

9 MCAR 1

2-23-82

1 Ethical Practices Board

2

3 Adopted Rules Governing Campaign Financing; Economic Interest
4 Disclosure; Lobbyist Registration and Reporting; Conflicts of
5 Interest; Representation Disclosure; and Hearings

6

7 Rules as Adopted

8 Chapter One: Campaign Financing Rules

9 9 MCAR S 1.0001 Applicability. Chapter One applies to principal
10 campaign committees, political committees, political funds,
11 individuals and associations that raise or expend more than \$100
12 in a calendar year to influence the nomination or election of a
13 candidate or to promote or defeat a ballot question.

14 9 MCAR S 1.0008 Association newsletters on behalf of a candidate.
15 Unless an association as defined in Minn. Stat. S 10A.01, subd.
16 3 is making an independent expenditure, the proportionate cost
17 of preparation and distribution of a newsletter which advocates
18 the nomination or election of a candidate is a donation in kind
19 and must be approved by the candidate if the cost exceeds \$20
20 per candidate.

21 9 MCAR S 1.0012 Change of office sought by candidate.

22 C. Tax credit and public financing agreements. A candidate
23 may sign a tax credit agreement for the calendar year for each
24 office sought until December 31. A candidate may sign a public
25 financing agreement for each office sought until September 1 of
26 the general election year. Signing a public financing agreement
27 by September 1 automatically rescinds a previously filed
28 agreement for another office.

29 9 MCAR S 1.0016 Contributions from non-Minnesota domiciled
30 associations and domiciled, federally registered political
31 committees or political funds. Non-Minnesota domiciled
32 associations and domiciled, federally registered political
33 committees or political funds which contribute more than \$100 in
34 a calendar year to a political committee or political fund may,

1 in lieu of registration with the board, provide the recipient
2 political committee or political fund with a report of receipts
3 and expenditures containing all information required by Minn.
4 Stat. S 10A.20 for the reporting period in which the
5 contribution was made.

6 9 MCAR S 1.0017 Contribution limits; political party definition.
7 For purposes of determining an aggregate political party
8 contribution limit, the organization of a political party does
9 not include a political party ward organization; a social club
10 of a political party in a congressional district, legislative
11 district, municipality or precinct; an auxiliary committee of a
12 political party unit defined by Minn. Stat. S 10A.27, subd. 4;
13 or an association as defined in Minn. Stat. S 10A.01, subd. 3
14 which uses a political party name and is not listed in Minn.
15 Stat. S 10A.27, subd. 4.

16 9 MCAR S 1.0025 Joint limits for Governor and Lieutenant
17 Governor.

18 A. Public financing or tax credit agreements. A candidate
19 seeking the endorsement for Lieutenant Governor who signs a tax
20 credit agreement does not bind either the candidate for Governor
21 or his own candidacy to campaign expenditure limits following
22 their joining of candidacies. Following their joint endorsement
23 or filing for office, the candidates must jointly sign either
24 the public financing agreement or the tax credit agreement or
25 both agreements if they wish to participate in public financing.

26 9 MCAR S 1.0029 Noncampaign disbursements; constituent services.

27 A. Expenses to be reported. Expenses paid by the principal
28 campaign committee of a candidate in a nonelection year and
29 until 60 days after adjournment sine die of the Legislature in
30 an election year for the office held, for constituent services
31 including newsletters, public opinion questionnaires, aides to
32 legislators for constituent services during a legislative
33 session, stationery not printed at government expense, postage,
34 and rent for district offices shall be reported as a constituent
35 service noncampaign disbursement. Only that portion of the

1 expense actually used or consumed for services to constituents
2 shall be reported as a noncampaign disbursement.

3 B. Constituent services from personal funds until 60 days
4 following adjournment. Costs of providing constituent services
5 which are paid from personal funds of an officeholder and
6 incurred until 60 days following adjournment sine die of the
7 Legislature in the election year for the office held are not
8 required to be reported by the principal campaign committee of
9 the officeholder.

10 C. Constituent services after 60 days following
11 adjournment. Costs of providing constituent services by an
12 officeholder who is a candidate which are incurred after 60 days
13 following adjournment sine die of the Legislature in the
14 election year for the office held and sought are reportable by
15 the principal campaign committee of the officeholder as campaign
16 expenditures.

17 D. Constituent services from personal funds after 60 days
18 following adjournment. Costs of providing constituent services
19 which are paid from personal funds of an officeholder and
20 incurred after 60 days following adjournment sine die of the
21 Legislature in the election year for the office held and sought
22 are a donation in kind and must be reported as such by the
23 principal campaign committee of the officeholder.

24 E. Constituent services after the general election. Costs
25 of providing constituent services which are incurred in an
26 election year after the general election are noncampaign
27 disbursements.

28 F. Print media report. A print media column or legislative
29 report to constituents which is authored by a candidate shall be
30 considered an effort by the candidate to influence his
31 nomination or election if it is prepared and inserted in a
32 newspaper or recurring periodical after 60 days after
33 adjournment of the Legislature sine die in an election year when
34 the candidate's name will appear on the ballot. A letter,
35 authored by a candidate, appearing in a section of a newspaper
36 or recurring periodical, designated for letters to the editor

1 shall not be considered a campaign expenditure.

2 9 MCAR S 1.0031 Organization of political committees and
3 political funds.

4 A. Registration required. Any group of two or more persons
5 which receives contributions or which makes expenditures,
6 transfers of funds, or independent expenditures in aggregate
7 more than \$100 to influence the nomination or election of one or
8 more candidates for statewide or legislative office or to
9 promote or defeat a ballot question must register as a political
10 committee or political fund. If the group's major purpose is to
11 influence the nomination or election of one or more candidates,
12 or to promote or defeat a ballot question, it shall register as
13 a political committee. If the group is an association whose
14 major purpose is one other than to influence nominations or
15 elections, or to promote or defeat a ballot question, it shall
16 register as a political fund. When a person or group merely
17 solicits contributions with the approval of a candidate or the
18 treasurer, deputy treasurer or agent of a political committee or
19 political fund and when those contributions are made directly to
20 the reporting committee or fund, that person or group need not
21 establish a separate political committee or political fund.

22 E. Certificate in other financial institution. If a
23 political committee or fund purchases a certificate of deposit
24 or money market certificate from a financial institution other
25 than that which has been previously disclosed as a depository,
26 the treasurer must amend the Statement of Organization by adding
27 the name of the new depository.

28 9 MCAR S 1.0040 Tax credit agreement. A candidate may sign a
29 tax credit agreement at any time after registration of his
30 principal campaign committee for the office sought or held
31 through December 31. An agreement signed on or after January 1
32 shall not be applicable to a preceding calendar year.

33 9 MCAR S 1.0041 Tax credit agreement and public financing
34 agreement. A candidate must sign a separate agreement in order
35 to participate in each public financing program.

1

2 Chapter Two: Economic Interest Disclosure Rules

3 9 MCAR S 1.0100 Public official. An individual who is employed
4 or appointed as an acting public official or who is employed
5 part-time as a public official is required to file a Statement
6 of Economic Interest.

7 9 MCAR S 1.0101 Definitions. For the purposes of 9 MCAR SS
8 1.0100-1.0112, the terms defined in this rule have the meanings
9 given them.

10 A. Compensation. "Compensation" includes every kind of
11 compensation for labor or personal services from private or
12 public employment. It does not include alimony or child support
13 payments.

14 B. Compensation in any month.

15 1. For the purpose of an original Statement of Economic
16 Interest, "compensation in any month" includes only compensation
17 received in the calendar month immediately preceding the date of
18 appointment as a public official or filing as a candidate.

19 2. For the purpose of supplementary Statements of
20 Economic Interest to be filed, "compensation in any month"
21 includes compensation and honorariums received in any month
22 between the end of the period covered in the preceding Statement
23 of Economic Interest and the end of the current period.

24 3. For the purpose of calculating the amount of
25 compensation received from any single source in a single month,
26 the amount shall include the total amount received from the
27 source during the month, whether or not the amount covers
28 compensation for more than one month.

29 C. Date of appointment. "Date of appointment" means the
30 effective date of appointment to a position.

31 D. Source of compensation. "Source of compensation" means
32 the name of the corporation, partnership or other entity from
33 which the individual receives compensation. A self-employed
34 individual is required to list only a description of the
35 occupation in which the individual is self-employed, for

1 example, farming or practice of law, and is not required to list
2 the names of corporations, partnerships, or other entities which
3 pay compensation to the public official or candidate as a
4 self-employed individual.

5 9 MCAR S 1.0109 Securities.

6 A. Securities, defined. "Securities" includes any stock,
7 share, bond, warrant, option, pledge, note, mortgage, debenture,
8 lease, or commercial paper in any corporation, partnership,
9 trust, or other association. "Securities" does not include
10 deposits in a savings account, certificates of deposit, money
11 market certificates, treasury notes, dividends from securities
12 or shares in a pension fund.

13 F. Exception. Exception to B. is made for trustees of
14 associations organized exclusively for social, religious,
15 educational, medical, benevolent, fraternal, charitable,
16 reformatory, athletic, chamber of commerce, industrial
17 development, trade, or professional association purposes and not
18 for pecuniary gain, no part of the net earnings of which inures
19 to the benefit of any private stockholder or individual.

20 9 MCAR S 1.0112 Joint interests. A public official who holds a
21 joint interest in a security, or in a partnership, shall
22 disclose ownership in the security or the partnership if the
23 official's proportionate share of the holding is valued at
24 \$2,500 or more.

25

26 Chapter Three: Lobbyist Registration and Reporting Rules

27 9 MCAR S 1.0200 Purpose. The purpose of 9 MCAR SS 1.0200-1.0210
28 is to implement the lobbyist registration and reporting
29 provisions of Minn. Stat. ch. 10A.

30 9 MCAR S 1.0202 Obligation to register. An individual shall
31 register as a lobbyist as required by Minn. Stat. SS 10A.01,
32 subd. 11, and 10A.03, subject to the following:

33 B. Paid expert witness registration. An individual who is
34 hired or paid by a lobbyist as an expert witness and whose

1 testimony is requested by a legislative committee, or an agency
 2 defined by Minn. Stat. S 15.0411, subd. 2, or a state hearing
 3 examiner, shall not be required to register as a lobbyist if the
 4 committee, agency, or hearing examiner, by order, resolution,
 5 recorded vote or other formal means requests such expert
 6 testimony. This exclusion is applicable only to the extent of
 7 preparing or delivering the requested testimony.

8 9 MCAR S 1.0203 Obligation to report.

9 B. Alternative report. Notwithstanding A., a lobbyist whose
 10 reportable disbursements in a reporting period total less than
 11 \$100 and whose disclosure under 9 MCAR S 1.0204 B. would be less
 12 than \$20 may file a statement to that effect in lieu of a
 13 lobbyist disbursement report. All previously unreported
 14 disbursements shall be disclosed annually on the October 15
 15 report, even though the total for the year is less than \$100.

16 B. [Reletter as C.]

17 9 MCAR S 1.0204 Lobbyist disbursement reports and reporting.

18 A. Disbursement reports.

19 3. A lobbyist disbursement report shall include the total
 20 disbursements for the reporting period by the lobbyist, and any
 21 employer or employee of the lobbyist, for lobbyist activities in
 22 each of the following categories:

23 c. Telegraph and telephone. The cost includes a
 24 reasonable estimate of a pro rata share of business office
 25 telephone expense incurred for lobbying purposes.

26 9 MCAR S 1.0210 Contested case hearing.

27 A. Representative of a party must register. A
 28 representative of a party to a contested case rate proceeding
 29 before a state hearing examiner is required to register as a
 30 lobbyist provided other qualifying requirements of Minn. Stat. S
 31 ~~10A.02~~ 10A.01, subd. 11, are met.

32 B. Attempt to influence appeals. An individual who attempts
 33 to influence appeals proceedings which may follow determination
 34 of a rate, power plant and powerline siting, or granting of a
 35 certificate of need under Minn. Stat. ch. 116H is not required

1 to register as a lobbyist.

2

3 Chapter Four: Conflicts of Interest Rules

4 9 MCAR S 1.0300 Purpose. The purpose of 9 MCAR SS 1.0300-1.0307
5 is to implement the conflicts of interest provisions of Minn.
6 Stat. ch. 10A.

7 EC 301 [Renumber as 9 MCAR S 1.0301.]

8 9 MCAR S 1.0302 Applicability of the conflicts of interest
9 provisions. Any public official who, in the discharge of his
10 official duties, would be required to take action or make a
11 decision which would substantially affect his financial
12 interests, or those of a business with which he is associated,
13 must file a Potential Conflict of Interest Notice, unless the
14 effect on him is no greater than on other members of his
15 business classification, profession or occupation.

16 9 MCAR S 1.0303 Notice of conflict of interest.

17 A. Normal procedure. Whenever a public official is required
18 to file a conflict of interest statement he shall prepare a
19 Potential Conflict of Interest Notice describing the matter
20 requiring action or decision and the nature of his potential
21 conflict of interest. The public official shall deliver copies
22 of the Potential Conflict of Interest Notice to the board and to
23 his immediate superior.

24 B. Insufficient time available. If a potential conflict of
25 interest presents itself and there is insufficient time to
26 comply with the provisions of A., the public official shall
27 orally inform his immediate superior, of the potential conflict.
28 He shall file a Potential Conflict of Interest Notice with the
29 board within one week after the potential conflict presents
30 itself. This notice shall indicate the reason for noncompliance
31 with the provisions of A.

32 9 MCAR S 1.0304 Removal from conflict of interest.

33 A. Non-Legislator. If the public official is not a
34 legislator:

1 1. Subsequent to the filing of a Potential Conflict of
2 Interest Notice, or subsequent to oral notice of a potential
3 conflict of interest by a public official, his immediate
4 superior shall assign the matter, if possible, to another
5 employee who does not have a potential conflict of interest.

6 2. If the public official who has a potential conflict of
7 interest does not have an immediate superior except for
8 notification purposes, the public official shall do one of the
9 following:

10 (a) a. Where the public official having the potential
11 --
12 conflict of interest is not required by law to determine the
13 matter, he shall either assign the matter to a subordinate for
14 disposition or request the appointing authority to designate
15 another to determine the matter.

16 (b) b. Where the public official having the potential
17 --
18 conflict of interest is required by law to determine the matter,
19 he shall so notify by certified mail all affected parties known
20 to him by providing these parties with copies of the Potential
21 Conflict of Interest Notice.

22 (c) c. A public official having the potential conflict
23 --
24 of interest shall not chair a meeting, participate in any vote,
25 or offer any motion on the matter giving rise to his potential
26 conflict of interest.

27 B. Legislator. If the public official is a legislator, the
28 house of which he is a member may, at his request, excuse him
29 from taking part in the action or decision in question.

30 9 MCAR S 1.0305 Obtaining and filing forms. All Potential
31 Conflict of Interest Notices shall be on the forms made
32 available by the board and must be filed with the board.

33 9 MCAR S 1.0306 Changes and corrections. Any material changes
34 in information contained in a Potential Conflict of Interest
35 Notice previously submitted, and any corrections, shall be
reported in writing to the board within ten days following the
date of the event prompting the change or the date upon which
the person filing became aware of the inaccuracy. The change or

1 correction shall identify the form and paragraph containing the
2 information to be changed or corrected and shall be signed and
3 certified to be true by the person filing it.

4 9 MCAR S 1.0307 Filing of false statements. Any statement or
5 notice required by 9 MCAR SS 1.0300-1.0307 shall be signed and
6 certified to be true by the person required to file the
7 statement or notice. Any person who signs and certifies to be
8 true a statement or notice which he knows contains false
9 information or who knowingly omits required information is
10 guilty of a gross misdemeanor.

11

12 Chapter Five: Representation Disclosure Rules

13 9 MCAR S 1.0500 Purpose. The purpose of this chapter is to
14 implement the representation disclosure provisions of Minn.
15 Stat. ch. 10A.

16 9 MCAR S 1.0502 Applicability of representation disclosure
17 provisions. The representation disclosure provisions of Minn.
18 Stat. ch. 10A apply to any public official who represents a
19 client for a fee before any individual, board, commission, or
20 agency with rule making authority in a hearing conducted under
21 Minn. Stat. ch. 15 or authority to set rates, site power plants
22 and powerlines, and grant certificates of need under Minn. Stat.
23 ch. 116H. This provision applies only to a public official and
24 does not apply to the official's spouse or family, or to
25 business or professional associates of the official.

26 9 MCAR S 1.0503 Obligation and time to report. Any public
27 official who represents a client for a fee before any
28 individual, board, commission or agency with rule making
29 authority in a hearing conducted under Minn. Stat. ch. 15, or
30 authority to set rates, site power plants and powerlines, and
31 grant certificates of need under Minn. Stat. ch. 116H shall
32 disclose his participation in the action within 14 days after
33 his initial appearance by filing a Representation Disclosure
34 Statement with the board.

1 9 MCAR S 1.0504 Required reporting information. Each public
2 official required to report shall provide the following
3 information:

- 4 A. Name, address and office held;
5 B. Name and address of each client;
6 C. The name of the individual, board, commission or agency
7 conducting the hearing and the date and location of the initial
8 appearance at the hearing; and
9 D. A general description of the subject or subjects on which
10 the public official represented the client in the hearing.

11 9 MCAR S 1.0505 Obtaining and filing forms. All Representation
12 Disclosure Statements shall be on the forms made available by
13 the board and must be filed with the board.

14 9 MCAR S 1.0506 Changes and corrections. Any material changes
15 in information contained in a Representation Disclosure
16 Statement previously submitted, and any corrections, shall be
17 filed in writing with the board within ten days following the
18 date of the event prompting the change or the date upon which
19 the person filing became aware of the inaccuracy. The change or
20 correction shall identify the form and paragraph containing the
21 information to be changed or corrected, and shall be signed and
22 certified to be true by the person filing it.

23 9 MCAR S 1.0507 ~~Penalty for~~ Filing of false statements. Any
24 statement required by 9 MCAR SS 1.0500-~~1-0508~~ 1.0507 shall be
25 signed and certified to be true by the person required to file
26 the statement. Any person who signs and certifies to be true a
27 statement which he knows contains false information, or who
28 knowingly omits required information, is guilty of a gross
29 misdemeanor.

30

31 Chapter Six: Hearing Rules

32 9 MCAR S 1.0604 Initiating a contested case.

33 A. Initiation by application. Any person requesting an
34 exemption under Minn. Stat. S 10A.20, subs. 8 and 10, or any

1 other person whose rights, privileges, and duties the board is
2 authorized by law to determine after a hearing, may initiate a
3 contested case by making application. Except in anonymous
4 proceedings, an application shall contain:

5 1. The name and address of the applicant;

6 2. A statement of the nature of the determination
7 requested including the statutory sections on which the
8 applicant wishes a determination made and the reasons for the
9 request;

10 3. The names and addresses of all persons known to the
11 applicant who will be directly affected by such determination;
12 and

13 4. The signature of the applicant.

14 B. Initiation by board order. Where authorized by law, the
15 board may order a contested case commenced to determine the
16 rights, duties and privileges of specific parties.

17 9 MCAR S 1.0605 Initiating anonymous proceedings.

18 A. Authority. Any person making application for an
19 exemption from campaign reporting requirements under Minn. Stat.
20 S 10A.20, subds. 8 and 10, may proceed anonymously if the board
21 determines that identification of the person for the purpose of
22 the hearing would result in exposure to economic reprisals, loss
23 of employment, or threat of physical coercion.

24 B. Application. Any person wishing to proceed anonymously
25 under this rule shall make an application under 9 MCAR S 1.0604
26 A., which shall contain:

27 1. A name by which the person wishes to be known for the
28 purposes of the proceeding;

29 2. The name and address of a person upon whom service can
30 be made;

31 3. A statement of the facts which lead the applicant to
32 believe that identification of the applicant for purposes of the
33 hearing would result in exposure to economic reprisals, loss of
34 employment or threat of physical coercion;

35 4. The name and address of a person who will appear for
36 the applicant during the proceedings if the applicant wishes to

1 remain anonymous. The person may be the same person on whom
2 service is to be made;

3 5. A statement of the facts which lead the applicant to
4 believe that exposure to economic reprisal, loss of employment
5 or threat of physical coercion would result from the applicant's
6 compliance with the reporting and disclosure requirements of
7 Minn. Stat. S 10A.20; and

8 6. The signature of the applicant in the name by which
9 the person wishes to be known during the proceedings or the
10 signature of the person designated to appear for the applicant.

11 C. Determination. Upon receipt of an application for
12 initiation of anonymous proceedings, the board may require the
13 applicant or the person designated to appear for the applicant
14 to appear before a closed meeting of the board with appropriate
15 precautions taken to preserve the anonymity of the applicant
16 from persons other than the board and its employees. The
17 purpose of the appearance is to enable the board to decide
18 whether an anonymous proceeding is required.

19 Repealer. Rules 9 MCAR SS 1.0039; and 1.0110; EC 601; EC 604;
20 EC 607; EC 608; EC 609; EC 610; EC 611; EC 612; EC 613; EC 614;
21 EC 615; EC 616; EC 617; EC 618; EC 619; EC 620; EC 621; EC 622;
22 and EC 623 are repealed.