

(b) In any case where the postal service is employed by a person subject to a registration requirement as the agent for transmittal of a statement, the burden is upon such person to show that a statement has been filed with the postal service.

(c) It is presumed until the contrary is established that the date shown by the postal service cancellation mark on the envelope containing the statement is the date that it was deposited in the mail.

History: Cr. Register, January, 1978, No. 265, eff. 2-1-78.

El Bd 1.42 Voluntary committees; scope of voluntary oath; restrictions on voluntary committees. (1) **NECESSITY OF VOLUNTARY OATH FOR INDEPENDENT CANDIDATE-RELATED ACTIVITIES.** No expenditure may be made or obligation incurred over \$25 in support of or opposition to a specific candidate unless such expenditure or obligation is treated and reported as a contribution to the candidate or the candidate's opponent, or is made or incurred by or through an individual or committee filing the voluntary oath specified in s. 11.06 (7), Stats.

(2) **SCOPE OF VOLUNTARY OATH.** A committee or individual filing the voluntary oath may make expenditures or incur obligations in support of or opposition to a candidate if the expenditures or obligations incurred are made in cooperation or consultation with any candidate or agent or authorized committee of a candidate who is supported or opposed, and in concert with, or at the request or suggestion of, any candidate or any agent or authorized committee of a candidate who is supported or opposed, so long as the expenditures or obligations are treated and reported as a contribution to such candidate. A committee or individual filing the voluntary oath is prohibited from making expenditures in support of or opposition to a candidate if the expenditures or incurred obligations are made in cooperation or consultation with any candidate or agent or authorized committee of a candidate who is supported or opposed, and in concert with, or at the request or suggestion of, any candidate or any agent or authorized committee of a candidate who is supported or opposed, and the expenditures or obligations are not reported as a contribution to such candidate.

(3) **TREATMENT AND REPORTING OF INDEPENDENT ACTIVITY BY VOLUNTARY COMMITTEE.** When a committee or individual filing the voluntary oath makes an expenditure or incurs an obligation in support of or in opposition to a candidate and the individual or committee does not act in cooperation or consultation with any candidate or agent or authorized committee of a candidate who is supported or opposed, and in concert with, or at the request or suggestion of, any candidate or any agent or authorized committee of a candidate who is supported or opposed, the expenditure or incurred obligation shall be treated and reported as an "independent disbursement" or "independent incurred obligation". When such disbursements or obligations are reported, the candidate in whose support or opposition the disbursement is made or obligation incurred should be identified on a separate schedule (EB-9) giving the name and address of the candidate, the amount, the date, and the purpose of the disbursement and an indication whether the candidate is supported or opposed.

(4) **AN INDIVIDUAL OR COMMITTEE MAY MAKE BOTH DIRECT CONTRIBUTIONS AND INDEPENDENT EXPENDITURES.** An individual or the committee filing the voluntary oath may make both direct contributions, and inde-

Register, March, 1985, No. 351

pendent expenditures on behalf of a candidate in support or opposition to a candidate as long as the direct contributions are within the contribution limits set out in s. 11.26, Stats., and the individual or committee making the independent expenditure does not act in cooperation or consultation with any candidate or agent or authorized committee or a candidate who is supported or opposed, and in concert with, or at the request or suggestion of, any candidate or any agent or authorized committee of a candidate who is supported or opposed.

(5) **SPECIAL DISCLAIMER REQUIREMENT.** A political message in support of or opposition to a candidate by a committee or individual not acting in cooperation or consultation with any candidate or agent or authorized committee of a candidate who is supported or opposed, and in concert with, or at the request or suggestion of, any candidate or any agent or authorized committee of a candidate who is supported or opposed shall contain, in addition to the ordinary identification required by s. 11.30 (2), Stats., the words: "The committee (individual) is the sole source of this communication and the committee (individual) did not act in cooperation or consultation with, and in concert with, or at the request or suggestion of any candidate or any agent or authorized committee of a candidate who is supported or opposed by this communication".

(6) **GUIDELINES.** (a) Any expenditure made on behalf of a candidate will be presumed to be made in cooperation or consultation with any candidate or agent or authorized committee of a candidate who is supported or opposed, and in concert with, or at the request or suggestion of, any candidate or any agent or authorized committee of a candidate who is supported or opposed and treated as an in-kind contribution if:

1. It is made as a result of a decision in which any of the following persons take part:

a. A person who is authorized to raise funds for, to spend the campaign funds of or to incur obligations for the candidate's personal campaign committee;

b. An officer of the candidate's personal campaign committee;

c. A campaign worker who is reimbursed for his expenses or compensated for his work by the candidate's personal campaign committee;

d. A volunteer who is operating in a position within a campaign organization that would make the person aware of campaign needs and useful expenditures; or

2. It is made to finance the distribution of any campaign materials prepared by the candidate's personal campaign committee or agents;

(b) The presumption in par. (a) may be rebutted by countervailing evidence that the expenditure is not made in cooperation or consultation with any candidate or agent or any authorized committee of a candidate who is supported or opposed, and in concert with, or at the request or suggestion of, any candidate or any agent or authorized committee of a candidate who is supported or opposed.

History: Cr. Register, January, 1978, No. 265, eff. 2-1-78; emerg. am. eff. 9-4-84; am. Register, March, 1985, No. 351, eff. 4-1-85.

El Bd 1.43 Referendum-related activities by committees; candidate-related activities by groups. (1) As used in this rule, "committee-group" Register, March, 1985, No. 351

means any committee which acts in support of or opposition to a referendum, and any group which acts in support of or opposition to a candidate.

(2) Any committee-group may consolidate referendum-related and candidate-related activity by:

(a) Filing a duplicate consolidated registration statement or amending a previously filed registration statement with the appropriate filing officer or officers, indicating all candidates and referenda supported or opposed, or

(b) Filing duplicate consolidated financial disclosure reports, which indicate the specific purpose of each expenditure so as to differentiate between expenditures intended to influence referenda and expenditures intended to influence the election or defeat of a candidate.

(3) A committee-group which consolidates activity pursuant to this rule is subject to those limits on the receipt of contributions to which it would be subject if it were operating solely as a committee.

(4) A committee-group which consolidates activity pursuant to this rule must have a single treasurer and a single depository.

(5) Notwithstanding the above, any committee-group may separate referendum-related and candidate-related activity by filing separate registration statements, separate financial disclosure reports, and by maintaining a separate depository for each type of activity.

History: Cr. Register, January, 1978, No. 265, eff. 2-1-78.

El Bd 1.44 Disbursement levels. (1) LIMITATION IMPOSED. Except as authorized in s. 11.50 (2) (i), Stats., applying to disbursement levels, no candidate for state office who files a sworn statement and application to receive a grant from the Wisconsin election campaign fund and who receives and accepts any such grant may make or authorize total disbursements from the campaign treasury in any campaign which exceed the amounts specified below.

(2) The following levels of disbursements are established with reference to the candidates listed below until the disbursement levels are adjusted pursuant to s. 11.31 (9), Stats. Except as provided in sub. (1), such levels do not operate to restrict the total amount of disbursements which are made or authorized to be made by any candidate in any primary or other election.

(a) Candidates for governor, \$302,025 in the primary, and \$704,725 in the election.

(e) Candidates for court of appeals judge, \$30,200 in the primary, and \$50,350 in the election.

(f) Candidates for state senator, \$32,225 total in the primary and election, with disbursements not exceeding \$20,125 for either the primary or the election.

(g) Candidates for representative to the assembly, \$16,100 total in the primary and election, with disbursements not exceeding \$10,075 for either the primary or the election.

(h) Candidates for circuit judge, \$80,550 total in the primary and election.

(i) In any jurisdiction or district, other than a judicial district or circuit, with a population of 500,000 or more, according to the most recent federal census covering the entire jurisdiction or district:

1. For the following county offices:

a. Candidates for county executive, \$251,700 total in the primary and election.

b. Candidates for district attorney, \$151,000 total in the primary and election.

c. Candidates for county supervisor, \$16,100 total in the primary and election.

d. Candidates for any other countywide elective office, not specified in counties of this size, \$100,675 total in the primary and election.

2. For the following offices in cities of the 1st class:

a. Candidates for mayor, \$251,700 total in the primary and election.

b. Candidates for city attorney, \$151,000 total in the primary and election.

c. Candidates for alderman, \$16,100 total in the primary and election.

d. Candidates for any other citywide office, \$100,675 total in the primary and election.

(j) Candidates for any local office who are elected from a jurisdiction or district with less than 500,000 inhabitants, according to the latest federal census or census information on which the district is based, as certified by the appropriate filing officer, an amount equal to the greater of:

a. \$1,000, or

b. 50.33 percent of the annual salary for the office sought, rounded to the nearest \$25, or

c. 30.2 cents per inhabitant of the jurisdiction or district, rounded to the nearest \$25, but in no event more than \$40,275 in the primary and election.

History: Emerg. cr. eff. 4-27-78; cr. Register, August, 1978, No. 272, eff. 9-1-78; emerg. am. eff. 2-19-80; emerg. am. eff. 6-17-80; emerg. am. eff. 2-18-82; emerg. r. and recr. eff. 5-1-84; am. Register, October, 1984, No. 346, eff. 11-1-84.

El Bd 1.45 Return of excess grant fund from Wisconsin election campaign fund after campaign. Pursuant to s. 11.50 (8), Stats., all grants from the Wisconsin Election Campaign Fund which are unspent and unencumbered by any candidate on the day after the election shall be returned to the state elections board within 90 days after the date of the election.

History: Cr. Register, February, 1985, No. 350, eff. 3-1-85.

El Bd 1.46 Identification of individual contributors on campaign finance reports. (1) The requirement contained in s. 11.06 (1) (a), Stats., to furnish the street address of a contributor who has made a contribution or

Register, March, 1985, No. 351

contributions aggregating more than \$20 in a calendar year includes the municipality and state as well as the street address. A complete postal address is sufficient to meet the disclosure requirement contained in the statute.

(2) The requirement contained in s. 11.06 (1) (b), Stats., to furnish the occupation and principal place of business, if any, of each individual contributor whose cumulative contributions for the calendar year are in excess of \$100 refers to the contributor's occupation and the name of the employing entity of the contributor. The listing of a business address only does not comply with the disclosure requirement of the statute.

History: Cr. Register, February, 1985, No. 350, eff. 3-1-85.

El Bd 1.50 Non-candidate committees collecting on behalf of a specific candidate and the voluntary oath. When a non-candidate committee accepts contributions on behalf of a specific candidate, it must file the voluntary oath in s. 11.06 (7), Stats., by which the committee's independence of the candidate is affirmed. A political action committee whose campaign finance reports show support of only one candidate is presumed to be accepting contributions in support of that candidate and required to file the voluntary oath in s. 11.06 (7), Stats., by which the committee's independence of the candidate is affirmed. That presumption may be overcome by countervailing evidence.

History: Cr. Register, June, 1979, No. 282, eff. 7-1-79.

El Bd 1.55 Reimbursement for campaign use of state vehicles. Whenever a state vehicle is used primarily for the purposes of campaigning in support of or in opposition to a candidate, there must be paid to the state treasurer the mileage fees specified in s. 20.916 (4) (a), Stats., or in the case of aircraft, an equitable fee determined by the secretary of administration. The obligation to reimburse the state shall be included on the campaign finance report covering the period during which the obligation was incurred.

History: Cr. Register, October, 1979, No. 286, eff. 11-1-79.

El Bd 1.56 Commercial sales by political registrants. (1) When a registrant receives donated items for resale the proceeds from the resale transaction shall be reported in the following manner:

(a) The receipt of the item shall be reported in the registrant's campaign finance report as an in-kind contribution and as an in-kind expenditure at the fair market value of the donated item;

(b) The resale of the item shall be reported in the registrant's campaign finance report as a contribution from the purchaser in the amount paid by the purchaser.

(c) The registrant must make a good faith effort to accurately reflect the fair market value of the item in its campaign finance report.

(2) When a registrant sells an item which it has purchased for resale to raise funds for political purposes, the entire amount of the proceeds of the sale shall be reported in the registrant's campaign finance report as a contribution from the purchaser.

(3) The proceeds from the sale of food and beverage at a fundraiser by a registrant shall be reported in the registrant's campaign finance report as a contribution from the purchaser.

Register, March, 1985, No. 351

(4) When items are sold, including food and beverage, at a cost that is less than \$10.00, the registrant should report the proceeds of the sales as contributions, but they may be listed as "unitemized contributions" in the campaign finance reports. A good faith effort does not require that records be kept of the identity of the purchaser of items where the cost is less than \$10.00.

(5) When a registrant disposes of tangible assets of the campaign by sale in a regular commercial transaction for fair market value, the proceeds of the sale shall be reported as "other income" in the registrant's campaign finance reports.

History: Cr. Register, February, 1985, No. 350, eff. 3-1-85.