

## CHAPTER 21 – CAMPAIGN FINANCE

### SECTION .0100 – REPORTING

#### 08 NCAC 21 .0101 BEST EFFORTS

The treasurer of a political committee or referendum committee shall be deemed to have exercised best efforts to obtain, maintain, and report the information required by G.S. 163-278.11(a)(1) if all of the following efforts set forth in this Rule are made:

- (1) All written solicitations for contributions include a request for the contributor's full name, mailing address, and principal occupation as defined in G.S. 163-278.11(a)(1), and include a statement of North Carolina law regarding the collection and reporting of individual contributor information. The following are examples of acceptable statements for a candidate committee, political committee, or referendum committee:
  - (a) "State law requires us to use our best efforts to collect and report the full name, mailing address, job title or profession, and employer's name or employer's specified field of business activity of individuals whose contributions exceed fifty dollars (\$50.00) in an election"; and
  - (b) "To comply with State law, we must use best efforts to obtain, maintain, and submit the full name, mailing address, job title or profession, and employer's name or employer's specified field of business activity of individuals whose contributions exceed fifty dollars (\$50.00) in an election."

The request and statement shall appear in a clear and conspicuous manner on any response material included in a solicitation. The request and statement are not clear and conspicuous if they are in small type in comparison to the solicitation and response materials, or if the printing is difficult to read or if the placement is easily overlooked by the potential contributor.

- (2) For each aggregate contribution received in excess of fifty dollars (\$50.00) per election, as defined in G.S. 163-278.13(e), which lacks required contributor information, such as the contributor's full name, mailing address, job title or profession, or employer's name or employer's specified field of business activity, the treasurer makes at least one effort after the receipt of the contribution to obtain the missing information. That effort shall consist of either a written request sent to the contributor or an oral request to the contributor documented in writing. All documented requests shall be preserved and retained consistent with G.S. 163-278.35. The written or oral request must be made no later than 30 days after receipt of the contribution. The written or oral request shall not include material on any other subject or any additional solicitation, except that it may include language thanking the contributor for the contribution. The request must ask for the missing information and must include the statement set forth in Item (1) of this Rule. Written requests must include this statement in a clear and conspicuous manner. If the request is written, it shall be accompanied by a pre-addressed return post card or envelope for the response material.
- (3) The treasurer reports all contributor information not provided by the contributor, but in the political committee's or referendum committee's possession, including information in contributor records, fundraising records and previously filed reports, in the same election cycle.
- (4) If, after complying with all provisions of this section, the treasurer is unable to identify the contributor's principal occupation, the treasurer lists all available information and report "unable to obtain" as to the missing occupational information.
- (5) If any of the contributor information is received after the contribution has been disclosed on a regularly scheduled report, the candidate committee, political committee, or referendum committee files on or before its next regularly scheduled reporting date, amendments to the report(s) originally disclosing the contribution(s), which include the contributor identifications together with the dates and amounts of the contribution(s). Amendments must be filed for all reports that cover the election in which the contribution was received that disclose itemizable contributions from the same contributor if the contributor information is incorrect or missing from the report.

*History Note:* Authority G.S. 163-278.11; 163-278.21; 163-278.22;  
Eff. May 1, 2020.

## **08 NCAC 21 .0102 REPORTING OF INDEPENDENT EXPENDITURES**

(a) Once an individual as defined in G.S. 163-278.6(55), person as defined in G.S. 163-278.6(72), or other entity required to report independent expenditures under G.S. 163-278.12(a) has made independent expenditures with a present actual or market value in excess of one hundred dollars (\$100.00) during an election as defined in G.S. 163-278.6(30), the individual, person, or entity shall report all independent expenditures, and any donations made to further independent expenditures, with the following board of elections:

- (1) if the district of the candidate or ballot issue supported or opposed is within one county, and the candidate is not running for a legislative, judicial, or district attorney office, the report shall be filed with the county board of elections; or
- (2) if the district of the candidate or ballot issue supported or opposed extends to more than one county, or the candidate is running for a legislative, judicial, or district attorney office, the report shall be filed with the State Board.

(b) An independent expenditure filer is the individual, person, or other entity making a reportable independent expenditure under G.S. 163-278.12(a). If the independent expenditure filer is an individual, the individual shall sign all reports. If the independent expenditure filer is a person or other entity, an authorized officer or an authorized representative of the person or entity shall sign all reports.

(c) The independent expenditure filer shall file CRO-2210A Independent Expenditure Report Cover, CRO-2210B Donations to Further Independent Expenditures, and CRO-2210C Incurred Costs of Independent Expenditures available on the State Board's website, <http://www.ncsbe.gov>, unless the independent expenditure filer files reports electronically consistent with 08 NCAC 21 .0106. Independent expenditure reports filed with the county board of elections or the State Board shall include all of the following:

- (1) the independent expenditure filer's name and mailing address;
- (2) a phone number for the independent expenditure filer;
- (3) if the independent expenditure filer is an individual, the filer's principal occupation as defined in G.S. 163-278.11(a)(1);
- (4) if the independent expenditure filer is a person or entity, the principal place of business of the person or entity;
- (5) for each independent expenditure made:
  - (A) The name and mailing address of the payee;
  - (B) The amount paid;
  - (C) The date the expenditure was incurred;
  - (D) A description of the expenditure; and
  - (E) The name of the candidate, candidates of an identified political party, or referendum supported or opposed by the independent expenditure;
- (6) for each donation of more than one hundred dollars (\$100.00) that must be reported under G.S. 163-278.12(f):
  - (A) the donor's name and mailing address;
  - (B) if the donor is an individual, the donor's principal occupation as defined in G.S. 163-278.11(a)(1);
  - (C) if the donor is a person or entity, the principal place of business of that person or entity;
  - (D) the amount of the donation; and
  - (E) the date of the donation; and
- (7) a certification as to whether any expenditures reported were made in concert or cooperation with, or at the request or suggestion of, a candidate, a candidate campaign committee as defined in G.S. 163-278.38Z(3), a referendum committee, the agent of a candidate, the agent of a candidate campaign committee, or an agent of a referendum committee.

(d) An independent expenditure filer that makes expenditures with a present, actual, or market value in excess of five thousand dollars (\$5,000.00) during an election as defined in G.S. 163-278.6(30) shall file independent expenditure reports electronically consistent with 08 NCAC 21 .0106.

(e) For each independent expenditure report filed electronically, the individual or an authorized officer or an authorized representative of the independent expenditure filer shall sign the Independent Expenditure Report Cover and the independent expenditure filer shall file the signed original in accordance with Paragraph (g) of this Rule with the board of elections identified in Paragraph (a) of this Rule.

(f) The independent expenditure filer shall complete and file forms within the time period set forth in G.S. 163-278.12(d). An independent expenditure filer that makes a reportable independent expenditure within 10 days of an election, and has not previously reported independent expenditures during the election the independent expenditure

affects, shall file reports no later than the 10th day after independent expenditures exceed one hundred dollars (\$100.00). After the initial report, the independent expenditure filer shall continue to file independent expenditure reports according to the reporting schedule in G.S. 163-278.9 until the end of the election. The final report for a given election shall cover the period through the day of the election. If the independent expenditure filer makes independent expenditures in support of or in opposition to municipal candidates or municipal ballot issues, the independent expenditure filer shall report all independent expenditures according to the reporting schedule in Part 2 of Article 22A of Chapter 163 of the General Statutes.

(g) A report is considered filed either:

- (1) on the date it is received by hand-delivery during regular business hours at the county board of elections or State Board of Elections;
- (2) on the date it is postmarked by the United States Postal Services or marked with an equivalent marking by a delivery service authorized by G.S. 1A-1, Rule 4; or
- (3) for an independent expenditure report filed electronically pursuant to Paragraph (d) of this Rule, on the date the completed report is emailed to the State Board of Elections at [campaign.reporting@ncsbe.gov](mailto:campaign.reporting@ncsbe.gov).

(h) A report that is missing any of the information in Paragraph (c) of this Rule shall not be considered filed in accordance with G.S. 163-278.12(d).

(i) An independent expenditure filer that makes an expenditure of five thousand dollars (\$5,000) or more or receives a donation of one thousand dollars (\$1,000) or more before an election but after the period covered by the last report due before that election, shall file a 48-hour report with the State Board or county board of elections using forms available on the State Board's website. An independent expenditure filer that makes a reportable independent expenditure within 10 days of an election, and has not previously reported independent expenditures during the election the independent expenditure affects, shall file 48-hour reports in accordance with this Paragraph. A 48-hour report shall be made using CRO-2210A Independent Expenditure Report Cover, CRO-2210B Donations to Further Independent Expenditures, and CRO-2210C Incurred Costs of Independent Expenditures. 48-hour reports may be filed by fax or email.

*History Note: Authority G.S. 163-278.12; 163-278.21; 163-278.22;  
Eff. May 1, 2020;  
Amended Eff. September 1, 2021.*

## **08 NCAC 21 .0103 REPORTING OF SPECIAL CONTRIBUTIONS**

(a) Once a person as defined in G.S. 163-278.6(72) or other entity required to report contributions under G.S. 163-278.12(b) has made contributions with a present, actual, or market value in excess of one hundred dollars (\$100.00) during an election as defined in G.S. 163-278.6(30), the person or entity shall report all contributions made, and any donations made to further contributions, with the following board of elections:

- (1) if the district of the candidate, committee, or ballot issue supported or opposed is within one county, and the candidate is not running for a legislative, judicial, or district attorney office, the report shall be filed with the county board of elections; or
- (2) if the district of the candidate, committee, or ballot issue supported or opposed extends to more than one county, or the candidate is running for a legislative, judicial, or district attorney office, the report shall be filed with the State Board.

(b) A special contributor is the person or other entity making a reportable contribution under G.S. 163-278.12(b). An authorized officer or an authorized representative of the person or entity shall sign all reports.

(c) When reporting contributions, the special contributor shall file CRO-2215A Special Contributor Report Cover, CRO-2215B Donations to Further Contributions, and CRO-2215C Contributions to Registered Committees available on the State Board's website. Special contributor reports filed with the county board of elections or the State Board of Elections shall include all of the following:

- (1) the special contributor's name and mailing address;
- (2) the special contributor's principal place of business;
- (3) for each contribution made:
  - (A) the name and mailing address of the recipient committee;
  - (B) the amount of the contribution;
  - (C) the date of the contribution; and
  - (D) for any in-kind contribution, a description of the expenditure;

- (4) for each donation of more than one hundred dollars (\$100.00) that must be reported under G.S. 163-278.12(f):
  - (A) the donor's name and mailing address;
  - (B) if the donor is an individual, the donor's principal occupation as defined in G.S. 163-2778.11(a)(1);
  - (D) if the donor is a person, the principal place of business of that person;
  - (E) the amount of the donation;
  - (F) the date of the donation;

(d) The special contributor shall complete and file forms within the time period set forth in G.S. 163-278.12(d). A special contributor that makes a reportable contribution within 10 days of an election, and has not previously reported contributions during that election, shall file reports no later than the 10th day after contributions exceed one hundred dollars (\$100.00). After the initial report, the special contributor shall continue to file special contributor reports according to the reporting schedule in G.S. 163-278.9 until the end of the election. The final report for a given election shall cover the period through the day of the election. If the special contributor makes contributions in support of or in opposition to municipal candidates or municipal ballot issues, the special contributor shall report all contributions according to the reporting schedule in Part 2 of Article 22A of Chapter 163 of the General Statutes.

(e) A report is considered filed either:

- (1) on the date it is received by hand-delivery during regular business hours at the county board of elections or State Board of Elections; or
- (2) on the date it is postmarked by the United States Postal Services or marked with an equivalent marking by a delivery service authorized by G.S. 1A-1, Rule 4.

(f) A report that is missing any of the information in Paragraph (c) shall not be considered filed in accordance with G.S. 163-278.12(d).

(g) A special contributor that makes a contribution of five thousand dollars (\$5,000) or more or receives a donation of one thousand dollars (\$1,000) or more before an election but after the period covered by the last report due before that election, shall file a 48-hour report with the State Board or county board of elections using forms available on the State Board's website. A special contributor that makes a reportable contribution within 10 days of an election, and has not previously reported contributions during that election, shall file 48-hour reports in accordance with this Paragraph. A 48-hour report shall be made using CRO-2215A Special Contributor Report Cover, CRO-2215B Donations to Further Contributions, and CRO-2215C Contributions to Registered Committees. 48-hour reports may be filed by fax or email.

*History Note: Authority G.S. 163-278.12; 163-278.21; 163-278.22;  
Eff. May 1, 2020;  
Amended Eff. September 1, 2021.*

#### **08 NCAC 21 .0104 REPORTING OF ELECTIONEERING COMMUNICATIONS**

(a) Once an individual as defined in G.S. 163-278.6(55), person as defined in G.S. 163-278.6(72), or other entity required to report electioneering communications under G.S. 163-278.12C has incurred an expense for the direct cost of producing or airing electioneering communications as defined in G.S. 163-278.6(8j) with a present actual or market value aggregating in excess of five thousand dollars (\$5,000), the individual, person, or entity shall report all electioneering communications, and any donations made to further electioneering communications, with the following board of elections:

- (1) if the district of the candidate referred to is within one county, and the candidate is not running for a legislative, judicial or district attorney office, the report shall be filed with the county board of elections; or
- (2) if the district of the candidate referred to extends to more than one county, or the candidate is running for a legislative, judicial or district attorney office, the report shall be filed with the State Board.

(b) For an individual required to report electioneering communications, the individual shall sign all reports. For a person or other entity required to report electioneering communications, an authorized officer or an authorized representative of the person or entity shall sign all reports.

(c) The direct cost of producing or airing electioneering communications includes, but is not limited to, the cost of studio rental time; video or audio recording media; staff salaries; consultant fees; talent; airtime on broadcast, cable or satellite radio and television stations; and the charges for a broker to purchase the airtime.

(d) When reporting electioneering communications, the individual, person, or entity shall file CRO-2310 Electioneering Communications Report Cover, CRO-2320 Controlling/Directing Entity List; CRO-2330 Receipts for Electioneering Communications, and CRO-2340 Incurred Costs for Electioneering Communications available on the State Board's website. Electioneering Communication reports filed with the county board of elections or the State Board of Elections shall include all of the following:

- (1) the name and mailing address of the individual, person, or entity incurring the expense;
- (2) a phone number for the individual, person, or entity incurring the expense;
- (3) the name and mailing address of the custodian of the books and accounts of the individual, person, or entity incurring the expense;
- (4) if the expense is incurred by an individual, the individual's principal occupation as defined in G.S. 163-278.11(a);
- (5) if the expense is incurred by a person or entity, the principal place of business of the person or entity;
- (6) if an individual, person, or entity is sharing or exercising direction or control over the activities of the individual, person, or entity incurring the expense with regards to the electioneering communication:
  - (A) the name and mailing address of the individual, person or entity sharing or exercising direction or control;
  - (B) if an individual, the individual's principal occupation as defined in G.S. 163-278.11(a)(1); and
  - (C) if a person or entity, the principal place of business of the person or entity;
- (7) for each electioneering communication reported:
  - (A) the name and mailing address of each individual, person or entity paid to produce the electioneering communication;
  - (B) the amount paid to each individual, person or entity to produce the electioneering communication;
  - (C) the date of the electioneering communication;
  - (D) a description of the electioneering communication, including any title; and
  - (E) the name of the candidate or candidates referred to in the electioneering communication;
- (8) for each donation of more than one thousand dollars (\$1,000) during the reporting period made to further the electioneering communication:
  - (A) the donor's name and mailing address;
  - (B) if the donor is an individual, the individual's principal occupation as defined in G.S. 163-278.11(a)(1);
  - (C) if the donor is a person or entity, the principal place of business of the person or entity;
  - (D) the amount of the donation; and
  - (E) the date of the donation.

(e) The individual, person, or entity required to report electioneering communications shall file the forms within the time period set forth in G.S. 163-278.12C(b). After the initial report, the individual, person, or entity incurring the expense shall continue to file electioneering communications reports according to the reporting schedule in G.S. 163-278.9 until the end of the election. The final report for a given election shall cover the period through the day of the election.

(f) A report is considered filed either:

- (1) on the date it is received by hand-delivery during regular business hours at the county board of elections or State Board of Elections; or
- (2) on the date it is postmarked by the United States Postal Services or marked with an equivalent marking by a delivery service authorized by G.S. 1A-1, Rule 4.

(g) A report that is missing any of the information in Paragraph (c) shall not be considered filed in accordance with G.S. 163-278.12C.

(h) A 48-hour report shall be filed with the State Board of Elections or county board of elections using forms provided by the State Board if an individual, person or entity that produces or airs an electioneering communication incurs an expense of five thousand dollars (\$5,000) or more or receives a donation of one thousand dollars (\$1,000) or more for making an electioneering communication before an election but after the period covered by the last report due before that election. A 48-hour report shall be made using CRO-2310 Electioneering Communications Report Cover, CRO-2320 Controlling/Directing Entity List, CRO-2330 Receipts for Electioneering

Communications, and CRO-2340 Incurred Costs for Electioneering Communications. 48-hour reports may be filed by fax or email.

*History Note: Authority G.S. 163-278.12C; 163-278.21; 163-278.22;  
Eff. May 1, 2020;  
Amended Eff. September 1, 2021.*

**08 NCAC 21 .0105 FEDERAL POLITICAL COMMITTEE REPORTING**

(a) A federal political committee that makes a contribution as defined in G.S. 163-278.6(13) to a North Carolina political committee pursuant to G.S. 163-278.7A shall register with the State Board of Elections by filing the following forms available on the State Board's website no later than the 10th day following a federal political committee's contribution to a North Carolina political committee:

- (1) CRO-4010 Federal Committee Statement of Organization, which shall report the information described in G.S. 163-278.7(b), Federal ID Number, and type of committee;
- (2) CRO-3500 Certification of Financial Account Information, which shall report the information described in G.S. 13-278.7(b)(8);
- (3) An Organizational Disclosure Report to include the following, unless the federal political committee files reports electronically consistent with 08 NCAC 21 .0106:

- (A) CRO-4100 Federal Committee North Carolina Disclosure Report Cover, which shall report:
  - (i) the full name, mailing address, phone number, and the NC ID Number assigned to the federal political committee;
  - (ii) the report year, period start date, and period end date for the report;
  - (iii) the full name of the treasurer and assistant treasurer during the period;
  - (iv) the total amount contributed to North Carolina political committees during the period;
  - (v) account information;
  - (vi) date filed; and
  - (vii) an original signature and certification in accordance with G.S. 163-278.32.
- (B) CRO-4200 Federal Committee Report of Contributions to NC Political Committees, which shall list all contributions to North Carolina political committees made prior to the filing of the Organizational Disclosure Report. The federal political committee shall report the following for each contribution made by or refunded to the federal political committee:
  - (i) the full name, mailing address, and phone number for each recipient of a contribution;
  - (ii) the amount of each contribution;
  - (iii) the form of payment;
  - (iv) the date each contribution was made; and
  - (v) the total sum of all contributions to the recipient during the election;

(b) The treasurer of a federal political committee registered with the State of North Carolina pursuant to G.S. 163-278.7A shall file reports according to the reporting schedule in G.S. 163-278.9. If the federal political committee makes contributions to municipal candidates, the federal political committee must report contributions to municipal candidates according to the reporting schedule in Part 2 of Article 22A. The due date of each report shall be published on the State Board of Elections website.

(c) A federal political committee that shows a cumulative total of more than five thousand dollars (\$5,000) in contributions to statewide candidates for an election cycle, or more than ten thousand dollars (\$10,000) in contributions to non-statewide candidates for an election cycle, shall file reports electronically consistent with 08 NCAC 21 .0106. For each report filed electronically, the treasurer shall sign the CRO-4100 Federal Committee North Carolina Disclosure Report Cover and file the signed original in accordance with Paragraph (d) of this Rule with the State Board of Elections. All other federal political committees shall report on forms provided by the State Board, or may choose to file reports electronically consistent with 08 NCAC 21 .0106. A federal political committee that does not file electronically shall use the following State Board forms available on the State Board's website to file a report:

- (1) CRO-4100 Federal Committee North Carolina Disclosure Report Cover; and
- (2) CRO-4200 Federal Committee Report of Contributions to NC Political Committees.

- (d) A report, certification, or other form is considered filed either:
- (1) on the date it is received by hand-delivery during regular business hours at the State Board of Elections;
  - (2) on the date it is postmarked by the United States Postal Service or marked with an equivalent marking by a delivery service authorized by G.S. 1A-1, Rule 4; or
  - (3) for a disclosure report that is filed electronically, on the date the completed report is emailed to the State Board of Elections at [campaign.reporting@ncsbe.gov](mailto:campaign.reporting@ncsbe.gov).
- (e) If no contribution is made during a period described in G.S. 163-278.9, the treasurer may certify the committee as inactive consistent with G.S. 163-278.10. An inactive committee shall not be required to file reports so long as the federal political committee makes no contributions. Once a contribution is made, the federal political committee shall resume reporting according to the reporting schedule in G.S. 163-278.9.
- (f) Organizational, quarterly, semiannual, and final disclosure reports shall be filed even if no contributions are made by the federal political committee during the period of time covered by the report. A federal political committee may close at any time. Once closed, a committee may cease filing reports. In order to close, the federal political committee shall file the following forms available on the State Board's website:
- (1) CRO-3410 Certification to Close Federal Committee which shall have an original signature and certify that the federal political committee no longer intends to make any contributions to North Carolina political committees; and
  - (2) A Final Disclosure Report to include the following:
    - (A) CRO-4100 Federal Committee North Carolina Disclosure Report Cover;
    - (B) CRO-4200 Federal Committee Report of Contributions to NC Political Committees, which shall list all contributions to North Carolina political committees made since the period end date of the last report.

*History Note: Authority G.S. 163-278.7A; 163-278.21; 163-278.22; Eff. May 1, 2020.*

#### **08 NCAC 21 .0106 ELECTRONIC FILING**

- (a) All political committees required to file electronically pursuant to G.S. 163-278.9(i) shall prepare disclosure reports using either of the following:
- (1) the current version of the campaign finance software made available by the North Carolina State Board of Elections and available for download on the State Board website; or
  - (2) third party software only if that software can generate reports that are capable of import into the State Board's central database. The import file formats and validation tool to assist in verifying the format of import files shall be available on the State Board's website.
- (b) Reports generated by the State Board software or third-party software shall be filed by e-mailing the generated .cfd file to [campaign.reporting@ncsbe.gov](mailto:campaign.reporting@ncsbe.gov). State Board staff shall process the .cfd file and send an e-mail to the political committee's treasurer confirming receipt.
- (c) Reports shall be filed on or before 11:59 p.m. of the business day in which it is to be filed.
- (d) For each disclosure report filed electronically, the treasurer shall sign the CRO-1000 Disclosure Report Cover and file it with the board of elections office where the political committee filed its Statement of Organization. The Disclosure Report Cover shall report:
- (1) the full name, mailing address, phone number, and NC ID Number assigned to the political committee;
  - (2) the report year, period start date, and period end date for the report;
  - (3) the full name of the treasurer during the period;
  - (4) type of committee;
  - (5) type of report;
  - (6) account information;
  - (7) date filed; and
  - (8) an original signature and certification in accordance with G.S. 163-278.32.
- (e) A Disclosure Report Cover is considered filed either:
- (1) on the date it is received by hand-delivery during regular business hours at the county board of elections or State Board of Elections; or
  - (2) on the date it is postmarked by the United States Postal Service or marked with an equivalent marking by a delivery service authorized by G.S. 1A-1, Rule 4.

(f) A committee that exceeds the reporting threshold in G.S. 163-278.9(i) during an election cycle, and is required to start filing electronically shall ensure that each contributor's reported sum-to-date for the election cycle includes the sum of contribution received before the political committee began filing electronically.

(g) A committee that is required to file electronically pursuant to G.S. 163-278.9(i) and only files a paper report shall be deemed to have failed to file and shall receive a Notice of Noncompliance pursuant to 08 NCAC 21 .0201.

*History Note:* Authority G.S. 163-278.9; 163-278.21; 163-278.22;  
Eff. May 1, 2020.

#### **08 NCAC 21 .0107 ELECTRONIC SIGNATURE**

Any political committee, referendum committee, or other filer authorized to submit reports, disclosures, or certifications consistent with 08 NCAC 21 .0106 may use an electronic signature permissible under G.S. 66-58.5.

*History Note:* Authority G.S. 163-278.9; 163-278.21;  
Eff. September 1, 2021.

### **SECTION .0200 - NONCOMPLIANCE**

#### **08 NCAC 21 .0201 PROCEDURES FOR POLITICAL AND REFERENDUM COMMITTEES (EFFECTIVE UNTIL MARCH 31, 2023)**

(a) All bank accounts, safety deposit boxes, and other depositories utilized by political committees and referendum committees listed on the statement of organization as required by G.S. 163-278.7(b)(8) or G.S. 163-278.8(b) must be maintained in North Carolina.

(b) Whenever a political committee or referendum committee fails to file with the State Board any report required to be filed under the provisions of Article 22A of Chapter 163, the Board, by certified mail, shall issue a formal Notice of Noncompliance to the political treasurer of the committee and shall order that the report be filed within 30 days of issuance. In the event the committee does not file its report within 30 days of the issuance of the Notice of Noncompliance, the Board by certified mail shall issue a Notice of Termination of Active Status, which shall render the committee ineligible to receive or make contributions until such time as it has filed the delinquent report and has satisfied any statutory penalty incurred pursuant to G.S. 163-278.34.

*History Note:* Authority G.S. 163-278.7; 163-278.8; 163-278.21; 163-278.22; 163-278.23; 163-278.27; 163-278.34;  
Eff. December 1, 1982;  
Amended Eff. February 1, 1990;  
Readopted Eff. October 1, 2018;  
Transferred from 08 NCAC 01 .0104 Eff. May 1, 2020;  
Amended Eff. May 1, 2020.

### **SECTION .0200 – POLITICAL COMMITTEES AND REFERENDUM COMMITTEES**

#### **08 NCAC 21 .0201 COMMITTEE ACCOUNTS (EFFECTIVE APRIL 1, 2023)**

All bank accounts, safety deposit boxes, and other depositories utilized by political committees and referendum committees listed on the statement of organization as required by G.S. 163-278.7(b)(8) or G.S. 163-278.8(b) must be maintained in North Carolina.

*History Note:* Authority G.S. 163-278.7; 163-278.8; 163-278.21;  
Eff. December 1, 1982;  
Amended Eff. February 1, 1990;  
Readopted Eff. October 1, 2018;  
Transferred from 08 NCAC 01 .0104 Eff. May 1, 2020;  
Amended Eff. April 1, 2023; May 1, 2020.

#### **08 NCAC 21 .0202 PROCEDURES FOR CLOSING A COMMITTEE**



(a) A political committee as defined in G.S. 163-278.6(74) may close and cease filing reports according to the schedules set forth in G.S. 163-278.9 or Article 22A, Part 2 if it stops receiving contributions or making expenditures and disposes of all assets and liabilities. In order to close, a political committee shall file all of the following with the board of elections:

- (1) a certification that the political committee intends to close and cease existence and that all assets have been disposed of and reported; and
- (2) a Final Report setting forth the information in G.S. 163-278.11 and covering the period since the last report filed under G.S. 163-278.9 or Article 22A, Part 2. The Final Report shall disclose no cash on hand at the end date of the reporting period; no outstanding loans, and no outstanding debts and obligations owed by the political committee.

(b) A political committee that qualifies under threshold in accordance with G.S. 163-278.10A shall only file a certification as described in Subparagraph (a)(1) of this Rule.

(c) A political committee shall file the certification and Final Report by filing forms available on the State Board of Elections website with the board of elections. The certification and Final Report are considered filed:

- (1) on the date received by hand-delivery during regular business hours at the board of elections;
- (2) on the date postmarked by the United States Postal Service or marked with an equivalent marking by a delivery service authorized by G.S. 1A-1, Rule 4.

(d) Notwithstanding Paragraph (c) of this Rule, a political committee required to file reports electronically pursuant to G.S. 163-278.9(i) shall complete and file a Final Report consistent with 08 NCAC 21 .0106. All other political committees may elect to file a Final Report consistent with 08 NCAC 21 .0106.

(e) If the political committee is required to file a Final Report, the certification in Subparagraph (a)(1) of this Rule shall be filed within 15 calendar days of the Final Report.

(f) Upon receipt of the certification and Final Report, a political committee that is eligible to close under G.S. 163-278.6(74) and this Rule shall be placed in "closed pending" status. A political committee that is closed pending is not required to file reports under G.S. 163-278.9 or Article 22A, Part 2. A political committee that is closed pending shall continue to preserve records consistent with G.S. 163-278.35. The political committee shall be closed after the board of elections completes a final examination of the political committee's reports under G.S. 163-278.24 and all potential prohibited transactions under Articles 22A and 22M of Chapter 163 of the General Statutes are resolved and all amended reports are filed. The State Board may order a committee closed that has not resolved potential prohibited transactions or filed amended reports.

(g) A candidate committee shall not close after the candidate supported files a notice of candidacy, or the candidate's name has been placed on the general election ballot pursuant to G.S. 163-122. A candidate committee may close after the candidate supported withdraws as a candidate pursuant to G.S. 163-106.4 or after the certificate of nomination or election is issued under G.S. 163-182.15.

(h) A political committee shall not close if:

- (1) the political committee has failed to file a report required by G.S. 163-278.9 or Article 22A, Part 2; or
- (2) the political committee has a penalty assessed under G.S. 163-278.34 that remains unpaid within three years of the date the assessment was due. A political committee may close after the State Board waives a penalty under G.S. 163-278.34.

(i) A closed or closed pending political committee may re-open at any time. A committee shall be re-opened upon receipt of an Organizational Report as described in G.S. 163-278.9(a)(1). A political committee shall be assigned the same ID Number issued by the board of elections upon re-opening.

*History Note: Authority G.S. 163-278.21;  
Eff. September 1, 2021.*

#### **08 NCAC 21 .0203 CERTIFICATION OF THRESHOLD**

(a) A political committee that intends to stay within the threshold in G.S. 163-278.10A for a subsequent election cycle shall file a certification with the board of elections according to the following schedule:

- (1) for a candidate committee with an election cycle ending on December 31 of an odd-numbered year, by January 31 of the next even-numbered year.
- (2) for a candidate committee with an election cycle ending on December 31 of an even-numbered year, by January 31 of the next odd-numbered year.
- (3) for a political party committee or affiliated party committee with an election cycle ending on December 31 of an even-numbered year, by January 31 of the next odd-numbered year.

(b) A political committee that fails to file the certification by the due date in Paragraph (a) of this Rule, shall be responsible for filing all reports required in G.S. 163-278.9 or G.S. 163-278.40B, G.S. 163-278.40C, G.S. 163-278.40D, or G.S. 163-278.40E for the subsequent election cycle.

*History Note:* Authority G.S. 163-278.10A; 163-278.21;  
Eff. September 1, 2021.

**08 NCAC 21 .0204        RESERVED FOR FUTURE CODIFICATION**

**08 NCAC 21 .0205        RESERVED FOR FUTURE CODIFICATION**

**08 NCAC 21 .0206        REQUESTING A WAIVER OF A CIVIL LATE PENALTY**

(a) A political committee, referendum committee, individual, or entity requesting a waiver of a civil late penalty under G.S. 163-278.34(a) shall complete and file the form available on the State Board's website within 60 days of service of the notice of penalty assessment. The form shall be signed and notarized and set forth any facts or circumstances that support good cause for a waiver of the penalty.

(b) Waiver requests shall be filed with the State Board using one of the following methods:

- (1) Hand-delivery during regular business hours to the State Board's offices.
- (2) United States Postal Service to the mailing address listed on the State Board's website.
- (3) Delivery service authorized by G.S. 1A-1, Rule 4 to the physical address published on the State Board's website.
- (4) Email to [campaign.reporting@ncsbe.gov](mailto:campaign.reporting@ncsbe.gov) so long as the original signed copy is retained by the political committee, referendum committee, individual or entity for at least two years counting from the date of the election to which the late report affects.

(c) A waiver request is considered filed on the date it is postmarked by the United States Postal Service or marked with an equivalent marking by a delivery service authorized by G.S. 1A-1, Rule 4. A waiver request filed by email must be sent to [campaign.reporting@ncsbe.gov](mailto:campaign.reporting@ncsbe.gov) by 11:59 pm to be considered filed on that date.

(d) Examples of factors considered by the State Board in determining the presence of good cause include but are not limited to:

- (1) Whether the late report was the first late report of the committee or the first late report within the last 10 years.
- (2) Whether the late report was due prior to or after the election for a candidate.
- (3) Whether the late report resulted in any contribution or expenditure not being disclosed to the public.
- (4) Whether the late report resulted from a family emergency, severe illness or hospitalization, natural disaster, or similar unforeseen circumstance.
- (5) Whether the treasurer or assistant treasurer received insufficient guidance from the State Board office or county board office in attempting to file reports.
- (6) Whether documented issues with the U.S. Postal Service or other delivery service inhibited the committee from filing a timely report.

(e) If a waiver request is denied by the State Board, a notice of the denial shall be served by any means authorized under G.S. 1A-1, Rule 4. The notice of the denial shall direct the political committee, referendum committee, individual or entity to pay the assessment within 30 days.

*History Note:* Authority G.S. 163-278.34; 163-278.21;  
Eff. February 1, 2023.

**08 NCAC 21 .0207        PROCEDURES FOR COMMITTEES WITH MISSING REPORTS**

(a) A political committee or referendum committee that fails to file a report required by Article 22A within 30 days after service of the Notice of Penalty Assessment under G.S. 163-278.34(e) shall be issued a Notice of Noncompliance directing the treasurer to file the missing report. A copy of the Notice of Noncompliance shall be posted to the State Board's website.

(b) If a political committee or referendum committee fails to file a missing report within 30 days after service of the Notice of Noncompliance, the State Board shall consider an order requiring the committee to file the missing report and to cease receiving contributions and making expenditures if the missing report is not filed within 30 days of the order. Prior to any decision, the State Board shall give notice to the treasurer and an opportunity for the treasurer or

other representative of the committee to provide a written affidavit stating any facts or circumstances for why an order should not be issued.

(c) Any order issued by the State Board of Elections under Paragraph (b) of this Rule shall be served by any means authorized under G.S. 1A-1, Rule 4. A copy of the order shall be posted to the State Board's website.

(d) A political committee or referendum committee that fails to file the missing report within 30 days of the State Board's order under Paragraph (b) of this Rule shall have the committee's status changed from active to suspended. While suspended, the committee shall not receive any contributions or make any expenditures except for the payment of any civil penalties or forfeitures under G.S. 163-278.14 or G.S. 163-278.34. To be removed from suspended status, the political committee or referendum committee shall file all missing reports identified in any order of the State Board and pay all civil late penalties incurred pursuant to G.S. 163-278.34.

*History Note:* Authority G.S. 163-278.34; 163-278.21;  
Eff. April 1, 2023.

## **SECTION .0300 – USE OF CONTRIBUTIONS**

### **08 NCAC 21 .0301 EXPENDITURES FOR RESIDENTIAL REAL PROPERTY**

(a) Pursuant to G.S. 163-278.16B, a candidate or candidate campaign committee may not use contributions if the purpose of the expenditure is to purchase, lease, rent, or make mortgage payments on residential real property that is owned, either directly or indirectly, by the candidate or officeholder, or a member of the candidate's or officeholder's family, even if a portion of the residence is used for the campaign or holding office.

(b) For the purpose of this Rule:

- (1) "family" includes a candidate's or officeholder's spouse, children, parents, brothers, or sisters.
- (2) "indirectly" includes ownership by any corporation or business entity in which the candidate or officeholder or the candidate's or officeholder's family member has an ownership interest.

*History Note:* Authority G.S. 163-278.16B; 163-278.21;  
Eff. August 1, 2020.

## **SECTION .0400 - EXAMINATIONS**

### **08 NCAC 21 .0401 EXAMINATIONS BY STATE BOARD OF ELECTIONS**

(a) After completing an examination of reports for a given period, State Board staff shall submit in writing to the treasurer any requests to inspect detailed accounts, requests to inspect bank records, including checks or other written verifications of payment, or other questions related to a report's conformance to Article 22A, Article 22M, or to the truth, as set forth in G.S. 163-278.24. If a candidate committee, a copy of the correspondence shall also be submitted in writing to the candidate. The treasurer or assistant treasurer shall respond with the requested records or written answers to questions within 15 business days. An extension of time may be granted for good cause. To obtain an extension of time, the treasurer or assistant treasurer shall submit the request in writing within 15 business days of receiving the request for records or written answers. For purposes of this Rule, "good cause" exists when:

- (1) there is a death in the family of the candidate, treasurer, assistant treasurer, or custodian of books;
- (2) the candidate, treasurer, assistant treasurer, or custodian of books, or someone in his or her family, is ill or hospitalized;
- (3) the candidate, treasurer, assistant treasurer, or custodian of books is unable to provide a timely response due to a State-declared natural disaster;
- (4) there is any change in the name, address or email address of the treasurer within 10 calendar days preceding the submission of the written requests or questions: or
- (5) due to the complexity of the response required, State Board staff determines additional time is necessary for the committee to provide a sufficient response.

(b) State Board staff shall submit any subsequent requests to inspect detailed accounts, requests to inspect bank records, or other questions in writing to the treasurer. For each subsequent submission of requests or questions, the treasurer or assistant treasurer shall respond within 15 business days. An extension of time may be granted for good cause consistent with Paragraph (a) of this Rule.

(c) After the expiration of time for all requests and questions in Paragraphs (a) and (b) of this Rule, State Board staff shall prepare a draft examination memorandum. The draft examination memorandum shall set forth any potential prohibited transactions, reporting errors, or informational items identified by State Board staff during the

examination. The draft examination memorandum shall include any recommendations for corrective actions and requests that the committee amend any reports. A copy of the draft examination memorandum shall be submitted in writing to the treasurer. If a candidate committee, a copy of the draft examination memorandum shall also be submitted in writing to the candidate. The treasurer or assistant treasurer shall respond in writing within 20 business days.

(d) After the expiration of time in Paragraph (c) of this Rule, State Board staff shall finalize the examination memorandum. State Board staff shall note any amended reports filed by the treasurer prior to the expiration of time in Paragraph (c) of this Rule. State Board staff shall publish a copy of the final examination memorandum and a copy of any written response provided by the treasurer or assistant treasurer on the State Board of Elections website.

(e) Any day that the State Board of Elections office is closed shall not be counted as a business day for the purpose of this Rule.

(f) This Rule shall not apply to any examination by a county board of elections of a committee that files reports with the county board of elections.

*History Note:* Authority G.S. 163-278.8; 163-278.21;  
Eff. September 1, 2021.

## **SECTION .0500 – DISCLOSURE REQUIREMENTS FOR MEDIA ADVERTISEMENTS**

### **08 NCAC 21 .0501 BILLBOARDS**

For the purpose of Chapter 163, Article 22A, Part 1A, a "billboard" is any sign, flat surface, or other display greater than 50 square feet. This definition shall not include flags or banners.

*History Note:* Authority G.S. 163-278.21; 163-278.39;  
Eff. December 1, 2021.