

Minnesota Campaign Finance and Public Disclosure Board

REQUEST FOR COMMENTS

Possible Adoption, Amendment, and Repeal of Rules Governing Campaign Finance Regulation and Reporting; Lobbyist Regulation and Reporting; Audits and Investigations; and Other Topics, *Minnesota Rules*, chapters 4501 through 4525; Revisor's ID Number 4809

Subject of Rules. The Minnesota Campaign Finance and Public Disclosure Board requests comments on its possible adoption of, amendment to, and repeal of rules governing campaign finance regulation and reporting, lobbyist registration and reporting, audits and investigations, and other topics including technical changes to and clarification of various rules.

The Board is considering rule adoptions, amendments, and repeals concerning campaign finance regulation and reporting that 1) establish how campaign finance filers may jointly purchase goods or services without making or receiving a donation in kind, as discussed in Advisory Opinions 452 and 436; 2) establish criteria that campaign finance filers must consider regarding the underlying sources of funding of an unregistered association that may make a contribution in determining whether the contribution may be accepted as discussed in Advisory Opinion 447; 3) clarify the circumstances under which vendors that electronically process monetary contributions to campaign finance filers are not making contributions to the recipients, and are not required to register with the Board as a political committee or fund, as discussed in Advisory Opinions 319, 369, and 434; 4) clarify whether a contributor who pays a processing fee when making a monetary contribution to a campaign finance filer has made a donation in kind to the recipient consisting of the amount of the fee as discussed in Advisory Opinion 434; 5) establish that a treasurer may group expenses together within campaign finance reports on a monthly basis if the expenses are for the same goods or services, from the same vendor, and all expenses incurred within a reporting period are disclosed through the end of that period; 6) establish criteria required in order for a candidate to be deemed not responsible for the actions of a vendor or subcontractors of a vendor hired by the candidate's committee, such as when those actions unintentionally result in coordinated expenditures; 7) amend *Minnesota Rules*, 4503.0900 to clarify the circumstances under which an equipment purchase by a principal campaign committee may not be classified as a noncampaign disbursement as discussed in Advisory Opinions 89, 127, 209, 211, and 228; 8) update rules within *Minnesota Rules*, chapter 4501 concerning electronic filing to reflect the Board's current electronic reporting systems; 9) establish a definition of the term "county office in Hennepin County" as used in *Minnesota Statutes*, section 10A.01, subdivision 10d; 10) establish a definition of the term "nomination" as used within *Minnesota Statutes*, chapter 10A; 11) delete the text "when notice required under subpart 4 is filed or" within *Minnesota Rules*, 4503.0200, subpart 5, because subpart 4 was repealed in 2005; 12) amend *Minnesota Rules*, 4503.0800, subparts 2-4, and 4503.1000 to be inclusive of a local candidate as that term is defined by *Minnesota Statutes*, section 10A.01, subdivision 10d, to match the changes made by the legislature in 2021 to the definitions of approved expenditure and contribution within *Minnesota Statutes*, section 10A.01; 13) amend *Minnesota Rules*, 4503.0900, subpart 1 to codify the noncampaign disbursement category for costs incurred by a principal campaign committee to maintain a required bank account; and 14) clarify the extent to which a disclaimer is required by *Minnesota Statutes*, section 211B.04 when campaign material is disseminated via social media.

The Board is considering rule adoptions, amendments, and repeals concerning lobbyist regulation and reporting that 1) clarify that state agencies and local government bodies are not lobbyist principals as discussed in Advisory Opinions 224, 297, and 441; 2) clarify that informational material may be provided to a public official by a lobbyist principal without violating the gift prohibition if the principal had a significant role in creating, developing, or producing the information as discussed in Advisory Opinion 445; 3) implement the changes made by the legislature in 2023 to statutes governing lobbyist regulation and reporting; 4) change the cross-reference within *Minnesota Rules*, 4511.0500, subpart 1, to refer to *Minnesota Statutes*, section 10A.04, subdivision 9, because “subpart 2” was repealed in 2017; and 5) update rules within *Minnesota Rules*, chapter 4501 concerning electronic filing to reflect the Board’s current electronic reporting systems.

The Board is considering rule adoptions, amendments, and repeals concerning audits and investigations that 1) establish a procedure for withdrawing a complaint filed with the Board; 2) establish procedures and criteria to be used when conducting audits of campaign finance filers; 3) establish procedures and criteria to be used when auditing affidavits of contributions submitted by principal campaign committees when seeking to qualify for a public subsidy payment; and 4) amend *Minnesota Rules*, 4525.0200, subpart 2, to clarify that a complaint may include an authorized representative’s address, rather than the complainant’s personal address, if the complaint is signed by an individual authorized to act on behalf of the complainant.

The Board is considering rule adoptions, amendments, and repeals concerning other topics within *Minnesota Statutes*, chapter 10A that may arise during the rulemaking process.

Persons Affected. The adoption, amendment, and repeal of rules governing campaign finance regulation and reporting would likely affect 1) candidates for state-level offices; 2) principal campaign committees; 3) political party units; 4) political committees and funds; 5) entities not registered with the Board that seek to influence state elections in Minnesota as well as certain local elections within Hennepin County; and 6) contributors. The adoption, amendment, and repeal of rules governing lobbyist regulation and reporting would likely affect 1) lobbyists; and 2) lobbyist principals. The adoption, amendment, and repeal of rules governing audits and investigations would likely affect 1) complainants; and 2) respondents, which may include actual or alleged candidates for state-level offices, principal campaign committees, political party units, political committees and funds, entities not registered with the Board that seek to influence state elections in Minnesota as well as certain local elections within Hennepin County, contributors, lobbyists, lobbyist principals, and public officials and local officials.

Statutory Authority. *Minnesota Statutes*, section 10A.02, subdivision 13 provides that *Minnesota Statutes*, chapter 14 applies to the Board and authorizes the Board to “adopt rules to carry out the purposes of” *Minnesota Statutes*, chapter 10A. *Minnesota Statutes*, section 10A.02, subdivision 12a provides that when the Board “intends to apply principles of law or policy announced in an advisory opinion issued under subdivision 12 more broadly than to the individual or association to whom the opinion was issued,” the Board “must adopt these principles or policies as rules under” *Minnesota Statutes*, chapter 14. *Minnesota Statutes*, section 10A.022, subdivision 2, paragraph (b) provides that the Board must issue rules “setting forth procedures to be followed for all audits and investigations conducted by the” Board under *Minnesota Statutes*,

chapter 10A “and other provisions under” the jurisdiction of the Board pursuant to *Minnesota Statutes*, section 10A.022, subdivision 3. *Minnesota Statutes*, section 10A.025, subdivision 1a provides that the Board must “adopt rules to regulate electronic filing and to ensure that the electronic filing process is secure.” *Minnesota Statutes*, section 10A.01, subdivision 26, paragraph (a), clause (26), provides that noncampaign disbursements include “other purchases or payments specified in” rules adopted by the Board.

Public Comment. Interested persons or groups may submit comments or information on these possible rules in writing until 4:30 p.m. on Friday, September 15, 2023. Written comments may be submitted via the Office of Administrative Hearings rulemaking eComments website at minnesotaoah.granicusideas.com. Alternatively, written comments may be submitted to the agency contact person listed below. The Board plans to appoint a subcommittee of Board members to develop the proposed rule language. The first subcommittee meeting will be held after September 15, 2023. Notice of the subcommittee meetings will be posted on the Board’s website at cfb.mn.gov/citizen-resources/the-board/statutes-and-rules/rulemaking-docket. The subcommittee meetings will be open to the public and interested parties will have the opportunity to comment on the proposed rule topics and language. The Board does not plan to appoint an advisory committee to comment on the possible rules.

Rules Drafts. The Board has not yet drafted the possible rule adoptions, amendments, and repeals, but anticipates that draft rule language will be made available to the public before publication of the proposed rules.

Agency Contact Person. Written comments not submitted via the Office of Administrative Hearings rulemaking eComments website, as well as questions, requests to receive a draft of the rules when it has been prepared, and requests for more information on these possible rules should be directed to: Andrew Olson, Campaign Finance and Public Disclosure Board, 190 Centennial Office Building, 658 Cedar Street, St. Paul, MN 55155; email: andrew.d.olson@state.mn.us; phone: (651) 539-1190; fax: (651) 539-1196 or (800) 357-4114.

Alternative Format. Upon request, this information can be made available in an alternative format, such as large print, braille, or audio. To make such a request, please contact the agency contact person listed above. TTY users may call (800) 627-3529 and ask for (651) 539-1190.

NOTE: Comments received in response to this notice will not necessarily be included in the formal rulemaking record submitted to the administrative law judge if and when a proceeding to adopt rules is started. The Board is required to submit to the administrative law judge only the written comments that are received in response to the rules after they are proposed. If you submit comments during the development of the rules and you want to ensure that the administrative law judge reviews your comments, you should resubmit the comments after the rules are formally proposed.

Dated: July __, 2023

Jeff Sigurdson, Executive Director
Campaign Finance and Public Disclosure Board