

TITLE 26: ELECTIONS
CHAPTER I: STATE BOARD OF ELECTIONS

PART 100
CAMPAIGN FINANCING

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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)].

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.

Section 100.10 Definitions

- a) Anything of Value
 - 1) Reference: This Part interprets or applies Sections 9-1.4, 9-1.5 and 9-1.12 of the Election Code [10 ILCS 5/9-1.4, 9-1.5, 9-1.12].
 - 2) The term "anything of value", as used in Sections 9-1.4, 9-1.5 and 9-1.12 of the Election Code, includes all things, services or goods regardless of whether they may be valued in monetary terms according to ascertainable market value.
 - 3) "Anything of value" which does not have an ascertainable market value may be reported by describing the thing, services or goods contributed, however nothing in this subsection (a)(3) relieves a committee or a contributor of the duty to provide as accurate an assessment of value as possible.
 - 4) 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 semi-annual 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.
 - 5) In addition to the items expressly excluded in the Election Code, the term "anything of value" shall not be deemed to include:
 - A) 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;
 - B) Any news story, commentary, endorsement or editorial of any broadcasting station, newspaper, magazine or other periodical publication;

- C) Any regular publication by a membership organization, labor union or corporation to its officers, employees, members or stockholders, so long as the membership organization or corporation is not organized primarily for the purpose of influencing nomination for election, or election, of any candidate, or supporting or opposing any question or questions of public policy. However, publications of an extraordinary or special nature to support or oppose a candidate or candidates or a question or questions of public policy would constitute a campaign contribution or expenditure;
 - D) The occasional use of real property for the purpose of conveying information to officers, employees, members or stockholders and their families of a person or whoever as defined in Section 9-1.6 of the Election Code and as defined in Section 100.10(b) of this Part, 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 their families;
 - E) Unrealized appreciation or loss of value of investments during the period they are held.
- b) Assets
- 1) Reference: This definition of asset interprets or applies to Section 9-5 of the Election Code.
 - 2) An asset is an item of property, other than cash or services, of whatever kind, tangible or intangible, that has either a fair market or salvage value in excess of \$150.
- c) Candidate
- 1) Reference: This subsection (c) interprets or applies Section 9-1.3 of the Election Code.
 - 2) "Candidate" as that term is defined in Section 9-1.3 of the Election Code [10 ILCS 5/9-1.3] shall include, but not be limited to:
 - A) A person who circulates or authorizes the circulation of nominating petitions on his behalf for public office;

- B) An individual who receives contributions or makes expenditures or gives consent for any other person to receive or make expenditures with a view to bringing about his nomination for election or re-election to any office;
 - C) Any judicial incumbent who qualifies for retention.
- d) Filing
- 1) To constitute a "filing" as used in the Election Code and this Part, the statement, report or document must be in apparent and substantial conformity with the requirements of the Election Code. "Apparent and substantial conformity" requires that the filing contain the following:
 - A) The signature of the person making the filing;
 - B) Completion of all applicable sections of the report; and
 - C) Attachment of all appropriate schedules.
 - 2) Inadvertent error or omission of a de minimus nature in the completion of report, statement or document shall not be deemed to a "willful failure to file or a willful filing of false or incomplete information" pursuant to Section 9-26 of the Election Code.
- e) Statement of Organization
- 1) Reference: This provision interprets Sections 9-3 and 9-7.5 of the Election Code [10 ILCS 5/9-3 and 9-7.5].
 - 2) 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.
- f) Person or Whoever
- 1) Reference: This subsection (f) interprets or applies Section 9-1.6 of the Election Code.
 - 2) The terms "other organizations" and "groups of persons" as defined in

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, unless any of these groups, other than labor unions, are nonprofit organizations as defined in subsection (i) and Section 100.130.

- g) Political Committee
 - 1) Reference: This subsection (g) interprets or applies Section 9-1.9 of the Election Code.
 - 2) A person or whoever, as defined in Section 9-1.6 of the Election Code [10 ILCS 5/9-1.6] and as defined in subsection (b) 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.
 - 3) If a person or whoever solicits or receives funds for political purposes or acts as a conduit for political funds, he or she would, in fact, become a political committee and have to comply with all provisions of Article 9 of the Election Code.
- h) Signature
 - 1) Reference: This subsection (h) interprets or applies to Sections 9-4, 9-7.5, 9-12 and 9-14 of the Election Code.
 - 2) The term "signature" or "signed" as used in Article 9 of the Election Code, and as used in the rules and regulations implementing the Election Code, includes electronic signatures attached and made a part of electronic records submitted to the State Board of Elections pursuant to Section 9-28 of the Election Code.
- i) "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.
- j) "Nonprofit Organization" means any organization that is organized on a nonprofit or not-for-profit basis that is on file or should be on file with the Business Service Division of the Illinois Secretary of State as required by the General Not-For-Profit Corporation Act of 1980 [805 ILCS 105], a not-for-profit corporation as

defined under section 501 of the Internal Revenue Code (26 USC 501), organization as defined in section 527 of the Internal Revenue Code (26 USC 527), or organization registered with the Charitable Trust Bureau of the Attorney General's Office (see 760 ILCS 55). Nonprofit organization also applies to any organization that operates as or holds itself out as a nonprofit organization such that it would be required to register with the appropriate regulating authority, regardless if it has taken affirmative action to obtain proper recognition. Nonprofit organization also applies to any out-of-state organization meeting its state's requirements.

- k) "Original Source of Money" means a contributor who makes a contribution directly to the nonprofit organization as defined in Section 9-1.4 of the Election Code.

(Source: Amended at 30 Ill. Reg. 17496, effective November 3, 2006)

Section 100.20 Official Forms

- a) Reference: This Section interprets or applies Sections 9-7.5, 9-10(a) and 9-15(1) of the Election Code.
- b) Political committees are required to use only the official forms or photostatic 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 30 Ill. Reg. 17496, effective November 3, 2006)

Section 100.30 Forwarding of Documents (Repealed)

(Source: Repealed at 16 Ill. Reg. 6982, effective April 21, 1992)

Section 100.40 Vacancies in Office - Custody of Records

Reference: This Section interprets or applies Sections 9-2, 9-5, 9-7, 9-7.5, 9-10 and 9-15 of the Election Code.

- a) Death

Upon the death of the treasurer of a committee, the candidate or, if such candidate is unable or unwilling to act, the remaining officers of the committee shall appoint a new treasurer and so 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 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 committee, provided such removal be done in writing and that the candidate comply with all requirements of the Act in the absence of officers for his candidate related committee. If a candidate removes from office any or all officers of his committee, all records related to the committee shall be maintained by the candidate. If former officers request, he 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 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 of the filing indicating that such substituted signature is authorized and the treasurer accepts responsibility as if he 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 such documents in derogation of the rights of the committee itself.

- 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 such 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 which fails to preserve its records and accounts required by 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 24 Ill. Reg. 14214, effective September 11, 2000)

Section 100.50 Multiple Filings by State and Local Committees

- a) Reference: This Section interprets or applies Sections 9-3 and 9-10 of the Election Code.
- b) A political committee that acts as both a State political committee and local political committee shall file each original Statement of Organization, Form D-1, as required by Sections 9-3 and 9-4 of the Election Code, and any other appropriate reports with the State Board of Elections, and shall file a copy of each and any other appropriate reports with the county clerk, except that political committees that file their reports electronically need not file copies of their D-2 reports, as required by Sections 9-11, 9-12, 9-13 and 9-14 of the Election Code, with the county clerk if the county clerk is participating in the electronic filing waiver program. A county clerk is eligible to participate in this program if he or she has a system that can access electronically and duplicate the reports that are on file with the State Board of Elections. Political committees, however, must continue to file copies of their D-1 Statement of Organization forms and any written correspondence with the county clerk.

- c) When determining their filing obligations, it is the responsibility of political committees to verify whether the county clerk is participating in the electronic filing waiver program.
- d) Any State committee that elects to support or oppose any local candidate or a question of public policy and exceeds an aggregate amount of \$3000 for local candidates or a question of public policy shall file an amended Statement of Organization, Form D-1, indicating that it is now a State and local committee and shall comply with all local filing requirements. In the event the State and local committee ceases to support local candidates, it shall file an amended D-1 indicating that it is now a State political committee and shall submit a letter informing the county clerk that it will no longer be active in that county.
- e) Any local committee that elects to support or oppose any State candidate or a question of public policy and exceeds an aggregate amount of \$3000 for State candidates or \$3000 for a question of public policy shall file an amended Statement of Organization, Form D-1, indicating that it is now a State and local committee and shall comply with all State filing requirements. In the event the State and local committee ceases to support State candidates, it shall file an amended D-1 indicating that it is now a local political committee and shall submit a letter to the State Board of Elections informing the Board that it will no longer be active statewide.

(Source: Amended at 28 Ill. Reg. 18785, effective November 7, 2005)

Section 100.60 Filing Option for a Federal Political Committee

- a) Reference: This Section interprets or applies Section 9-15 of the Election Code.
- b) Any "person" or "whoever" as defined by 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, county clerk, or both, as the case may be.
- 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 committee also qualifying as a State 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 federal political committee also qualifying as a local political committee under Article 9 of the Election Code shall simultaneously file a copy of all Federal Election Commission reports with the local county clerk.
- 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 29 Ill. Reg. 18785, effective November 7, 2005)

Section 100.70 Reports of Contributions and Expenditures

- a) Reference: This Section interprets or applies Sections 9-10, 9-13, and 9-14 of the Election Code.
- b) For purposes of determining the amount of contributions in excess of \$500 under Section 9-10(b-5) of the Election Code, all contributions received between the last date of the period covered by the last report filed prior to the election and the election from a single person, as defined in Section 9-1.6, shall be aggregated and treated as one.
- 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, must include by way of detail or separate entry the amount of funds passing to each vendor, business entity or person to receive funds from the payment, together with the reason for each disbursement and the beneficiary of the disbursement. 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 of the Election Code.
- d) Pre-Election and A-1 Reports
 - 1) Every active political committee must file a pre-election report and A-1 reports, as required by Sections 9-10(b) and 9-10(b)(5) of the Election Code, in conjunction with every next election unless:

- A) the political committee is not, by the terms of its D-1 Statement of Organization, organized to support or oppose a candidate or public question on the ballot at the next election; and
 - B) the political committee does not make expenditures in excess of \$500, including in-kind contributions, on behalf of or in opposition to any candidate or public question on the ballot at an election.
- 2) An active political committee that meets the requirements of subsections (d)(1)(A) and (B) shall be deemed a nonparticipating political committee and may file, in lieu of a pre-election report, a Statement of Non-Participation for the next election (see Section 9-10 of the Election Code).
- e) A committee that, having filed a Statement of Non-Participation, makes an 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 on behalf of a question of public policy that will appear on the ballot at the next election shall file a pre-election report within five days after making the expenditure, or if the expenditure that triggers the requirement to file a pre-election report is made during the five days immediately prior to the election, within 24 hours after making the expenditure. In addition to filing a pre-election report, the committee shall timely file a Schedule A-1 for each contribution exceeding \$500, beginning with the date the expenditure that triggered the obligation to file a pre-election report was made.

(Source: Amended at 30 Ill. Reg. 10261, effective June 1, 2006)

Section 100.80 Report Forms

- a) Reference: This Section interprets or applies Sections 9-13, 9-14 and 9-16 of the Election Code.
- b) All reports submitted by political committees pursuant to the Act shall either be typed or printed legibly in black ink.
- c) Computer sheets filed in lieu of forms or schedules shall not exceed 8 1/2" x 14". They shall be rejected if not camera ready.

(Source: Amended at 24 Ill. Reg. 14214, effective September 11, 2000)

Section 100.90 Provision Circumvention

- a) Reference: This Section interprets or applies Section 9-26 of the Election Code.

- b) The State Board of Elections will view any attempt to circumvent the clear intentions of the Act by means of subterfuge as violations of the Act.
- c) Examples of such circumvention would be:
 - 1) A person or whoever organizes ten separate committees and then directs the treasurers of those committees not to accept or expend more than \$3000;
 - 2) A candidate sets up multiple committees for the primary purpose of avoiding the itemization requirements of the Act;
 - 3) A person or whoever organizes a committee to elect Joe Doe for State Senator. He then terminates the committee and organizes a new committee called the All Illinois Committee to Elect Joe Doe for State Senator and has as his primary purpose the intent to raise campaign funds in this manner to avoid disclosure of contributors.

(Source: Amended at 24 Ill. Reg. 14214, effective September 11, 2000)

Section 100.100 Proof of Identification; Application for Inspection and Copying (Repealed)

(Source: Repealed at 24 Ill. Reg. 14214, effective September 11, 2000)

Section 100.110 Loans by One Political Committee to Another

- a) If a political committee lends or donates funds to a second political committee while the lending or donating committee owes the State Board of Elections a civil penalty assessed under the provisions of Section 9-7.5, 9-10, 9-23, or 9-26 of the Election Code [10 ILCS 5/9-7.5, 9-10, 9-23, 9-26], the officers of the lending committee shall be jointly and severally personally liable to the extent allowed by law for payment of the civil penalty to the extent of the funds loaned or given.
- b) If a political committee goes out of existence while it owes the State Board of Elections a civil penalty assessed under Section 9-7.5, 9-10, 9-23, or 9-26 of the Election Code [10 ILCS 5/9-7.5, 9-10, 9-23, 9-26], any political committee formed within 24 months from the date of the final order imposing a civil penalty assessment on the first committee and 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 first committee, shall be deemed a successor committee and shall be responsible for payment of the civil penalty of the first committee.

- c) A political committee that seeks to go out of existence while it is owed money by another political committee must first forgive the debt of the debtor political committee and must amend its reports to show the forgiven debt as a contribution to the debtor committee.
- d) If a political committee seeks to go out of existence after a civil penalty has been imposed upon it pursuant to the Election Code and the rules promulgated under the Election Code, or if a civil penalty has been assessed by Board staff and such a proceeding is begun or about to begin, the political committee must first pay the civil penalty, or if it lacks sufficient funds to pay the civil penalty in full, pay to the State Board of Elections such sums as it has in its treasury in satisfaction of the civil penalty. Only upon payment of the civil penalty, either in full or in part, as the case may be, shall the committee be permitted to exit the reporting system established by Article 9 of the Illinois Election Code [10 ILCS 5/Art. 9].

(Source: Amended at 30 Ill. Reg. 17496, effective November 3, 2006)

Section 100.120 Receipt of Campaign Contributions

- a) Every person or political committee which makes any expenditure in excess of \$50 on behalf of a candidate or political committee, or contributes goods or services in excess of \$50 directly to a committee or indirectly to another on behalf of a committee, shall certify to the treasurer of the political committee within five business days after making the contribution. The certificate shall include the name and address of the person or political committee making the expenditure; the name and address of the entity to whom the expenditure was made; the amount of ascertainable market value of the expenditure; a description of the goods or services; and the date the expenditure was made. The ascertainable market value of goods and services assigned by the donor in the certificate, or if there is no certificate, by the recipient committee, shall be prima facie correct unless rebutted by clear and convincing evidence.
- b) An entity defined by Section 9-1.6 of the Election Code or a political committee as defined by Sections 9-1.7, 9-1.8 or 9-1.9 of the Election Code shall acknowledge, to the donor, receipt of any such notice it receives conforming to the requirements of subsection (a) of this Section. No committee shall retain an in-kind contribution it has knowingly received unless it also receives the certificate required by subsection (a) of this Section unless return of the contribution is impossible. If the donor of the expenditure does not comply with subsection (a) of this Section and if the in-kind contribution cannot be returned, the beneficiary political committee shall nonetheless have the responsibility to report such in-kind contributions or expenditures from the donor 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 cash contribution to a political committee is deemed to have been received on the date the contribution was actually received by the candidate, Chairman or Treasurer of the committee or the public official. A contribution of 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. An in-kind contribution of goods or services, possession of which is not actually obtained by the recipient committee, shall be deemed to be received 2 days after the date the certificate required by subsection (a) of this Section is received, or if no certificate has been received, 2 days after the date information comes into the possession of the candidate, Chairman or Treasurer of the recipient committee or the public official from which the person receiving the information knows or should reasonably know of the in-kind contribution.

(Source: Amended at 23 Ill. Reg. 6796, effective May 24, 1999)

Section 100.125 Receipt by Mail of Pre-Election and Semiannual Reports of Campaign Contributions and Expenditures

- a) Pre-election and semiannual reports of campaign contributions and expenditures must be received by the Board within the filing periods set forth in 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 Section 9-10 of the Election Code and 26 Ill. Adm. Code 125.425. However, pursuant to Section 9-10(b) and (c) of the Election Code, if the envelope containing the reports contains 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 either of the Reports named in subsection (a) of this Section 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 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 either of the reports 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.
- 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 shall 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 shall hear and determine the appeal as it deems appropriate.

(Source: Added at 31 Ill. Reg. 7142, effective May 1, 2007)

Section 100.130 Reporting by Certain Nonprofit Organizations

- a) A nonprofit organization is required to submit financial reports to the State Board of Elections if it:
 - 1) is not a labor union;
 - 2) has not established a political committee; and
 - 3) accepts or spends more than \$5000 in any 12-month period in the aggregate:
 - A) supporting or opposing candidates for public office or questions of public policy that are to appear on a ballot at an election; and/or
 - B) for electioneering communications.
- b) Except as provided in subsection (d), each nonprofit organization required to register under Section 9-7.5 of the Election Code [10 ILCS 5/9-7.5] shall file pre-election reports of contributions and semi-annual reports of contributions and expenditures at the same times, covering the same reporting periods and containing the same information regarding contributors and recipients of

expenditures as required of political committees pursuant to Section 9-10 of the Code. Nonprofit organizations shall be subject to the same civil penalties as political committees for the delinquent filing or non-filing of the reports as set forth in Section 9-10 of the Election Code and 26 Ill. Adm. Code 125.425. Each nonprofit organization:

- 1) must file all required reports with the State Board of Elections;
 - 2) is not required to report donations of more than \$500 on a Schedule A-1 within the 30-day period prior to an election; and
 - 3) shall designate a chairman and treasurer who shall constitute the principal officers as required in Section 9-7.5(a)(3) of the Election Code.
- c) Nonprofit organizations may cease filing disclosure reports with the Board if they:
- 1) have filed two consecutive semi-annual reports in which they have not made any contributions or expenditures that supported or opposed any candidate or referenda, or made any electioneering communications;
 - 2) have determined they will no longer make any contributions or expenditures to support or oppose any candidate or referenda, or for electioneering communications; and
 - 3) have submitted a letter informing the State Board of Elections that they will no longer function as a nonprofit political organization as defined in Section 9-7.5 of the Election Code.
- d) To comply with the specific reporting provisions of Section 9-7.5(b) of the Election Code, nonprofit organizations may establish a separate nonprofit political committee whose exclusive function is to receive or make contributions and/or make expenditures to support or oppose candidates or questions of public policy. To facilitate this option, nonprofit organizations shall create a separate segregated fund in which contributions shall be deposited or made as defined in Section 9-1.4 of the Election Code and from which expenditures shall be dispersed as defined in Section 9-1.5 of the Election Code. If a nonprofit organization chooses this option, the disclosure of any deposits of money into the segregated fund shall report the original source of the money and not the name of the nonprofit organization.
- e) Reports containing the information required by statute shall be submitted on forms designed and supplied by the State Board of Elections or upon computer-

generated forms conforming to those designed by the State Board of Elections. Pursuant to Section 9-28 of the Election Code, each nonprofit organization that exceeds the threshold of \$10,000 must continue to report electronically until it dissolves.

(Source: Amended at 30 Ill. Reg. 17496, effective November 3, 2006)

Section 100.140 Prohibited Contributions – State Property

- a) Upon receipt of a notice of violation of Section 5-35 of the State Officials and Employees Ethics Act [5 ILCS 430/5-35], the State Board of Elections may assess a penalty not to exceed 100% of the value of the contribution giving rise to the violation. In determining whether to assess a penalty and the amount of a penalty, the Board shall consider any mitigating or aggravating factors contained in the notice, including but not limited to the number of past violations of the Act, the amount of the contribution and whether, in the Board's view, the violation was unintentional or willful.
- b) Persons against whom a penalty has been assessed by the Board may appeal the penalty. The provisions of 26 Ill. Adm. Code 125.425 governing the appeal procedures for violations of Article 9 of the Election Code [10 ILCS 5/9] shall apply to appeals of penalties assessed under this Section.

(Source: Amended at 29 Ill. Reg. 18785, effective November 7, 2005)

Section 100.150 Electronic Filing of Reports

- a) The State Board of Elections will make software available to committees required to report electronically under 10 ILCS 5/9-28.
- b) Once a committee exceeds the threshold that requires it to report electronically, it must continue thereafter 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 Section 9-28 of the Election Code, it must continue to file all reports (semiannual, amended semiannual, pre-election, amended pre-election, final, amended final, Schedule A-1) 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 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 delinquently 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.

(Source: Amended at 31 Ill. Reg. 7142, effective May 1, 2007)

Section 100.160 Good Faith

- a) For purposes of this Section, "contributor" includes the terms "lender" and "endorser". A committee acts in good faith under 10 ILCS 5/9-7.5, 9-11, 9-12, 9-13, and 9-14 if:

- 1) its written solicitation for funds includes a clear written request for the name of the contributor's employer and the occupation of the contributor;
 - 2) in the event it receives a contribution lacking the name of the contributor's employer and occupation of the contributor in circumstances in which the information is required, it makes at least one effort to obtain the missing information; and
 - 3) in the event its request for information is unanswered, the committee includes in its report the best and most current information it may have from whatever source, including its own records and earlier reports, about the name of the contributor's employer and the occupation of the contributor.
- b) The request shall appear in a clear and conspicuous manner on any response material contained in the solicitation.
 - c) An effort to obtain missing information must be in writing, or be made orally and documented by writing, and must be made on or before the close of the reporting period in which the contribution or loan was received. The request must clearly ask for the missing information and must contain no other language except thanks to the contributor or lender for the contribution or loan. If the request is in writing, it must be accompanied by a pre-addressed return postcard or envelope.
 - d) If the name of the employer of a contributor that is required to be reported under Article 9 of the Election Code is unknown at the time the contribution must be reported and a good faith effort has been made to secure that information, the contribution may be reported without the information. However, if the omitted information subsequently becomes known to the committee, the report that omits the information must be amended to add the information.
 - e) For the purpose of this Section, "employer" includes all natural and non-natural persons, including but not limited to corporations, partnerships and unincorporated associations.

(Source: Amended at 30 Ill. Reg. 17496, effective November 3, 2006)

Section 100.170 Sponsoring Entity

- a) A sponsoring entity is a person that contributes not less than 33% of the total funding of any political committee at any time during a semi-annual reporting period following the 30th day after the committee has filed its statement of organization.

- b) Person includes natural persons, corporations, partnerships, political committees and unincorporated associations.
- c) Total funding means the sum of the funds available at the beginning of the reporting period and the total receipts for the semi-annual reporting period.
- d) Total receipts means any contributions as defined in Section 9-1.4 of the Election Code that are received by the committee.
- e) Each political committee shall include in its name the name of any sponsoring entity.
- f) If, at any time during a semi-annual reporting period, a committee that has not previously identified a sponsoring entity receives 33% of its total funding during that semi-annual reporting period from a single person, the committee must amend its Statement of Organization to identify the sponsoring entity.
- g) A political committee, the name of which includes the name of the candidate supported by the committee, the name of an established political party as that term is used in Article 7 of Election Code, or the name of a new political party as that term is used in Article 10 of the Election Code satisfies the requirements of this Section without the need for further statement of sponsoring entity in the name of the committee.
- h) A political committee is not a sponsoring entity if it is organized by an established political party as that term is used in Section 10-2 of the Election Code, a partisan caucus of either house of the General Assembly, the Speaker or Minority Leader of the House of Representatives or the President or Minority Leader of the Senate in their official capacities (see Section 9-3 of the Election Code).
- i) The name of the sponsoring entity shall be the full name of the person, and not an acronym.
- j) A committee is required to identify its sponsoring entity so long as it receives not less than 33% of its total funding from a single person. A committee may amend its Statement of Organization to delete the name of its sponsoring entity from its name if, for two consecutive semi-annual reporting periods, it fails to receive not less than 33% of its total funding from a single person.
- k) If, at any time during a semi-annual reporting period, a committee that has identified a sponsoring entity receives not less than 33% of its total funding from a different single person than the person identified as its sponsoring entity, it shall

amend its Statement of Organization to include in its name the name of the new sponsoring entity.

- 1) If a committee receives support from two or more persons, each one of which would independently of the other meet the definition of a sponsoring entity, the name of the committee shall include all such persons.

(Source: Amended at 29 Ill. Reg. 18785, effective November 7, 2005)

Section 100.180 Business Entity Registration Procedures

- a) This Section and Section 100.185 are adopted to comply with Public Act 95-971. 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 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).
 - 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 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) Upon the establishment of a fully functional and statutorily compliant electronic registration system, business entities will be required to submit their registration forms electronically consistent with Section 9-35 of the Election Code. Within 60 days after the establishment of the electronic system, all business entities that have submitted their registrations via e-mail attachment or on paper shall re-

submit their registration electronically. SBEL will send notice to all such entities informing them that the electronic system has been established and setting a date on which the 60 day period is to begin. This re-registration requirement shall also affect any business entity that had previously registered with SBEL, but that is no longer required to be registered. At the time of re-submission, SBEL shall provide to the business entity an electronic certificate of registration.

- d) 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.
- e) 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 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.
- f) 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.
 - 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 certificate of registration to the appropriate political committee.

- 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 certificate of registration to the appropriate political committee.
 - 5) In the determination of a complaint alleging a failure to comply with any notification requirement contained in this subsection (f), the failure of a party responsible for providing the required notification to submit written documentation of compliance shall create a rebuttable presumption of noncompliance against that party.
- g) Pursuant to 30 ILCS 500/20-160, 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.
- h) 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)).

- i) 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 quarterly basis on the final day of January, April, July and October of each year, or the first business day after those dates, if those dates do not fall on a business day (see Section 100.185(a)).
 - 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(a)).
- j) Pursuant to 30 ILCS 500/20-160, 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 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.
- k) A registration, and any changes to a registration, must include the business entity's verification of accuracy.
- l) The requirements of this Section apply regardless of the method of source selection used in awarding the contract.
- m) 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 6 months following the creation of the electronic registration system. 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 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.

(Source: Added at 34 Ill. Reg. 274, effective December 15, 2009)

Section 100.185 Assessment of Civil Penalties

- a) The provisions of 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), 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) (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 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 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 (any change in information must be reported to SBEL 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 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 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.

(Source: Added at 34 Ill. Reg. 274, effective December 15, 2009)