report of Hearing Examiner (Repealed)
125.262 Board Determination
125.265 Judicial Review
125.270 Record of Preliminary Hearing on Appeal Administrative Review
125.272 Order of Public Hearing
125.275 Time and Conduct of Public Hearing (Repealed)

SUBPART C: PUBLIC ADJUDICATIVE HEARINGS

- Section
125.310 Applicability
125.320 Initiation of Hearing
125.330 Appointment of Hearing Officer
125.340 Notice of Hearing
125.350 Discovery Procedures
125.360 Subpoenas
125.370 Transcript of Proceedings
125.380 Official Record
125.390 Briefs and Oral Argument

SUBPART D: FINAL ORDERS

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Section

- 125.410 Hearing Officer's Report
- 125.420 Order of the Board; Civil Penalties
- 125.425 Civil Penalty Assessments
- 125.430 Enforcement Actions in the Circuit Court
- 125.440 Reconsideration
- 125.445 Public Database of Founded Complaints

SUBPART E: INVESTIGATIONS, INQUIRIES AND HEARINGS
PURSUANT TO SECTION 9-18

Section

- 125.510 Applicability (Repealed)
- 125.520 Staff Review and Enforcement of Reporting Requirements
- 125.530 Compliance Conference
- 125.540 Staff Initiated Complaint (Repealed)
- 125.550 Investigations, Inquiries or Hearings

SUBPART F: RULEMAKING AND NON-ADJUDICATIVE HEARINGS

Section

- 125.610 Applicability
- 125.620 Adoption of Rules
- 125.630 Rulemaking Hearings
- 125.640 Notice of Hearing
- 125.650 Conduct of the Hearing
- 125.660 Examination of Witness
- 125.670 Record
- 125.680 Report of Hearing

SUBPART G: ADVISORY OPINIONS

Section

- 125.710 Advisory Opinions
- 125.720 Reconsideration of Advisory Opinions
- 125.730 Public Availability of Advisory Opinion
- 125.740 Conflict Between this Part and the IAPA

SUBPART H: MISCELLANEOUS PROVISIONS

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Section	
125.810	Ex Parte Communications
125.820	Effective Date (Repealed)
125.830	Interpretation
125.840	Severability

AUTHORITY: Implementing and authorized by Sections 1A-8(9), 9-15(3), 9-21 and 9-23 of the Election Code [10 ILCS 5/1A-8(9), 9-15(3), 9-21 and 9-23].

SOURCE: Adopted at 5 Ill. Reg. 12115, effective October 26, 1981; amended at 7 Ill. Reg. 230, effective December 16, 1982; amended at 7 Ill. Reg. 239, effective December 16, 1982; amended at 7 Ill. Reg. 15803 and 15810, effective November 9, 1983; codified at 8 Ill. Reg. 3278; amended at 9 Ill. Reg. 4050, effective March 14, 1985; amended at 14 Ill. Reg. 10832, effective June 22, 1990; amended at 16 Ill. Reg. 6986, effective April 21, 1992; amended at 19 Ill. Reg. 6546, effective May 1, 1995; emergency amendment at 23 Ill. Reg. 1122, effective January 7, 1999, for a maximum of 150 days; amended at 23 Ill. Reg. 6807, effective May 24, 1999; amended at 24 Ill. Reg. 14203, effective September 11, 2000; emergency amendment at 28 Ill. Reg. 1408, effective January 5, 2004, for a maximum of 150 days; emergency expired June 2, 2004; amended at 29 Ill. Reg. 18796, effective November 7, 2005; amended at 30 Ill. Reg. 6337, effective April 3, 2006; amended at 30 Ill. Reg. 10266, effective June 1, 2006; amended at 31 Ill. Reg. 16738, effective December 14, 2007; amended at 35 Ill. Reg. 2351, effective February 4, 2011; amended at 39 Ill. Reg. _____, effective _____.

SUBPART A: DEFINITIONS AND GENERAL PROVISIONS

Section 125.20 Documents Pertaining to Hearings

- a) All documents, including but not limited to complaints, notices and motions, permitted or required to be filed with the Board in connection with any proceeding before the Board shall be filed with the office of the General Counsel.
- b) All documents permitted or required to be filed with the office of the General Counsel may be filed either:
 - 1) by personal delivery to the Board's principal office located in Springfield, Illinois or the Board's permanent branch office located in Chicago, Illinois; ~~or~~

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- 2) by mail, postage prepaid with the United States Postal Service, addressed to the General Counsel at the Board's principal office or permanent branch office in Chicago; or,
 - 3) by e-mail, if agreed to by all parties.
- c) All documents filed by mail shall be deemed filed as of the date and time the documents are actually received by the office of the General Counsel. If that office customarily and regularly utilizes a time-date stamp for the recording of the receipt of documents, the time and date stamp impression affixed to any filed document shall be prima facie evidence that the document was filed on the date and at the time shown by the stamp.

(Source: Amended at 39 Ill. Reg. _____, effective _____)

Section 125.40 Service of Documents

Except as provided in Section 125.240, whenever this Part requires any document to be served upon a party or other person, service shall be complete when the document is served by abode service as provided in the Civil Practice Law [735 ILCS 5/2-203(a)], in person upon the party or his or her attorney or designated representative, or deposited for mailing with the United States Postal Service, postage prepaid, registered or certified, addressed to the party at his or her last known address, or by e-mail, if agreed to by all parties.

(Source: Amended at 39 Ill. Reg. _____, effective _____)

Section 125.110 Motions

- a) Unless made orally on the record during a hearing, or unless the Hearing Officer directs otherwise, motions shall be in writing and accompanied by any affidavits or other matters relied upon. The original copy of all motions shall be served upon the Hearing Officer and copies shall be served upon all other parties to the proceeding and the General Counsel. In addition, motions may also be submitted by e-mail, if agreed to by all parties.
- b) A party may file a response in support of or in opposition to a motion within such time as the Hearing Officer directs. If no response is filed, the parties shall not be deemed to have waived objections to the motion. Service of a response shall be the same as provided in subsection (a).

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- c) No oral argument will be heard on a motion unless the Hearing Officer directs otherwise.
- d) The Hearing Officer shall rule upon all motions, except that he or she shall have no authority to make a recommendation to the Board to dismiss or decide a hearing on the merits, without granting all parties to the proceeding a right to be heard and to establish a record.
- e) Unless otherwise ordered by the Board, the filing of a motion shall not stay the proceeding or extend the time for the performance of any act.
- f) A party may participate in the proceedings without waiving any jurisdictional objection.

(Source: Amended at 39 Ill. Reg. _____, effective _____)

SUBPART B: CLOSED PRELIMINARY HEARINGS

Section 125.252 Scope of Preliminary Hearing – Procedures – Evidence

The closed preliminary hearing is not an adjudication, but shall be an inquiry to elicit evidence on whether the complaint was filed on justifiable grounds and has some basis in fact and law.

- a) The closed preliminary hearing shall be conducted by the Hearing Officer.
- b) Minutes of the closed preliminary hearing shall be kept by the Board staff and signed by the Hearing Officer. A party may record the proceedings by employing his or her own court reporter or otherwise recording the hearing. Minutes of the closed preliminary hearing shall be made available to any party upon request.
- c) The closed preliminary hearing need not be strictly adversarial in nature.
 - 1) Any person offering evidence, written or oral, shall affirm to the Hearing Officer that his or her evidence is true to the best of his or her information and belief;
 - 2) Evidence may be submitted in narrative form;

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- 3) The Hearing Officer shall not be bound to follow rules of evidence acceptable in an Illinois court of record, but may admit and rely upon for his or her recommendation evidence or information of a type commonly relied upon by reasonably prudent men in the conduct of their affairs, as provided by Section 10-40(a) of the Illinois Administrative Procedure Act [5 ILCS 100/10-40(a)];
 - 4) The complainant bears the burden of introducing evidence or information sufficient under subsection (c)(3) for the Board to conclude that the complaint has been filed on justifiable grounds;
 - 5) The complainant will ordinarily present evidence or information supporting the complaint first in order. The complainant will present his or her case first, except when convenience to the Hearing Officer or the respondent requires the respondent to proceed first. The consent, in such cases, of the complainant will be required. The respondent may then present any information or evidence; and
 - 6) The Hearing Officer may ask the complainant or respondent any questions relevant to the charges of the complaint. Any question is relevant if it has the possibility of eliciting an answer that tends to make the ultimate fact of justifiable grounds more or less likely.
- d) At the close of the hearing, the Hearing Officer shall summarize his or her conclusions concerning the evidence and information represented and draft a recommendation to the Board addressing whether the complaint was filed on justifiable grounds. The Hearing Officer shall also attach to the minutes any documents tendered to the Board during the hearing, and submit his or her recommendation and the minutes to the Board for their consideration. The Hearing Officer shall send a copy to the General Counsel.
 - e) The Hearing Officer shall have no authority to rule on any questions of law raised by the complainant or respondent, but shall note in the minutes all such matters for the Board's disposition.
 - f) At any time before the Hearing Officer submits the recommendation and minutes, the complainant and respondent may settle the matters between them, subject to the approval of the Board. If the Board or a member of its staff is the complainant, the Hearing Officer shall have the authority to enter into a stipulation for

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settlement pursuant to Section 125.254 ~~of this Part~~, subject to Board approval.

- g) No additional evidence shall be considered by the Hearing Officer after the conclusion of the closed preliminary hearing.

(Source: Amended at 39 Ill. Reg. _____, effective _____)

SUBPART D: FINAL ORDERS

Section 125.425 Civil Penalty Assessments

- a) A report required to be filed within a specified time pursuant to Code Section 9-10 ~~of the Election Code~~ is delinquent if not received by the Board on or before the due date. Documents are deemed received by the Board as of the date stamped by Board staff on the documents submitted.
- b) If a report is or continues to be delinquent, it is subject to a civil penalty as set out in subsection (d) ~~of this Section~~.
- c) When a report required by Code Section 9-10 ~~of the Election Code~~ is delinquent, the Board will send by first class mail a notice of delinquency to the chairman and the treasurer of each delinquent political committee, together with an order assessing a civil penalty calculated in accord with subsection (d). The notice of delinquency and order shall also be sent by certified mail to ~~any candidate listed by name on~~ that committee's address ~~Statement of Organization~~. The notice of delinquency shall state that the Board has issued a civil penalty that will be final unless the committee shows cause in accord with subsection (e) why the penalty should not be assessed.
- d) The Board will calculate the civil penalty as follows:
- 1) If the committee's total receipts, total expenditures, and balance remaining at the end of the reporting period for which the delinquent report was due are each \$5000 or less, and if the delinquent report is a quarterly report, the political committee shall be assessed a fine of \$25 per business day for the first violation, \$50 per business day for the second violation, and \$75 per business day for the third and each subsequent violation, to a maximum of \$5000. However, the civil penalty for any committee shall not exceed \$1000 for a first time offense involving a filing that is less than

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10 days late.

- 2) If the committee's total receipts, total expenditures, or balance remaining at the end of the reporting period for which the delinquent report was due exceeds \$5000, and if the delinquent report is a quarterly report, the political committee shall be assessed a fine of \$50 per business day for the first violation, \$100 per business day for the second violation, and \$200 per business day for the third and each subsequent violation, to a maximum of \$5000. However, the civil penalty for any committee shall not exceed \$1000 for a first time offense involving a filing that is less than 10 days late.
- 3) In the situation described in subsection (d)(1) or (d)(2), no civil penalty shall be assessed against a committee if the report is mailed and postmarked at least 72 hours prior to the filing deadline.
- 4) When considering the amount of the civil penalty to be imposed, the Board shall consider all relevant factors, including, but not limited to:
 - A) Whether, in the Board's opinion, the violation was committed inadvertently, negligently, knowingly or intentionally; and
 - B) Past violations of Article 9 of the Election Code by the committee. Past violations of any committee composed of one or more of the same officers, or for the same purpose or for the support of the candidacy of the same person, irrespective of office, as the committee currently being assessed a civil penalty shall be considered relevant factors when considering the amount of the civil penalty to be imposed.
- 5) If the delinquently filed report is a Schedule A-1 (report of contributions of \$1000 or more), in the final disposition of any appeal of a penalty assessed by the Board for the delinquency, the Board will consider assessing a civil penalty as follows:
 - A) In the case of a willful or wanton violation, the Board shall impose a penalty of no less than 10% and no more than 150% of the total amount of the contributions that were delinquently reported.

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- B) When considering the amount of the civil penalty to be imposed under subsection (d)(5)(A), the Board shall consider the following factors:
- i) the number of days the contribution was reported late; and
 - ii) past violations of Code Sections 9-3 and 9-10 ~~of the Election Code~~ by the committee. Past violations of any committee composed of one or more of the same officers, or for the same purpose or for the support of the candidacy of the same person, irrespective of office, as the committee currently being assessed a civil penalty shall be considered relevant factors when considering the amount of the civil penalty to be imposed.
- C) In the case of negligent or inadvertent violations, the Board may:
- i) impose a fine not to exceed 50% of the total amount of the delinquently reported contributions; or
 - ii) waive the fine.
- D) When considering the amount of the civil penalty to be imposed under subsection (d)(5)(C), the Board shall consider the following factors:
- i) Whether the political committee made an attempt to disclose the contribution and any attempts to correct the violation;
 - ii) Whether the violation was attributed to a clerical or computer error;
 - iii) The amount of the contribution;
 - iv) Whether the violation arose from a discrepancy between the date the contribution was reported transferred by a political committee and the date the contribution was received by a political committee;

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- v) The number of days the contribution was reported late; and
 - vi) Past violations of Code Sections 9-3 and 9-10-~~of the Election Code~~ by the political committee. Past violations of any committee composed of one or more of the same officers, or for the same purpose or for the support of the candidacy of the same person, irrespective of office, as the committee currently being assessed a civil penalty shall be considered relevant factors when considering the amount of the civil penalty to be imposed.
- 6) If the delinquently filed report is a Statement of Organization (form D-1), the Board shall assess a civil penalty of \$50 for each business day that the report remains unfiled after its due date. The penalties shall not exceed \$5,000.
- 7) If an independent expenditure committee makes a contribution in violation of Code Section 9-8.6(d), the Board shall assess a fine equal to the amount of any contributions received in excess of the contribution limits for that particular contributor, during the two years preceding the date of the first contribution made in violation of the Act during a given quarterly reporting period. A committee that wishes to appeal the assessment may do so pursuant to this Section.
- e) In addition to the civil penalties provided for in Code Section 9-10(b) and (c)-~~of the Election Code~~, a committee or organization required to report under the Election Code may, for violations of provisions of Article 9 of the Election Code other than delinquent filing, be assessed a civil penalty under the provisions of Code Section 9-23-~~of the Election Code~~ and this subsection (e). The Board will calculate civil penalties in accord with subsection (d). A committee that violates both Code Section 9-10 of the Election Code and an order of the Board may be liable for separate penalties for each violation. In cases of alleged violation of an order of the Board brought under the provisions of Code Section 9-23-~~of the Election Code~~, the Board will mail to each committee or organization alleged to be in violation of a Board order notice of a proposed civil penalty calculated in accord with the terms of this Part, which proposed penalty shall become effective without further proceedings unless the committee or organization receiving the notice contests the proposed civil penalty. A political committee assessed a civil

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penalty under Code Section 9-10(b) or (c) for being delinquent in filing a required report or that has received notice of a proposed civil penalty for violation of a Board order under Code Section 9-23 may:

- 1) submit, within 30 calendar days after the mailing of the assessment notice, a request for waiver of appearance and appeal affidavit, in the form provided by the Board, stating the reasons for requested waiver of appearance and the reasons for the late filing or violation of the Board order, as the case may be, to show why a civil penalty should not be assessed. This appeal affidavit shall either be in writing, made under oath and upon penalty of perjury sworn to before a notary public or any person authorized to administer oaths, or be made pursuant to Section 1-109 of the Code of Civil Procedure [735 ILCS 5/1-109]; or
 - 2) submit, within 30 calendar days after the mailing of the assessment notice, a request for hearing and appeal affidavit, in the form provided by the Board, stating the reasons for the late filing or violation of the Board order, as the case may be, to show why a civil penalty should not be assessed. This appeal affidavit shall either be in writing, made under oath and upon penalty of perjury sworn to before a notary public or any person authorized to administer oaths, or be made pursuant to Section 1-109 of the Illinois Code of Civil Procedure; or
 - 3) pay, within 30 days after the mailing of the assessment notice, the civil penalty assessed. If an appeal affidavit is filed, with or without waiver of appearance, the civil penalty shall not be due until the appeal is determined by the Board.
- f) Post-Appeal Hearing Defense or Evidence
- 1) Any defense and any accompanying evidence upon which the appeal is based that is presented to the Board following an appeal hearing, either by personal appearance before or a written appeal submitted to a Hearing Officer, shall be limited to the defense and evidence that was presented at the appeal hearing. The defense and evidence shall include, but not be limited to, interpretation of statute and rules, consideration of written or oral testimony tendered at the appeal hearing and consideration of documentary evidence tendered at the hearing.

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- 2) Any defense and accompanying evidence that was not known, and could not reasonably be expected to have been known, by the respondent at the time of the appeal hearing may be presented to the Board. The Board may, upon motion or on its own motion, remand the defense and evidence back to the original Hearing Officer, or may submit it to a new Hearing Officer for consideration. If an issue exists as to the applicability of this exception, the Board shall rule upon the issue immediately after presentation of the disputed defense and evidence. The respondent in the case shall be given an opportunity to demonstrate to the Board that the disputed defense and evidence was not known at the time of the appeal hearing and the respondent should not have been expected to have been aware of the defense and evidence at the time of the appeal hearing.
- 3) Nothing in this Part shall be construed to prevent the respondent from being represented by counsel at the presentation before the Board when the counsel did not represent the respondent at the appeal hearing. Counsel shall be licensed to practice law in the State of Illinois as required by Section 125.60 ~~of this Part~~.
- g) If a political committee or organization required to report under the provisions of Article 9 of the Election Code that is subject to a civil penalty fails, within the time required, to make payment in full of the assessed civil penalty, then the Board shall proceed with efforts at collection pursuant to the Illinois State Collection Act of 1986 [30 ILCS 210]. The Board shall not hear an appeal of a civil penalty imposed for delinquent filing or the violation of a Board order if neither a request for waiver of appearance and appeal affidavit nor a request for hearing and appeal affidavit is filed within the time required. If an appeal affidavit is received and is not accompanied by either a request for hearing or waiver of appearance, it shall be presumed that the committee has waived the right to personally appear and the Hearing Officer shall base his or her recommendation on the defense presented on the appeal affidavit.
- h) Notwithstanding any provision of this Section to the contrary, the Board shall stay the enforcement of any civil penalty in cases of first time violation of a filing deadline and shall stay the enforcement of a civil penalty for the violation of a Board order when the committee or organization has voluntarily entered into a stipulation admitting the violation and agreeing to the civil penalty. The stay shall continue only so long as no subsequent violations of Article 9 of the Election Code or of Board orders occur. Violation of Article 9 of the Election Code or a

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Board order will cause the civil penalty otherwise stayed to become immediately due and may expose the committee or organization to further liability in accord with this Section.

- i) For the purpose of this Section, second and subsequent violations are deemed to occur with reference to the time the first offense event occurs, not when a hearing, if any is required, concerning the first offense event is held. The Board may consider two or more allegations of violations at the same hearing, treating the first as an initial violation and the remaining as subsequent violations, imposing appropriate civil penalties for each.
- j) Notwithstanding any other provision of this Section:
 - 1) if an active political committee or organization is assessed no more than one civil penalty under Code Section 9-10 during a two year period, it shall, after two years have lapsed following the assessment, be considered as never having violated Code Section 9-10. For a single violation, the two year period begins to run with the date of the final Board order mailing of the assessment letter. If an active political committee or organization is assessed more than one civil penalty and has paid all assessed civil penalties, it shall be considered for assessment purposes as not having violated Code ~~that~~ Section 9-10 if it is assessed no other civil penalty during a two year period following receipt of payment by the Board;
 - 2) if a committee or organization is assessed a single penalty under Code Section 9-10 and subsequently files a final report or has filed a final report prior to the assessment, during the two year period beginning with the date of ~~the assessment letter, or the final Board order if the assessment is appealed and the appeal is denied~~, any successor committee or organization shall be considered, for assessment purposes, as not having violated Code Section 9-10 if it is assessed no other penalty;
 - 3) if a committee or organization is assessed more than one penalty under Code Section 9-10 and subsequently files a final report or has filed a final report prior to the assessment, and the political committee or organization has not paid the civil penalties, any successor committee or organization that subsequently pays all civil penalties due shall be considered as never having violated Code Section 9-10 if, for two years from the date of receipt of payment by the Board, the successor committee or organization

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is assessed no other civil penalty;

- 4) If a committee or organization is assessed more than one penalty under Code Section 9-10 and subsequently files a final report or has filed a final report prior to the assessment, and the political committee or organization has not paid the civil penalties, the two year period shall begin with the date of the final Board order, unless the final report is filed subsequent to the date of the final Board order, in which case the two year period shall begin with the date the final report is received by the Board. If no successor committee is formed during that period, the committee shall be considered for assessment purposes as not having violated Code Section 9-10.
- k) Upon notice by the Hearing Officer or upon request by any party, the Hearing Officer may direct parties or their attorneys to appear at a specified time and place for a conference, either during or prior to any hearing, for purposes including, but not limited to:
- 1) the formulation and simplification of issues;
 - 2) the necessity or desirability of amending the assessment notice for the purpose of clarification or correction;
 - 3) the possibility of stipulations concerning material facts;
 - 4) the limitations of the number of witnesses;
 - 5) other matters as may aid in the simplification of evidence and the disposition of the proceeding.

(Source: Amended at 39 Ill. Reg. _____, effective _____)

Section 125.430 Enforcement Actions in the Circuit Court

- a) Whenever the Board, pursuant to Code Sections 9-21 and 9-23 of the Election Code, has issued an order directing a person determined by the Board to be in violation of Article 9 or any rule or regulation adopted under that statute to cease or correct a violation or otherwise comply with Article 9, and the Board imposes a civil penalty for failure or refusal to comply with its order within the specified

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time, the Board ~~may~~ shall enforce the civil penalty by filing with the Circuit Court a petition for an order to enforce collection of the penalty.

- b) The Board may also petition the Circuit Court to issue an order compelling compliance with an order issued by the Board, or to restrain or prohibit a person who is engaging or has engaged in acts or practices that constitute a violation of any provisions of Article 9 from engaging in those acts or practices.

(Source: Amended at 39 Ill. Reg. _____, effective _____)

Section 125.440 Reconsideration

Any member of the Board, or any party affected by a final order of the Board, may file a written motion to reconsider. The motion shall set forth in specific detail the grounds alleged for reconsideration and must be filed with the Board not later than 7 days after the effective date of the Board's order, subject to Section 1.6 of the Election Code.

- a) A Motion to Reconsider a Final Board Order imposing a civil penalty for a delinquently filed report or reports, when the respondent failed to timely file an appeal of the penalty, must state the reasons the respondent failed to submit an appeal in a timely manner. Motions that simply state the basis for the appeal itself, had it been submitted, will be denied by the Board as failing to state adequate grounds for reconsideration of the final Board order.
- ~~b~~a) Oral argument shall be permitted on the motion only at the Board's discretion.
- ~~c~~b) The Board may consider, discuss and take action upon the motion through a conference telephone call in lieu of an in-person meeting. Notice shall be given to the media in advance of the conference call, the call shall be broadcast over a speaker phone or other similar device at both the permanent and branch offices of the Board, and the broadcast shall be open to the media and public. The entire conference call shall also be recorded by a certified court reporter.

(Source: Amended at 39 Ill. Reg. _____, effective _____)