

# **RULES ON INDEPENDENT EXPENDITURES**

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**TABLE OF CONTENTS**

§ 700 Definitions

§ 701 Registration by Independent Expenditure Committees

§ 702 Reporting of Independent Expenditures

§ 703 Out-of-State Independent Expenditure Committees

§ 704 Penalties

§ 705 Records Retention

§ 706 Administrative Expenses of Independent Expenditure Committees

## § 700 Definitions.

(a) **Contribution** – As used in these rules, the term “contribution” means, whether direct or indirect, advances, deposits, or transfers of funds, contracts, or obligations, whether or not legally enforceable, payments, gifts, subscriptions, assessments, payment for services, dues, advancements, forbearance, loans, pledge or promise of money or anything of value, whether or not legally enforceable, to a candidate, committee, or holder of elective office, made for the purpose of influencing the nomination or election of any candidate.

"Contribution" includes the purchase of tickets for events such as dinners, luncheons, rallies, and similar fundraising events; the granting of discounts or rebates by television stations, radio stations, and newspapers not extended on an equal basis to all candidates for the same office; and any payments for the services of any person serving as an agent of a candidate or committee by a person other than the candidate or committee or persons whose expenditures the candidates or committee must report under these rules. The term "contribution" further includes any transfer of anything of value received by a committee from another committee. "Contribution" shall not include noncompensated, nonreimbursed, volunteer personal services or travel.

(b) **Expenditure** – As used in these rules, the term “expenditure” means a purchase, payment, distribution, gift, loan, or advance of money or anything of value, and a contract, promise, or agreement to make an expenditure, made for the purpose of influencing the nomination or election of any candidate.

(c) **Independent Expenditure** – As used in these rules, the term “independent expenditure” means any expenditure which is not a contribution and expressly advocates the election or defeat of a clearly identified candidate for office; is made without arrangement, cooperation, or consultation between any candidate or any authorized committee or agent of the candidate and the person making the expenditure or any authorized agent of that person; and is not made in concert with or at the request or suggestion of any candidate or any authorized committee or agent of the candidate.

(d) **Independent Expenditure Committee** – As used in these rules, the term “independent expenditure committee” means any person who receives contributions from one (1) or more persons in order to make an independent expenditure and is registered pursuant to Ark. Code Ann. § 7-6-227 prior to making expenditures.

(e) **Person** – As used in these rules, the term “person” means any individual, proprietorship, firm, partnership, joint venture, syndicate, labor union, business trust, company, corporation, association, committee, or any other organization or group of persons acting in concert. It shall also include organized political parties as defined in Ark. Code Ann. § 7-1-101, county political party committees, and legislative caucus committees.

## § 701 Registration by Independent Expenditure Committees

(a)(1)(A) To qualify as an independent expenditure committee, the committee is required to register with the Secretary of State within fifteen (15) days after accepting contributions during a calendar year that exceed five hundred dollars (\$500) in the aggregate.

(B) Registration shall be annually renewed by January 15, unless the committee has ceased to exist.

(C) Registration shall be on forms provided by the Secretary of State, and the contents therein shall be verified by an affidavit of an officer of the committee.

(2)(A) The committee shall designate a resident agent who shall be an individual who resides in the State of Arkansas.

(B) No contribution shall be accepted from a committee and no expenditure shall be made by a committee that has not registered and does not have a resident agent.

(3) An out-of-state committee shall be required to comply with the registration and reporting provisions of these rules if the committee makes an independent expenditure or independent expenditures within the State of Arkansas that in the aggregate exceed more than five hundred dollars (\$500) during a calendar year.

(b) The registration form of an independent expenditure committee shall contain the following information:

(1) The name, address, and, where available, phone number of the committee and the name, address, phone number, and place of employment of each of its officers, provided if the committee's name is an acronym, then both it and the words forming the acronym shall be disclosed;

(2) The full name and street address, city, state, and zip code of each financial institution the committee uses for purposes of receiving contributions or making expenditures within the State of Arkansas;

(3) A written acceptance of designation as a resident agent;

(4) A certification by a committee officer, under penalty of false swearing, that the information provided on the registration is true and correct; and

(5) A clause submitting the committee to the jurisdiction of the State of Arkansas for all purposes related to compliance with the provisions of subchapter 2 of chapter 6, Title 7 of the Arkansas Code.

(c)(1) When a committee makes a change to any of the information required in § 701(b) of these rules, an amendment is required to be filed within ten (10) days to reflect the change.

(2) A committee failing to file an amendment shall be subject to a late filing fee of ten dollars (\$10.00) for each day the change is not filed.

**§ 702 Reporting of Independent Expenditures**

(a) A person who or an independent expenditure committee which makes independent expenditures in an aggregate amount or value in excess of five hundred dollars (\$500) in a calendar year shall file reports with the Secretary of State:

(1) No later than thirty (30) days prior to preferential primary elections, general elections, and special elections covering the period ending thirty-five (35) days prior to such elections;

(2) No later than seven (7) days prior to preferential primary elections, runoff elections, general elections, and special elections covering the period ending ten (10) days prior to such elections; and

(3) As for a final report, no later than thirty (30) days after the end of the month in which the last election is held at which the candidate seeks nomination or election.

(b) Such reports shall include:

(1) In the case of an individual making such an expenditure, the name, address, telephone number, principal place of business, employer, and occupation of the individual;

(2) In the case of a committee, the name, address, employer, and occupation of its officers;

(3) In the case of a person who is not an individual, the principal name of the entity, the address, and the name, address, employer, and occupation of its officers;

(4) The total amount of contributions received, with loans stated separately, and the total amount of expenditures made during the filing periods, and the cumulative amount of those totals;

(5) The name and address of each person who made a contribution or contributions that in the aggregate exceeded fifty dollars (\$50.00), the contributor's place of business, employer, occupation, and date of the contribution and the amount contributed;

(6) The contributor's principal place of business, employer, occupation, the amount contributed, the date the contribution was accepted by the committee, and the aggregate contributed for each election;

(7) The name and address of each person who contributed a nonmoney item, together with a description of the item, the date of receipt, and the value, not including volunteer service by individuals;

(8) An itemization of all single expenditures made which exceed one hundred dollars (\$100), including the amount of the expenditure, the name and address of any person to whom the expenditure was made and the date the expenditure was made;

- (9) A list of all paid workers and the amount the workers were paid;
  - (10) A list of all expenditures by categories, including, but not limited to:
    - (A) Television, radio, print, and other advertising;
    - (B) Direct mail;
    - (C) Office supplies;
    - (D) Rent;
    - (E) Travel;
    - (F) Expenses;
    - (G) Entertainment; and
    - (H) Telephone.
  - (11) The total amount of all nonitemized expenditures made during the filing period;  
and
  - (12) The current balance of committee funds.
- (c) The information required in § 702(b)(5)-(10) of these rules may be provided in the form of schedules attached to the report.

**§ 703 Out-of-State Independent Expenditure Committees**

An out-of-state independent expenditure committee is required to comply with the registration and reporting provisions of §§ 701-702 and is subject to the jurisdiction of the State of Arkansas for all purposes related to compliance with the provisions of subchapter 2 of chapter 6, Title 7 of the Arkansas Code, if the committee makes an independent expenditure or independent expenditures within the State of Arkansas that in the aggregate exceed more than five hundred dollars (\$500) during a calendar year.

**§ 704 Penalties**

If the Arkansas Ethics Commission finds that a person or an independent expenditure committee has committed a violation of Ark. Code Ann. § 7-6-220 and/ or Ark. Code Ann. § 7-6-227, then it may impose a fine of not less than fifty dollars (\$50.00) and not more than two thousand dollars (\$2,000) and/or issue a public letter of caution, warning, or reprimand. In addition, a committee failing to file an amendment within ten (10) days as required by § 701(c) shall be subject to a late filing fee of ten dollars (\$10.00) for each day the change is not filed.

**§ 705 Records Retention**

A person who or an independent expenditure committee which makes independent expenditures in the aggregate amount or value in excess of five hundred dollars (\$500) in a calendar year shall keep records of all contributions and expenditures in a manner sufficient to evidence compliance with these rules and Ark. Code Ann. § 7-6-220 (Reporting of Independent Expenditures) and

Ark. Code Ann. § 7-6-227 (Registration by Independent Expenditure Committee). With regard to independent expenditure committees, such records shall include the name, address, and place of employment of each person who contributed to the committee, along with the amount contributed. Furthermore, with regard to persons and independent expenditure committees, such records shall also include a description of each independent expenditure made, along with the amount of each expenditure.

**§ 706 Administrative Expenses of Independent Expenditure Committees**

It is permissible for an independent expenditure committee to pay reasonable administrative expenses out of the contributions it has received.