

## REQUEST FOR TECHNICAL CHANGE

AGENCY: State Board of Elections

RULE CITATION: 08 NCAC 21 .0101

**DEADLINE FOR RECEIPT: Friday, April 10, 2020**

**PLEASE NOTE:** *This request may extend to several pages. Please be sure you have reached the end of the document.*

The Rules Review Commission staff has completed its review of this Rule prior to the Commission's next meeting. The Commission has not yet reviewed this Rule and therefore there has not been a determination as to whether the Rule will be approved. You may call our office to inquire concerning the staff recommendation.

In reviewing this Rule, the staff recommends that the following technical changes be made:

*Because there is no (b), please delete the (a) on line 4. Because each Item stands alone and ends in periods, please change "if all of the following efforts are made:" to "if all of the efforts set forth in this Rule are made."*

*In (a), please change "will" to "shall"*

*In (a)(1), please delete or define "accurate" on line 8.*

*Do you need "but are not the only allowable statements"? With "the following are **examples**" this appears to be unnecessary.*

*On line 23, overlooked by whom? The contributor?*

*In (a)(2), delete "solely" and "clearly"*

*In (a)(2), I assume that "clear and conspicuous" has the same meaning as in (a)(1)? If so, I think it's clear as written. Please just confirm.*

Please retype the rule accordingly and resubmit it to our office at 1711 New Hope Church Road, Raleigh, North Carolina 27609.

Amber May  
Commission Counsel  
Date submitted to agency: Friday, March 27, 2020

08 NCAC 21 .0101 is proposed for adoption as follows:

**08 NCAC 21 .0101        BEST EFFORTS**

(a) The treasurer of a political committee or referendum committee will 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 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 an accurate 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, but are not the only allowable statements:

(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) 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) 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.

(2) For each aggregate contribution received in excess of fifty dollars (\$50) 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 solely thanking the contributor for the contribution. The request must clearly ask for the missing information and must include the statement set forth in Subparagraph (a)(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.

- 1       (3) The treasurer reports all contributor information not provided by the contributor, but in the political  
2       committee's or referendum committee's possession, including information in contributor records,  
3       fundraising records and previously filed reports, in the same election cycle.
- 4       (4) If, after complying with all provisions of this section, the treasurer is unable to identify the  
5       contributor's principal occupation, the treasurer lists all available information and report "unable to  
6       obtain" as to the missing occupational information.
- 7       (5) If any of the contributor information is received after the contribution has been disclosed on a  
8       regularly scheduled report, the candidate committee, political committee, or referendum committee  
9       files on or before its next regularly scheduled reporting date, amendments to the report(s) originally  
10      disclosing the contribution(s), which include the contributor identifications together with the dates  
11      and amounts of the contribution(s). Amendments must be filed for all reports that cover the election  
12      in which the contribution was received that disclose itemizable contributions from the same  
13      contributor if the contributor information is incorrect or missing from the report.

14  
15      *Authority G.S. 163-278.11; 163-278.21; 163-278.22.*

## REQUEST FOR TECHNICAL CHANGE

AGENCY: State Board of Elections

RULE CITATION: 08 NCAC 21 .0102

**DEADLINE FOR RECEIPT: Friday, April 10, 2020**

**PLEASE NOTE: This request may extend to several pages. Please be sure you have reached the end of the document.**

The Rules Review Commission staff has completed its review of this Rule prior to the Commission's next meeting. The Commission has not yet reviewed this Rule and therefore there has not been a determination as to whether the Rule will be approved. You may call our office to inquire concerning the staff recommendation.

In reviewing this Rule, the staff recommends that the following technical changes be made:

*Please add a comma after "person" on line 7.*

*Please begin (a)(1) and (2); and (g)(1) through (3) with lower case letters.*

*In (c), the mixed use of semi-colons and periods at the end are a bit confusing. Please review and revise as necessary. Since you're requiring all of this pursuant to (h) of this Rule, I think you need semi-colons and "ands." Please also note the use of capital letters vs. lower case letters.*

*In (c)(5)(E), a comma after "political party"*

*In (c)(5)(E), delete "clearly"*

*Are the contents of the forms set forth in (d)(1) through (3) set forth elsewhere in rule or statute? Are these covered by (c)? If not, please provide the substantive requirements of the forms.*

*In (f), just to be clear, if I'm filing electronically what must I do? Do I have to print it out, sign it, scan it, and then email it?*

*In (f), what is meant by the "due date shall be published on the State Board of Elections website"? Are these the time periods set forth in G.S. 163-278.12(d)?*

*In (i), are the substantive requirements of the 48 hour report set forth elsewhere in rule or statute? If not, please provide them here.*

Please retype the rule accordingly and resubmit it to our office at 1711 New Hope Church Road, Raleigh, North Carolina 27609.

Amber May  
Commission Counsel  
Date submitted to agency: Friday, March 27, 2020

08 NCAC 21 .0102 is proposed for adoption as follows:

**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).

(c) 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 a clearly 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.

(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 shall file independent expenditure reports electronically consistent with 08 NCAC 21 .0106. All other independent expenditure filers shall report independent expenditures, and any donation made to further independent expenditures, on forms available on the State Board's website, or electronically consistent with 08 NCAC 21 .0106. The independent expenditure filer shall use the following State Board forms available on the State Board's website:

(1) Independent Expenditure Report Cover;

(2) Donations to Further Independent Expenditures; and

(3) Incurred Costs of Independent Expenditures.

(e) For each independent expenditure report filed electronically, the independent expenditure filer shall sign the Independent Expenditure Report Cover and 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 sign forms within the time period set forth in G.S. 163-278.12(d). 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. 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). 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. The due date of each report shall be published on the State Board of Elections website.

(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).

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

3 (i) An independent expenditure filer that makes an expenditure of five thousand dollars (\$5,000) or more or  
4 receives a donation of one thousand dollars (\$1,000) or more before an election but after the period covered by the  
5 last report due before that election, shall file a 48-hour report with the State Board or county board of elections using  
6 forms available on the State Board's website. An independent expenditure filer that makes a reportable independent  
7 expenditure within 10 days of an election, and has not previously reported independent expenditures during the  
8 election the independent expenditure affects, shall file 48-hour reports in accordance with this Paragraph.

9  
10 *Authority G.S. 163-278.12; 163-278.21; G.S. 163-278.22.*

REQUEST FOR TECHNICAL CHANGE

AGENCY: State Board of Elections

RULE CITATION: 08 NCAC 21 .0103

**DEADLINE FOR RECEIPT: Friday, April 10, 2020**

**PLEASE NOTE:** *This request may extend to several pages. Please be sure you have reached the end of the document.*

The Rules Review Commission staff has completed its review of this Rule prior to the Commission's next meeting. The Commission has not yet reviewed this Rule and therefore there has not been a determination as to whether the Rule will be approved. You may call our office to inquire concerning the staff recommendation.

In reviewing this Rule, the staff recommends that the following technical changes be made:

*Please begin (a)(1) and (2); and (f)(1) and (2) with lower case letters.*

*In (c), the mixed use of semi-colons and periods at the end are a bit confusing. Please review and revise as necessary. I think you need semi-colons and "ands." Please also note the use of capital letters vs. lower case letters.*

*Are the contents of the forms set forth in (d)(1) through (3) set forth elsewhere in rule or statute? Are these covered by (c)? If not, please provide the substantive requirements of the forms.*

*In (e), what is meant by the "due date shall be published on the State Board of Elections website"? Are these the time periods set forth in G.S. 163-278.12(d)?*

*In (h), are the substantive requirements of the 48 hour report set forth elsewhere in rule or statute? If not, please provide them here.*

Please retype the rule accordingly and resubmit it to our office at 1711 New Hope Church Road, Raleigh, North Carolina 27609.

Amber May  
Commission Counsel  
Date submitted to agency: Friday, March 27, 2020



08 NCAC 21 .0103 is proposed for adoption as follows:

**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).

(c) 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. 163-278.11(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) When reporting contributions, the special contributor shall use the following State Board forms available on the State Board's website:

(1) Special Contributor Report Cover;

(2) Donations to Further Contributions; and

(3) Contributions to Registered Committees.

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

10 (f) A report is consider filed either:

11 (1) On the date it is received by hand-delivery during regular business hours at the county board of  
12 elections or State Board of Elections; or

13 (2) On the date it is postmarked by the United States Postal Services or marked with an equivalent  
14 marking by a delivery service authorized by G.S. 1A-1, Rule 4.

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

17 (h) A special contributor that makes a contribution of five thousand dollars (\$5,000) or more or receives a  
18 donation of one thousand dollars (\$1,000) or more before an election but after the period covered by the last report  
19 due before that election, shall file a 48-hour report with the State Board or county board of elections using forms  
20 available on the State Board's website. A special contributor that makes a reportable contribution within 10 days of  
21 an election, and has not previously reported contributions during that election, shall file 48-hour reports in accordance  
22 with this Paragraph.

23  
24 *Authority G.S. 163-278.12; 163-278.21; G.S. 163-278.22.*

## REQUEST FOR TECHNICAL CHANGE

AGENCY: State Board of Elections

RULE CITATION: 08 NCAC 21 .0104

**DEADLINE FOR RECEIPT: Friday, April 10, 2020**

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The Rules Review Commission staff has completed its review of this Rule prior to the Commission's next meeting. The Commission has not yet reviewed this Rule and therefore there has not been a determination as to whether the Rule will be approved. You may call our office to inquire concerning the staff recommendation.

In reviewing this Rule, the staff recommends that the following technical changes be made:

*Please add a comma after "person" on line 7.*

*Please begin (a)(1) and (2); and (f)(1) and (3) with lower case letters.*

*In (c), the mixed use of semi-colons and periods at the end are a bit confusing. Please review and revise as necessary. Since you're requiring all of this pursuant to (g) of this Rule, I think you need semi-colons and "ands." Please also note the use of capital letters vs. lower case letters.*

*In (c)(5)(E), delete the comma after "candidate" and add "or" Alternatively, add a comma after "political party"*

*In (c)(5)(E), delete "clearly"*

*Are the contents of the forms set forth in (d)(1) through (4) set forth elsewhere in rule or statute? Are these covered by (c)? If not, please provide the substantive requirements of the forms.*

*In (f), what is meant by the "due date shall be published on the State Board of Elections website"? Is this the time period set forth in G.S. 163-278.12C(b)?*

*In (i), are the substantive requirements of the 48 hour report set forth elsewhere in rule or statute? If not, please provide them here.*

Please retype the rule accordingly and resubmit it to our office at 1711 New Hope Church Road, Raleigh, North Carolina 27609.

Amber May  
Commission Counsel  
Date submitted to agency: Friday, March 27, 2020

08 NCAC 21 .0104 is proposed for adoption as follows:

**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 with a present actual or market value aggregating in excess of five thousand dollars (\$5,000) during an election as defined in G.S. 163-278.6(8j), 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) 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.

(c) 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)(1).

(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 (\$1,000.00) 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.
- (d) When reporting electioneering communications, the individual, person or entity shall use the following State Board forms available on the State Board's website:
- (1) Electioneering Communications Report Cover;
- (2) Controlling/Directing Entity List;
- (3) Receipts for Electioneering Communications; and
- (4) Incurred Costs for Electioneering Communications.
- (e) The individual, person, or entity required to report electioneering communications shall complete and sign 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. The due date of each report shall be published in the State Board of Elections website.
- (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.

1     *Authority G.S. 163-278.12C; 163-278.21; G.S. 163-278.22.*

## REQUEST FOR TECHNICAL CHANGE

AGENCY: State Board of Elections

RULE CITATION: 08 NCAC 21 .0105

**DEADLINE FOR RECEIPT: Friday, April 10, 2020**

**PLEASE NOTE: This request may extend to several pages. Please be sure you have reached the end of the document.**

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In reviewing this Rule, the staff recommends that the following technical changes be made:

*In (a), lines 6-7, what is considered to be "anything of value"? Is this set forth elsewhere in rule or statute?*

*Are substantive requirements of the forms referenced in (a)(1) through (3); (c)(1) and (2); and (f)(1) and (2) set forth elsewhere in rule or statute?*

*In (b), I assume that the due dates posted on the Board's website, are those contained in statute? If so, I think this language is fine.*

*In (c), how is the signature to be provided for those reports filed electronically?*

*Please begin (d)(1) through (3) with lower case letters.*

*In (d)(3), I don't understand the cross-reference to (c). Do you need it?*

*In (e), what form is to be used? Are the contents set forth elsewhere in rule or statute?*

-Please retype the rule accordingly and resubmit it to our office at 1711 New Hope Church Road, Raleigh, North Carolina 27609.

Amber May  
Commission Counsel  
Date submitted to agency: Friday, March 27, 2020

08 NCAC 21 .0105 is proposed for adoption as follows:

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

(a) A federal political committee that makes a contribution 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 transfer of anything of value to a North Carolina political committee:

(1) A Federal Committee Statement of Organization;

(2) Certification of Financial Account Information;

(3) An Organizational Disclosure Report to include the following:

(A) A Federal Committee North Carolina Disclosure Report Cover;

(B) A 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.

(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 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 shall use the following State Board forms available on the State Board's website to file a disclosure report:

(1) A Federal Committee North Carolina Disclosure Report Cover; and

(2) A Federal Committee Report of Contributions to NC Political Committees, which shall list all contributions to North Carolina political committees made between the period start date and period end date.

(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



- 1           (3) For a disclosure report that is filed electronically pursuant to Paragraph (c) of this Rule, on the date  
2           the completed report is emailed to the State Board of Elections at [campaign.reporting@ncsbe.gov](mailto:campaign.reporting@ncsbe.gov).
- 3   (e) If no contribution is made during a period described in G.S. 163-278.9, the treasurer may file concurrently  
4   with a quarterly or semiannual report a certification to have the committee deemed inactive. The certification shall be  
5   made on forms provided by the State Board and available on the State Board's website. An inactive committee shall  
6   not be required to file reports so long as the federal political committee makes no contributions. Once a contribution  
7   is made, the federal political committee shall resume reporting according to the reporting schedule in G.S. 163-278.9.
- 8   (f) A federal political committee may close at any time. In order to close, the federal political committee shall  
9   file the following forms available on the State Board's website:
- 10           (1) A Certification to Close Federal Committee; and  
11           (2) A Final Disclosure Report to include the following:
- 12                   (A) A Federal Committee North Carolina Disclosure Report Cover;  
13                   (B) A Federal Committee Report of Contributions to NC Political Committees, which shall list  
14                           all contributions to North Carolina political committees made since the period end date of  
15                           the last report.
- 16   (g) Organizational, quarterly, semiannual, and final disclosure reports shall be filed even if no contributions are  
17   made by the federal political committee during the period of time covered by the report.

18  
19   *Authority G.S. 163-278.7A; G.S. 163-278.21; 163-278.22.*

## REQUEST FOR TECHNICAL CHANGE

AGENCY: State Board of Elections

RULE CITATION: 08 NCAC 21 .0106

**DEADLINE FOR RECEIPT: Friday, April 10, 2020**

**PLEASE NOTE:** *This request may extend to several pages. Please be sure you have reached the end of the document.*

The Rules Review Commission staff has completed its review of this Rule prior to the Commission's next meeting. The Commission has not yet reviewed this Rule and therefore there has not been a determination as to whether the Rule will be approved. You may call our office to inquire concerning the staff recommendation.

In reviewing this Rule, the staff recommends that the following technical changes be made:

*Please begin (a)(1) and (2) with lower case letters.*

*In (a)(2), how are folks who use third party software to know whether it is capable of being imported into the Board's database? Is this the reason for "The import file formats and validation tool shall be available on the... website"? Do these validation tools and file formats meet the definition of a Rule pursuant to 150B-2?*

*Just to verify, in (b), it's the treasurer of one of the entities set forth in G.S. 163-278.9(i)? I'm not sure that a change is necessary, I just want to be sure that I understand.*

*In (c), what is "that business day"? Here, do you mean something like "Reports shall be filed on or before 11:59 p.m. of the business day in which it is to be filed."*

*In (d), what is the Disclosure Report Cover? Is this a form? If so, please provide the substantive requirements.*

*Please begin (d)(1) and (2) with lower case letters.*

*When does (e) apply? Is the intent here to say that if a committee exceeds the threshold in the middle of an election cycle, then they only need to file electronically from then on out, but that they need to include all contributions received, even those received before they were required to file electronically pursuant to G.S. 163-278.9(i)?*

*In (f), would it make sense to add "be deemed" in between "shall" and "have failed to file" so that it reads "shall be deemed to have failed..."*

Please retype the rule accordingly and resubmit it to our office at 1711 New Hope Church Road, Raleigh, North Carolina 27609.

Amber May  
Commission Counsel  
Date submitted to agency: Friday, March 27, 2020

08 NCAC 21 .0106 is proposed for adoption as follows:

**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 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. State Board staff shall process the .cfd file and send an e-mail to the treasurer confirming receipt.

(c) Reports received until 11:59 pm shall be deemed to have been filed that business day.

(d) For each disclosure report filed electronically, the treasurer shall sign the Disclosure Report Cover and file it with the board of elections office where the political committee filed its Statement of Organization. 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.

(e) A committee that exceeds the reporting threshold in G.S. 163-278.9(i) and is required to start filing electronically during an election cycle shall ensure that each contributor's sum-to-date is reported accurately on all subsequent disclosure reports.

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

*Authority G.S. 163-278.9; 163-278.21; 163-278.22.*

08 NCAC 01 .0104 is proposed for amendment as follows:

**08 NCAC 01 .0104 08 NCAC 21 .0201      **PROCEDURES FOR POLITICAL AND REFERENDUM COMMITTEES****

(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. 163A-1412(b)(8)~~ G.S. 163-278.7(b)(8) or ~~G.S. 163A-1414(b)~~ 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 ~~G.S. 163A-1418~~ or ~~G.S. 163A-1419~~ 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 ~~20~~ 30 days of issuance. In the event the committee does not file its report within ~~20~~ 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. 163A-1451~~ G.S. 163-278.34.

*History Note: Authority ~~G.S. 163A-1412; 163A-1414; 163A-1439; 163A-1440; 163A-1441; 163A-1445; 163A-1451~~; 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.  
Amended Eff. May 1, 2020;*