

**DEPARTMENT OF STATE**

**ELECTIONS DIVISION**

**CAMPAIGN FINANCING**

(By authority conferred on the secretary of state by section 15 of Act No. 388 of the Public Acts of 1976, as amended, being S169.215 of the Michigan Compiled Laws)

**PART 1. GENERAL PROVISIONS**

**R 169.1 Definitions.**

Rule 1. (1) As used in these rules:

(a) "Act" means Act No. 388 of the Public Acts of 1976, being S169.201 et seq. of the Michigan Compiled Laws.

(b) "Address" means building number, street or rural route, city, state, and zip code.

(c) "Campaign" or "candidate's campaign" means the candidate committee's activities for a specific election.

(d) "Official depository" means a bank, savings and loan association, or credit union, chartered by the state or the United States, and located and doing business in Michigan.

(e) "Value," "ascertainable monetary value," "anything of value," "thing of value," or "cash equivalent" means the amount usually received in the open market for goods and services.

(2) The terms defined in the act have the same meaning when used in these rules.

History: 1979 AC.

**R 169.2 Secretary of state and county clerk; duties and requirements.**

Rule 2. (1) The duties and requirements imposed upon the secretary of state by the act and these rules may be performed by an agent, and at a place, designated by the secretary of state.

(2) The duties and requirements imposed upon a county clerk by the act and these rules may be performed by an agent, and at a place, designated by the county clerk.

History: 1979 AC.

**R 169.3 Statements, reports, amendments, or applications; form; attachments; entries; signature; inspection and copying.**

Rule 3. (1) A statement, report, amendment, or application required to be filed by the act shall be filed in duplicate on a form prescribed or approved previously by

the secretary of state. An attachment to a form shall not be on a page differing in size from the form prescribed, unless approved previously by the filing official.

(2) An entry on a statement, report, amendment, or application shall be printed legibly in ink or typed and shall be suitable for reproduction.

(3) A person filing a statement or report required by the act shall complete each item of information requested or shall note clearly that the item of information is not applicable to the filer.

(4) Committee statements and reports shall be signed by the treasurer of the committee and, if a candidate committee, also by the candidate, on the line indicated following the verification statement. A person, other than a committee, required to file by the act shall sign a document on the line indicated following the verification statement.

(5) Inspection and copying of statements and reports shall take place only at the office of the filing official.

(6) A filing official shall prepare and post a list of general guidelines and rules with respect to the inspection and copying of documents and shall post a schedule of charges for copies.

History: 1979 AC; 1982 AACCS.

#### **R 169.4 Reports or statements; late filing fee; date of filing.**

Rule 4. (1) If a report or statement is filed after the filing date and is not accompanied by a late filing fee, the report or statement shall be received and considered filed as of that date. The filer shall be given a written notice of the amount of the late filing fee due and unpaid.

(2) If payment of the late filing fee assessed by the secretary of state is not made within 30 days of the date of the written notice, the filing official shall notify immediately the Michigan department of treasury of the failure to pay so the latter may collect the late filing fee.

(3) A late filing fee assessed by the secretary of state shall be forwarded to the state treasurer for deposit to the credit of the general fund of the state.

History: 1979 AC; 1982 AACCS.

#### **R 169.5 Reports or statements; nonreceipt; list; requests for information; telephone inquiries.**

Rule 5. (1) A filing official, within 5 business days following a filing date required by the act, shall prepare a list of persons whose required reports or statements have not been received. This list shall be available for public inspection and copying. Prior to completion of the list, inquiries relative to the receipt of filings shall be submitted only in writing or in person.

(2) Upon receipt of any inquiry requesting information relative to the contents of any report or statement filed with a filing official, the filing official shall inform the person requesting information of all of the following:

(a) The report or statement is available for inspection or copying at the office of the filing official.

(b) A copy of any page of the report or statement requested may be obtained by payment of the applicable copying charge.

(c) A request for a copy of a report or statement shall not be honored until receipt by the filing official of the applicable copying charge.

(3) A telephone inquiry relative to a substantive matter in a filed report or statement shall not be answered. A telephone inquiry by a filer or an agent of the filer relative to a report or statement of the filer shall be answered.

History: 1979 AC; 1982 AACCS.

### **R 169.6 Declaratory rulings.**

Rule 6. (1) The secretary of state, on written request of an interested person, may issue a declaratory ruling as to the applicability of the act or these rules to an actual statement of facts. An interested person is a person whose course of action would be affected by the declaratory ruling. A brief or other reference to legal authorities, upon which the person relies for determination of the applicability of the act or of a rule to the statement of facts, may be submitted with the request.

(2) If the secretary of state decides to issue a declaratory ruling, the person requesting it shall be furnished with a statement to that effect. The statement shall set forth the time in which the ruling shall be issued.

(3) The secretary of state may refuse to issue a declaratory ruling if the request is anonymous, or it is determined the subject matter is frivolous on its face, indefinite, or lacks specificity. If the secretary of state refuses to issue a declaratory ruling, the person making the request, if known, shall be notified of the reason for the refusal.

(4) A ruling shall include the statement of facts, the legal authority, if any, and the rationale on which the secretary of state relies for the ruling, and the determination.

History: 1979 AC.

## **PART 2. COMMITTEES**

### **R 169.21 Committee treasurer; appointment.**

Rule 21. A committee shall appoint a treasurer before filing a statement of organization.

History: 1979 AC.

### **R 169.22 Committee treasurer; vacancy; resignation.**

Rule 22. (1) A vacancy in the office of committee treasurer is created by death, resignation, or removal from office of the appointing authority.

(2) A committee treasurer who has resigned or who has otherwise ceased to act as committee treasurer may notify the filing official of that fact in writing.

History: 1979 AC; 1982 AACCS.

**R 169.23 Rescinded.**

History: 1979 AC; 1982 AACCS.

**R 169.24 Statement of organization; designation of committee name.**

Rule 24. A statement of organization, filed by a committee which is commonly known by initials only, shall state the full name of the committee. Thereafter, filing of reports and amendments may designate the name of the committee by initials only.

History: 1979 AC.

**R 169.25 Statement of organization; receipt; acknowledgment; identification number.**

Rule 25. Upon receipt of a statement of organization, the filing official shall assign an identification number to the filing committee, acknowledging receipt of the filing, and shall notify the committee of the identification number. The identification number shall be entered by the committee on each page of the subsequent statements or reports filed and on communications concerning statements or reports.

History: 1979 AC; 1982 AACCS.

**R 169.26 Statement of organization; changes, corrections, or amendments.**

Rule 26. A change, correction, or amendment to a statement of organization shall identify the paragraph containing the information to be changed, corrected, or amended.

History: 1979 AC.

**R 169.27 Statement of organization; committee supporting candidates for state and federal office.**

Rule 27. A committee supporting a candidate for federal office and a candidate for office in this state shall file a statement of organization for the committee of the candidate for office in this state.

History: 1979 AC.

**R 169.28 Dissolution statement.**

Rule 28. (1) A committee which determines it will no longer receive contributions or make expenditures may dissolve by filing a form prescribed by the secretary of state.

(2) A dissolution shall consist of a campaign statement that covers the period from the closing date of the last report filed to the date of dissolution and shall include a statement as to the disposition of residual funds.

(3) A committee may not dissolve if it has assets, outstanding debts, or unpaid late filing fees.

History: 1979 AC; 1982 AACCS.

**R 169.29 Applicability.**

Rule 29. R 169.29a to 169.29d govern solicitations of contributions by, and campaign contribution limits on, political committees and independent committees established by a corporation, joint stock company, or labor organization, including a parent, subsidiary, branch, division, department, or local unit of a corporation, joint stock company, or labor organization, under this act.

History: 1996 AACCS.

**R 169.29a Contribution limitations.**

Rule 29a. (1) All affiliated political committees share a single contribution limitation for purposes of section 52(1) of the act.

(2) All affiliated independent committees share a single contribution limitation for purposes of section 52(1) of the act.

(3) All affiliated political committees and independent committees share a single contribution limitation for purposes of section 52(1) of the act.

History: 1996 AACCS.

**R 169.29b Affiliated organizations.**

Rule 29b. (1) All political committees and independent committees established, financed, maintained, or controlled by the same corporation, joint stock company, or labor organization, including a parent, subsidiary, branch, division, department, or local unit of the corporation, company, organization, are affiliated. "Local unit" may include, in appropriate cases, a franchise, licensee, or state or regional association.

(2) Affiliated committees sharing a single contribution limitation include all of the committees established, directed, controlled, or financially supported by 1 of the following entities:

(a) A single "for profit" corporation or joint stock company, including its subsidiaries.

(b) A single national or international union, including its subordinate organizations, such as local unions, branches, divisions, or departments. "Subordinate organizations" does not include an independent labor organization that is voluntarily associated with another independent labor organization.

(c) An organization of national or international unions, including all of its state and local central bodies.

(d) A non-profit corporation, including trade or professional associations and related state and local entities of the corporation.

History: 1996 AACS.

### **R 169.29c Hearings.**

Rule 29c. (1) A corporation, joint stock company, labor organization, or committee that is aggrieved by the application of section 52(9) of the act or R 169.29a or R 169.29b may request a hearing to determine if the grievant is affiliated with another corporation, joint stock company, labor organization, or committee. A request for hearing shall be filed with the Department of State, Bureau of Hearings, 208 N. Capitol Avenue, Lansing, Michigan 48918-2160.

(2) A request for hearing shall be made in writing and shall include a statement of the grounds for appeal and a clear and concise statement of the facts and law relied on and the relief sought. The request shall include full and complete copies of each constitution, charter, bylaw, contract, regulation, accounting procedure, fee structure, and other document bearing upon the organizational subordination or independence of the corporation, joint stock company, labor organization, or committee requesting the hearing.

(3) The hearing shall be conducted in accordance with the procedures set forth in chapter 4 or Act No. 306 of the Public Acts of 1969, as amended, being SS24.273 to 24.287 of the Michigan Compiled Laws.

History: 1996 AACS.

### **R 169.29d Final decisions.**

Rule 29d. When a hearing is requested under R 169.29c, the bureau of hearings shall issue a final decision within 60 days after the bureau of hearings receives the request. If the person requesting the hearing seeks and is granted an adjournment, then the 60-day period for issuing a final decision shall be extended by the number of days that the hearing is adjourned. The 60-day period only applies when a complete request for a hearing has been received under R 169.29c(2).

History: 1997 AACS.

## **PART 3. REPORTS, CONTRIBUTIONS, AND EXPENDITURES**

**R 169.31 Recording and reporting contributions from same donor.**

Rule 31. A committee treasurer shall record and report each contribution from the same donor under the identical name used to record the original contribution.

History: 1979 AC.

**R 169.32 Reporting unpaid debts.**

Rule 32. An unpaid debt of a committee shall be reported until paid or discharged. An unpaid late filing fee is an unpaid debt of a committee.

History: 1979 AC; 1982 AACS.

**R 169.33 Expenditure; notation on receipt or cancelled check.**

Rule 33. A receipt or cancelled check, or a copy thereof, which is used to vouch for an expenditure, shall have a notation on or attached thereto stating the purpose of the expenditure.

History: 1979 AC.

**R 169.34 In-kind contributions.**

Rule 34. The value of an in-kind contribution is the amount which could usually be received in the open market for goods and services. The value of an in-kind contribution which is loaned or permitted to be used is the fair market rental value of the item or services. A committee which is charged

less than the fair market value or fair rental value of an item or services shall report the difference between the amount charged and the fair market value or fair rental value as an in-kind contribution.

History: 1979 AC; 1982 AACS.

**R 169.35 Contribution; corporate check.**

Rule 35. A committee treasurer, other than a ballot question committee treasurer, shall not accept as a contribution a check written on a corporate account, except as provided in sections 54 and 55 of the act.

History: 1979 AC; 1982 AACS.

**R 169.35a Contribution; partnerships; reporting.**

Rule 35a. (1) A contribution drawn on a partnership account shall be attributed to the partners as individuals, and not to the partnership, if the contribution is accompanied by a written statement containing the name and address of each contributing partner and the amount of each partner's contribution. The statement shall

include the occupation, employer, and principal place of business of each individual who is a member of the partnership and contributed \$200.01 or more for that election.

(2) A committee which receives a written statement attributing a partnership contribution to the partners as individuals shall report the contribution as if the committee had received a separate contribution from each individual.

History: 1979 AC; 1982 AACCS.

**R 169.36 Printed material or other campaign media; identification or disclaimer; exemption.**

Rule 36. (1) Printed material having reference to an election, a candidate, or a ballot question shall bear the identification or disclaimer, or both, provided in section 47 of the act in a place and in a print clearly visible to and readable by an observer. Any other medium used for campaign purposes shall clearly and unequivocally include the identification or disclaimer, or both, provided in section 47 of the act.

(2) The identification required by section 47 of the act for printed material shall include the words "Paid for by," followed by the full name of the person or committee paying for the material and the person's or committee's street number or post office box, city or town, state, and zip code. A disclaimer shall be in the same form as an identification, except that it shall be preceded by the phrase "Not authorized by the candidate committee of (candidate's name)."

(3) A campaign item, the size of which makes it unreasonable to add an identification or disclaimer, or both, as designated by the secretary of state, is exempted from this rule.

History: 1979 AC; 1982 AACCS.

**R 169.37 Cash or cash equivalents on hand following election; reporting.**

Rule 37. (1) The cash on hand at beginning of accounting period shall be part of the aggregate receipts for the next ensuing election, but need not be further itemized.

(2) A committee shall not qualify for a reporting waiver if the committee has cash on hand in excess of the amount specified in section 24(4) of the act.

History: 1982 AACCS.

**R 169.38 Petty cash fund.**

Rule 38. (1) A committee treasurer may establish a petty cash fund.

(2) A petty cash fund shall be established only from funds withdrawn from a committee account.

(3) A person making payments from a petty cash fund shall maintain records of the amount and purpose of each expenditure and shall deliver the records to the committee treasurer.



History: 1979 AC; 1982 AACS.

**R 169.39 Rescinded.**

History: 1979 AC; 1989 AACS.

**R 169.39a Expenditures not included in limitation.**

Rule 39a. Expenditures made with moneys other than those received from the state campaign fund which shall not be included for purposes of determining whether the limit described in section 67(1) of the act has been exceeded include, but are not limited to, the following:

(a) Expenditures necessitated by security requirements established by the director of the department of state police.

(b) Legal and accounting expenditures incurred by a committee solely for the purpose of insuring compliance with the act by that committee.

(c) Expenditures incurred in response to a written complaint filed pursuant to the act or these rules or in response to a notice of error or omission initiated by the secretary of state.

(d) Post-election winding down expenditures subsequent to the gubernatorial primary for candidate committees not participating in the general election and subsequent to the general election for candidate committees participating in the general election, including expenditures for either of the following activities:

(i) Record storage required by section 22 of the act.

(ii) Communications with contributors or other persons who assisted in the campaign, thanking them for their assistance, if these communications occur not more than 60 days after the election.

(e) Late filing fees as assessed under the act.

History: 1982 AACS.

**R 169.39b Expenditures for candidate advertisements.**

Rule 39b. (1) Except as otherwise provided in this rule, an expenditure for a communication that uses the name or likeness of 1 or more specific candidates is subject to the prohibition on contributions and expenditures in section 54 of the act if the communication is broadcast or distributed within 45 calendar days before the date of an election in which the candidates name is eligible to appear on the ballot.

(2) This rule does not apply to any of the following:

(a) An expenditure for communication by a person with the persons paid members or stockholders and individuals who can be solicited for contributions to a separate segregated fund.

(b) An expenditure for nonpartisan voter registration or nonpartisan get-out-the-vote activities ,including the production and distribution of voter guides, that is

made by an organization that is exempt from federal income tax under section 501(c)(3) of the internal revenue code of 1986, 26 U.S.C. 501(c)(3) or any successor statute.

(c) An expenditure for communication by a qualified nonprofit corporation as defined in subrule (3) of this rule.

(3) A nonprofit corporation shall be considered a qualified nonprofit corporation for the purposes of this rule if all of the following conditions are met:

(a) The corporation's only express purpose is the promotion of political ideas, including issue advocacy, election influence activity, and research, training, or educational activity that is expressly tied to the corporation's political goals.

(b) The corporation does not engage in business activities.

(c) The corporation does not have shareholders or other persons, other than employees and creditors who do not have an ownership interest, affiliated with the corporation in any way that could allow the shareholders or other persons to make a claim on the corporation's assets or earnings.

(d) The corporation does not offer or provide to any person a benefit that is a disincentive for the person to disassociate from the corporation on the basis of the corporation's position on a political issue. A benefit includes, but is not limited to, the following:

(i) Credit cards, insurance policies, or savings plans.

(ii) Training, education, or business information, other than that which is necessary to enable the recipient to engage in the promotion of the corporation's political beliefs.

(e) The corporation was not established by, or affiliated with, a business corporation, joint stock company, domestic dependent sovereign, or labor organization.

If the corporation is unable, for good cause, to demonstrate that this requirement is satisfied, then the corporation shall have a written policy against accepting donations from business corporations, joint stock companies, domestic dependent sovereigns, or labor organizations.

(f) The corporation is registered under section 501(c)(4) of the internal revenue code of 1986, 26 U.S.C. 501(c)(4).

History: 1998 - 2000 AACCS.

**R 169.39c Affirmative consent; effectiveness.**

Rule 39c. The affirmative consent required by section 55(6) of the act shall be effective only through December 31 of the year for which it is given.

History: 1998 - 2000 AACCS.

**R 169.39d Affirmative consent; form.**

Rule 39d. (1) The affirmative consent required by section 55(6) of the act shall be given in writing and shall include, at a minimum, all of the following:

(a) A notice, which shall read as follows:

Affirmative Consent to Political Contributions Section 55(6) of the Michigan Campaign Finance Act provides that a corporation, a joint stock company, a domestic dependent sovereign, or a labor organization "may solicit or obtain contributions for a separate segregated fund established under this section from an individual described in subsection (2), (3), (4), or (5) on automatic basis, including but not limited to a payroll deduction plan, only if the individual who is contributing to the fund affirmatively consents to the contribution at least once in every calendar year."

(b) The contributor's first, middle, and last names.

(c) The amount of money to be withheld from the contributor's wages or the percentage of the contributor's wages to be withheld.

(d) The frequency with which the withholding is to be accomplished. The withholding may be per day period, per week, per month, or per year.

(e) The name of the committee to which the withheld earnings are to be transferred.

(f) The calendar year for which the consent is given.

(2) The written affirmative consent shall be signed and dated by the contributor.

History: 1998 - 2000 AACCS.

#### **R 169.39e Solicitations by separate segregated funds.**

Rule 39e. (1) A for profit corporation or joint stock company may solicit the employees of its subsidiaries who have policy making, managerial, professional, supervisory, or administrative nonclerical responsibilities and their spouses.

(2) A labor organization whose membership consists of other labor organizations may solicit those individuals that are members of its member labor organizations and their spouses. A labor organization whose membership consists of other labor organizations may solicit the employees of the member labor organizations who have policy making, managerial, professional, supervisory, or administrative nonclerical responsibilities and their spouses.

History: 1998 - 2000 AACCS.

### **PART 4. STATE CAMPAIGN FUND**

#### **R 169.41 State campaign fund; reservation of funds.**

Rule 41. On or before January 1 of each year in which an election for governor is held, the state treasurer shall:

(a) Reserve 3% of the funds available in the state campaign fund to make necessary adjustments required by formulas set forth in section 65(2),

(3), (4), and (5) of the act.

(b) Reserve the maximum amount that each candidate for governor of a major political party is entitled to receive for the general election.

History: 1979 AC.

**R 169.42 State campaign fund; payments to candidates.**

Rule 42. The state treasurer, beginning on January 1 of each year in which an election for governor is held, shall make payment immediately from the state campaign fund to eligible candidates on the basis of candidate applications which have been approved by the secretary of state and forwarded to the state treasurer.

History: 1979 AC.

**R 169.43 Public funding of elections; qualifying contributions.**

Rule 43. Qualifying contributions for public funding of the primary or general elections may be obtained from April 1 of the year preceding the year in which a governor is elected until December 31 of the year in which a governor is elected, or until the candidate committee files a dissolution statement, whichever occurs first.

History: 1979 AC.

**R 169.44 Public funding of elections; application; approval.**

Rule 44. An application for public funds shall be submitted to the secretary of state not later than December 15 following the election. The secretary of state shall not approve a post-election application unless the committee demonstrates that the amount applied for is necessary to pay qualified campaign expenditures.

History: 1982 AACCS.

**R 169.45 Public funding of elections; post-election application; accompanying statement; contents.**

Rule 45. A post-election application for public funds shall be accompanied by a statement which indicates the balance of the committee's public funds on hand and a list of receipts and expenditures of public funds between the closing date of the last campaign statement filed and the date the application is filed.

History: 1982 AACCS.

**R 169.46 Public funding of elections; return of funds; post-election returns; return period; exception.**

Rule 46. (1) Public funds held by a committee shall be returned to the state within 60 days after the election, unless the committee has obtained prior written approval for retention of the funds from the secretary of state and the funds retained are directed to, and not in excess of, qualified campaign expenditures.

(2) The secretary of state may require a committee to file a monthly report accounting for the use of any funds retained pursuant to subrule (1) of this rule.

History: 1982 AACCS.

**R 169.47 Public funding of elections; return of funds; voluntary returns; accompanying statement; contents; prompt returns.**

Rule 47. (1) When a committee voluntarily terminates its public fund account, it shall return any balance to the state. If the account is terminated after the closing date of the post-election campaign statement for the election for which public funds were received, the committee shall provide the secretary of state with a written statement indicating that the committee's public fund account contains a zero balance. The statement shall be accompanied by a list of receipts and expenditures of public funds between the closing date of the last campaign statement filed and the date the written statement is filed.

(2) A committee which has terminated its public fund account shall promptly return to the state any refund or rebate arising out of expenditures for which public funds were originally used or any proceeds from the sale of assets originally purchased with public funds.

History: 1982 AACCS.

**R 169.48 Public funding of elections; return of funds; submission by written instrument.**

Rule 48. Public funds returned to the state shall be submitted to the secretary of state by written instrument made payable to: "State of Michigan."

History: 1982 AACCS.

## **PART 5. COMPLAINTS AND INVESTIGATIONS**

**R 169.51 Complaint generally.**

Rule 51. A person who believes a violation of the act or these rules has occurred may file a written complaint in person or by mail with the secretary of state.

History: 1979 AC.

**R 169.52 Complaint; form and contents.**

Rule 52. (1) A complaint shall be typewritten or handwritten in ink. The complainant's name, address, and telephone number shall be typewritten or handprinted upon the complaint. A complaint shall include the following verification statement: "I certify that the statements set forth above are true to the best of my knowledge and belief." A complaint shall be signed by the complainant immediately following the verification statement.

(2) A complaint shall name the alleged violator, set forth the alleged violator's address, describe in reasonable detail the alleged violation, and identify all available evidentiary material.

History: 1979 AC.

**R 169.53 Complaint; dismissal.**

Rule 53. If, upon reading the complaint, the secretary of state determines a complaint is frivolous, illegible, indefinite, or unsigned, or does not identify an alleged violator, allege a violation of the act or these rules, or contain a verification statement, the secretary of state may summarily dismiss the complaint without prejudice. If a complaint is summarily dismissed, the complainant shall be notified in writing as to the reason the complaint was dismissed.

History: 1979 AC.

**R 169.54 Complaint; indication to person against whom allegation made.**

Rule 54. If a complaint is not summarily dismissed, or if the secretary of state, upon examination of a report filed pursuant to the act, finds there may be reason to believe a violation of the act or these rules has occurred, the secretary of state shall indicate immediately, to the person against whom an allegation is made, the following:

- (a) A complaint has been made alleging, or examination of a filed report indicates, possible violation of the act or these rules.
- (b) The specifics of the alleged violation.
- (c) The identity of the complainant if a complaint has been filed.
- (d) The provisions of these rules relative to complaints and investigations.

History: 1979 AC.

**R 169.55 Preliminary review of alleged violation; dismissal of complaint; notice of informal hearing.**

Rule 55. (1) The secretary of state, upon written complaint or examination of a report filed pursuant to the act, may conduct a preliminary review of an alleged violation to determine if there may be reason to believe a violation of the act or these rules has occurred.

(2) If, following a preliminary review, the secretary of state determines there is no reason to believe an allegation is true, the complaint shall be dismissed. Notice of this decision shall be given by the secretary of state to the complainant and the person against whom an allegation has been made.

(3) If, following a preliminary review, the secretary of state determines there may be reason to believe an allegation is true, the secretary of state may take either of the following actions:

(a) Notify the person against whom the allegation is made and the complainant that an informal hearing will be held to determine whether there is reason to believe a violation of the act or these rules has occurred.

(b) Attempt to correct or prevent further violation by informal methods of conference, conciliation, and persuasion, and enter into a conciliation agreement with the person involved. If the secretary of state is unable to correct or prevent further violation by these informal methods, the person

against whom the allegation is made and the complainant shall be notified that an informal hearing shall be held to determine whether there is reason to believe a violation of the act or these rules has occurred.

(4) The notice shall give the parties involved reasonable time to appear, if they choose to do so. The parties shall be notified of the time and place of the hearing, that they may appear in person or by counsel, and that they may give testimony.

History: 1979 AC; 1982 AACCS.

### **R 169.56 Informal hearing; dismissal of complaint; notice of decision.**

Rule 56. (1) If, following the informal hearing, the secretary of state determines there is no reason to believe a violation of the act or these rules has occurred, the complaint shall be dismissed. The parties shall be notified of this decision.

(2) If, following the informal hearing, the secretary of state determines that the alleged violation may be corrected, or further violation may be prevented, by informal methods of conference, conciliation, and persuasion, the secretary of state may enter into a conciliation agreement with the person involved.

(3) If, following the informal hearing, the secretary of state determines there is reason to believe a violation of the act or these rules has occurred, the secretary of state may notify the attorney general of the decision if the allegation was made as the result of a complaint. If the allegation was made as the result of an examination of a report filed pursuant to the act, the secretary of state shall notify the attorney general of the decision.

(4) If, following the informal hearing, the secretary of state determines not to report the hearing's results to the attorney general, the secretary of state shall notify the parties of this decision.

History: 1979 AC; 1982 AACCS.

## **PART 6. OFFICEHOLDER'S EXPENSE FUND**

### **R 169.61 Receipts; reports.**

Rule 61. (1) An elected officeholder shall indicate the existence of an officeholder's expense fund on the statement of organization, or on an amendment thereto, filed by the officeholder's candidate committee.

(2) Money given specifically to an officeholder's expense fund shall be designated for that purpose by the donor.

(3) Money received by an officeholder's expense fund shall be kept in a depository account separate from the candidate committee's funds.

(4) The treasurer of an officeholder's expense fund shall keep records of all receipts to, and disbursements from, the fund for a period of 1 year longer than the officeholder's term of office.

(5) Receipts to, and disbursements from, the officeholder's expense fund shall be subject to the contribution limitations and reporting provisions of the act for candidate committees.

(6) The officeholder's expense fund report shall be signed by the treasurer of the fund and by the officeholder on the lines indicated following the verification statement.

(7) The officeholder's expense fund report shall be filed with the filing official designated by the act to receive the officeholder's candidate committee campaign statements.

(8) Money may be transferred from the candidate committee of an elected public official to the officeholder's expense fund of that public official in accordance with the provisions of the act.

History: 1989 AACCS.

#### **R 169.62 Disbursements; records.**

Rule 62. (1) An officeholder's expense fund shall be used only for disbursements which are incidental to the office of the elected public official who established the fund. A disbursement is incidental to the office of the official if it is traditionally associated with, or necessitated by, the holding of a particular public office and is included within 1 or more of the following categories:

(a) Fund-raising disbursements of the officeholder's expense fund.

(b) Reasonable and necessary disbursements which are directly related to assisting, serving, or communicating with constituents.

(c) Disbursements for office equipment, furnishings, and supplies.

(d) Disbursements for a district office if the office is not used for campaign activity.

(e) Disbursements which are directly related to conferences, meetings, receptions, and events.

(f) Disbursements for a publicly owned residence or a temporary residence at the seat of government.

(g) Bona fide travel, lodging, meal, and other unreimbursed disbursements incurred by the officeholder, a member of the officeholder's immediate family, or a member of the officeholder's staff.

(h) Donations to a tax-exempt charitable institution, including the purchase of tickets to charitable or civic events.

(i) Disbursements to a ballot question committee.

(j) Purchase of tickets for use by that public official and members of his or her immediate family and staff to another candidate's fund-raising event or a fund-raising event sponsored by an independent committee, political party committee, or a



political committee if the officeholder's expense fund has not accepted corporate donations.

(k) Educational disbursements for a course or seminar if the course or seminar maintains or improves skills which are employed by the officeholder in the performance of his or her administrative or legislative responsibilities.

(l) Purchase of advertisements in testimonials, program books, souvenir books, or other publications if the advertisement does not support or oppose the nomination or election of a candidate.

(m) Consultation, research, polling, and photographic services not related to a campaign.

(n) Fraternal, veterans, and service organization fees.

(o) Payment of a tax liability incurred as a result of authorized officeholder's expense fund transactions.

(p) Accounting, professional, and administrative disbursements of the officeholder's expense fund.

(q) A debt or obligation incurred by the officeholder's expense fund for a disbursement authorized by subdivisions (a) to (p) of this subrule, if the debt or obligation was reported in the officeholder's expense fund report filed for the year in which the debt or obligation arose.

(2) A disbursement from an officeholder's expense fund which is an ordinary and necessary business expense of a public official as a public official as authorized by the internal revenue code of 1986, 26 U.S.C. S 1 et seq., is presumed to be an expense incidental to office.

(3) The treasurer of an officeholder's expense fund shall keep detailed accounts, records, bills, and receipts as required to substantiate the information contained in an officeholder's expense fund report filed pursuant to the act and these rules.

History: 1989 AACCS.

### **R 169.63 Unauthorized disbursement.**

Rule 63. (1) An officeholder's expense fund report shall include information which is sufficient to establish that each disbursement from the fund was for the payment of an expense incidental to the elected public official's office.

(2) If, upon examination of a report, the secretary of state is unable to determine whether a disbursement from an officeholder's expense fund was made in compliance with the act and these rules, the secretary of state shall request additional information or documentation which is sufficient to establish that the disbursement was for an expense incidental to office.

(3) If the secretary of state determines, after receiving the information or documentation required under subrule (2) of this rule, that a disbursement from an officeholder's expense fund was not made in compliance with the act and these rules, the secretary of state shall request the public official to reimburse an amount equivalent to the unauthorized disbursement to the officeholder's expense fund.

(4) If a public official fails to respond within 21 days to a request made under subrule (2) or (3) of this rule, the secretary of state shall refer the matter to the attorney general for commencement of an action to recover the unauthorized

disbursement from the officeholder's expense fund. A referral made under this subrule shall not prevent the secretary of state from proceeding under part 5 of these rules.

History: 1989 AACCS.

**R 169.64 Corporate donation.**

Rule 64. A corporate donation to an officeholder's expense fund shall not be solicited or accepted at a joint fund-raising event sponsored by the candidate committee and officeholder's expense fund of that public official unless the candidate committee pays for the expenses of the event and all corporate money received for that event is deposited in the account of the officeholder's expense fund.

History: 1989 AACCS.

**R 169.65 Dissolution; disposition of assets.**

Rule 65. (1) Dissolution of an officeholder's expense fund shall consist of a report that covers the period from the closing date of the last report filed by the officeholder's expense fund to the date of dissolution.

(2) After an official leaves public office, his or her officeholder's expense fund shall not accept donations or make disbursements, except to dispose of debts incurred before the date on which the official leaves public office.

(3) An asset purchased with money donated to an officeholder's expense fund which is no longer used in a manner incidental to office, either during an official's term of office or when the official leaves public office, shall be sold at fair market value. A public official may purchase, at fair market value, an asset acquired by the official's officeholder's expense fund. As used in this subrule, "fair market value" is the price that an asset of like type, quality, age, and quantity would bring in a particular market at the time of acquisition.

(4) A public official may transfer any unexpended money from one officeholder's expense fund to another officeholder's expense fund held by the same public official pursuant to the provisions of section 45(1) of the act.

History: 1989 AACCS.