

Campaign Finance and Public Disclosure Board**Proposed Permanent Rules Relating to Campaign Finance****4501.0100 DEFINITIONS.**

[For text of subparts 1 to 3, see Minnesota Rules]

Subp. 4. **Compensation.** "Compensation" means every kind of payment for labor or personal services. Compensation does not include payments of Social Security, unemployment compensation, workers' compensation, health care, retirement, or pension benefits.

[For text of subparts 4a to 7a, see Minnesota Rules]

Subp. 7b. **Original signature.** "Original signature" means:

A. a signature in the signer's handwriting or, if the signer is unable to write, the signer's mark or name written in the handwriting of another or applied by stamp at the request, and in the presence, of the signer;

B. an electronic signature consisting of the letters of the signer's name, applied using a cursive font or accompanied by text or symbols clearly indicating an intent to apply a signature, including but not limited to the letter S with a forward slash mark on one or both sides of the letter S or the placement of a forward slash mark before and after the signer's name; or

C. the signer's name on the signature line of an electronic file submitted using the filer's personal identification code.

[For text of subparts 8 and 9, see Minnesota Rules]

4501.0500 FILINGS, SUBMISSIONS, AND DISCLOSURES.

Subpart 1. **Format.** A report or statement required under Minnesota Statutes, section 10A.20, must be filed electronically in a format specified by the board, to the extent required

by that section. Any other report or statement required under Minnesota Statutes, chapter 10A, must be ~~submitted~~ filed electronically in a format specified by the board or on the forms provided by the board for that purpose or by an electronic filing system. The board may provide alternative methods for submitting information, including other means for the electronic submission of data.

[For text of subparts 1a to 4, see Minnesota Rules]

4503.0100 DEFINITIONS.

Subpart 1. **Scope.** The definitions in this part apply to this chapter and Minnesota Statutes, chapter 10A, except that the definition in subpart 4a applies to Minnesota Statutes, section 211B.15. The definitions in chapter 4501 and Minnesota Statutes, chapter 10A, also apply to this chapter.

[For text of subparts 2 to 3a, see Minnesota Rules]

Subp. 3b. **County office.** "County office" means the offices specified in Minnesota Statutes, chapter 382, and does not include the office of Three Rivers Park District commissioner.

[For text of subpart 4, see Minnesota Rules]

Subp. 4a. **Headquarters.** For the purpose of Minnesota Statutes, section 211B.15, subdivision 8, "headquarters" means a building or other structure that is used for all or part of the year as the primary location where the party's business is conducted.

Subp. 4b. **Legislative caucus.** "Legislative caucus" means an organization whose members consist solely of legislators belonging to the same house of the legislature and the same political party, and is not limited to a majority or minority caucus described in Minnesota Statutes, chapter 3, but does not include a legislative party unit.

Subp. 4c. **Legislative caucus leader.** "Legislative caucus leader" means a legislator elected or appointed by a legislative caucus to lead that caucus, and is not limited to leaders designated pursuant to Minnesota Statutes, section 3.099.

Subp. 4d. **Legislative party unit.** "Legislative party unit" means a political party unit established by the party organization within a house of the legislature.

Subp. 4e. **Nomination.** Except as used in Minnesota Statutes, sections 10A.09 and 10A.201, "nomination" means the placement of a candidate or a local candidate's name on a general election or special general election ballot.

[For text of subparts 5 to 8, see Minnesota Rules]

4503.0200 ORGANIZATION OF POLITICAL COMMITTEES AND POLITICAL FUNDS.

[For text of subparts 1 to 4, see Minnesota Rules]

Subp. 5. **Termination of responsibility of former treasurer.** A former treasurer who transfers political committee or political fund records and receipts to a new treasurer or to the chair of the committee or fund is relieved of future responsibilities ~~when notice required under subpart 4 is filed or~~ when the former treasurer notifies the board in writing of the change.

Subp. 6. [Repealed, L 2017 1Sp4 art 3 s 18]

4503.0450 JOINT PURCHASES.

Subpart 1. **General requirement.** Principal campaign committees, political party units, and political committees and funds may jointly purchase goods or services without making or receiving a donation in kind. If each purchaser pays the vendor for their share of the fair market value of the purchase, each purchaser must report that amount to the board as an expenditure or noncampaign disbursement as required by Minnesota Statutes, section 10A.20. If a purchaser pays the vendor for the total amount of the purchase and obtains

payment from another purchaser for that purchaser's share of the fair market value of the purchase, each purchaser must use the same reporting method under Minnesota Statutes, section 10A.20, subdivision 13.

Subp. 2. **Proportionate shares of joint purchase.** If a purchaser pays a vendor for the total amount of a joint purchase and each joint purchaser receives goods or services of equal value, each joint purchaser must pay the purchaser that paid the vendor an amount equal to the total amount paid to the vendor divided by the number of joint purchasers in order to prevent the occurrence of a donation in kind. If a purchaser pays a vendor for the total amount of a joint purchase and joint purchasers receive goods or services of differing value, each joint purchaser must pay the purchaser that paid the vendor in proportion to the value of the goods or services received in order to prevent the occurrence of a donation in kind. If a joint purchaser pays the purchaser that paid the vendor less than its proportionate share of the fair market value of the joint purchase, the difference must be reported as a donation in kind from the purchaser that paid the vendor to the joint purchaser as required by Minnesota Statutes, section 10A.20.

Subp. 3. **No impact on prohibited contributions.** Nothing in this part permits an independent expenditure or ballot question political committee or fund to make a contribution, including an approved expenditure, that is prohibited by Minnesota Statutes, section 10A.121, or alters what constitutes a coordinated expenditure.

4503.0500 CONTRIBUTIONS.

Subpart 1. **All receipts are contributions.** Any donation of money, goods, or services received by a principal campaign committee, political party unit, political committee, or political fund is considered a contribution at the time the item is received.

Subp. 2. [Repealed, L 2018 c 119 s 34]

Subp. 2a. **Contribution processors and professional fundraisers.** A vendor may solicit, process, collect, or otherwise facilitate the accumulation of contributions made to a principal campaign committee, political party unit, political committee, or political fund, and may temporarily retain or control any contributions collected, without thereby making a contribution to the intended recipient of the contributions, if the vendor is paid the fair market value of the services provided. Contributions collected must be transmitted to the intended recipient, minus any fees withheld by the vendor. A vendor that is paid the fair market value of any goods or services provided is not a political committee or a political fund by virtue of providing those goods or services. A vendor that determines which principal campaign committee, political party unit, political committee, or political fund receives the contributions collected is a political committee or political fund as provided in Minnesota Statutes, section 10A.01, even if the recipient of the contributions pays the vendor the fair market value of the services provided to collect the contributions.

Subp. 3. **Transmission of contributions.** Promptly after receipt of any contribution intended for a principal campaign committee, political party unit, political committee, or political fund, or on demand of the treasurer, ~~an~~ any individual, association, or vendor retaining or controlling the contribution must transmit the contribution together with any required record to the treasurer.

Subp. 4. **Identification of contributor.** An individual or association that pays for or provides goods or services, or makes goods or services available, with the knowledge that they will be used for the benefit of a principal campaign committee, political party unit, political committee, or a political fund, is the contributor of those goods or services.

[For text of subparts 5 to 9, see Minnesota Rules]

Subp. 10. **Underlying sources of funding of unregistered associations.** A principal campaign committee, party unit, or political committee or fund that is not an independent expenditure or ballot question political committee or fund, must consider an association's

sources of funding in determining whether a contribution may be accepted from an association that is not registered with the board as a principal campaign committee, a party unit, a political committee, or the supporting association of a political fund. A contribution from an unregistered association is prohibited if any of that association's sources of funding would be prohibited from making the contribution directly under Minnesota Statutes, section 211B.15, subdivision 2.

4503.0700 CONTRIBUTION LIMITS.

[For text of subparts 1 to 3, see Minnesota Rules]

Subp. 4. **Commercial vendors not subject to bundling limitation.** A vendor retained by a principal campaign committee, political party unit, political committee, or political fund for the accumulation of contributions, and paid by that committee, party unit, or fund the fair market value of the services provided, as described in part 4503.0500, subpart 2a, is not subject to the bundling limitation in Minnesota Statutes, section 10A.27, subdivision 1.

4503.0800 DONATIONS IN KIND AND APPROVED EXPENDITURES.

Subpart 1. [Repealed, L 2005 c 156 art 6 s 68]

Subp. 1a. **Contributor payment of processing fee.** If a contributor pays a processing fee when making a contribution and the fee would otherwise have been billed to the recipient of the contribution or withheld from the amount transmitted to the recipient, the amount of the fee is a donation in kind to the recipient of the contribution. If the donation in kind exceeds the amount specified in Minnesota Statutes, section 10A.13, subdivision 1, the recipient's treasurer must keep an account of the contribution and must include the contribution within campaign reports as required by Minnesota Statutes, section 10A.20. If the donation in kind does not exceed the amount specified in Minnesota Statutes, section 10A.13, subdivision 1, the recipient's treasurer is not required to keep an account of the

contribution or to include it within campaign reports filed under Minnesota Statutes, section 10A.20.

Subp. 2. **Multicandidate materials.** An approved expenditure made on behalf of multiple candidates or local candidates must be allocated between the candidates or the local candidates on a reasonable basis if the cost exceeds \$20 per candidate or local candidate.

Subp. 3. **Multipurpose materials.** A reasonable portion of the fair market value of preparation and distribution of association newsletters or similar materials which, in part, advocate the nomination or election of a candidate or a local candidate is a donation in kind which must be approved by the candidate or the local candidate if the value exceeds \$20, unless an independent expenditure is being made.

Subp. 4. **Office facilities.** The fair market value of shared office space or services provided to a candidate or a local candidate without reimbursement is a donation in kind.

[For text of subpart 5, see Minnesota Rules]

4503.0900 NONCAMPAIGN DISBURSEMENTS.

Subpart 1. **Additional definitions.** In addition to those listed in Minnesota Statutes, section 10A.01, subdivision 26, the following expenses are noncampaign disbursements:

[For text of items A to D, see Minnesota Rules]

E. payment of fines assessed by the board; ~~and~~

F. costs of running a transition office for a winning gubernatorial candidate during the first six months after election; and

G. costs to maintain a bank account that is required by law, including service fees, the cost of ordering checks, and check processing fees.

Subp. 2. [Repealed, 21 SR 1779]

Subp. 2a. **Expenses incurred by leaders of a legislative caucus.** Expenses incurred by a legislative caucus leader in carrying out their leadership responsibilities may be paid by their principal campaign committee and classified as a noncampaign disbursement for expenses incurred by leaders of a legislative caucus. These expenses must be incurred for the operation of the caucus and include but are not limited to expenses related to operating a website, social media accounts, a telephone system, similar means of communication, travel expenses, and legal expenses.

Subp. 2b. **Signage and supplies for office holders.** Expenses incurred by an office holder for signage outside their official office and for basic office supplies purchased to aid the office holder in performing the tasks of their office may be paid by their principal campaign committee and classified as a noncampaign disbursement for expenses for serving in public office. These expenses may include signage, stationery, or other means of communication that identify the office holder as a member of a legislative caucus.

Subp. 2c. **Equipment purchases.** The cost of durable equipment purchased by a principal campaign committee, including but not limited to computers, cell phones, and other electronic devices, must be classified as a campaign expenditure unless the equipment is purchased to replace equipment that was lost, stolen, or damaged to such a degree that it no longer serves its intended purpose, or the equipment will be used solely:

A. by a member of the legislature or a constitutional officer in the executive branch to provide services for constituents during the period from the beginning of the term of office to adjournment sine die of the legislature in the election year for the office held;

B. by a winning candidate to provide services to residents in the district in accordance with subpart 1;

C. for campaigning by a person with a disability in accordance with subpart 1;

D. for running a transition office in accordance with subpart 1; or

E. as home security hardware.

[For text of subpart 3, see Minnesota Rules]

4503.1000 CAMPAIGN MATERIALS INCLUDING OTHER CANDIDATES.

Subpart 1. **Inclusion of others without attempt to influence nomination or election.** Campaign materials, including media advertisements, produced and distributed on behalf of one candidate which contain images of, appearances by, or references to another candidate or local candidate, but which do not mention the candidacy of the other candidate or local candidate or make a direct or indirect appeal for support of the other candidate or local candidate, are not contributions to, or expenditures on behalf of that candidate or local candidate.

Subp. 2. **Multicandidate materials prepared by a candidate.** A candidate who produces and distributes campaign materials, including media advertisements, which include images of, appearances by, or references to one or more other candidates or local candidates, and which mention the candidacy of the other candidates or local candidates or include a direct or indirect appeal for the support of the other candidates or local candidates must collect from each of the other candidates or local candidates a reasonable proportion of the production and distribution costs.

4503.1900 AGGREGATED EXPENDITURES.

Expenditures and noncampaign disbursements may be aggregated and reported as lump sums when itemized within a report filed under Minnesota Statutes, section 10A.20, if:

- A. each expenditure or noncampaign disbursement was made to the same vendor;
- B. each expenditure or noncampaign disbursement was made for the same type of goods or services;
- C. each lump sum consists solely of aggregated expenditures or solely of aggregated noncampaign disbursements;

D. each lump sum consists solely of aggregated expenditures or noncampaign disbursements that are paid, are unpaid, or represent the dollar value of a donation in kind;

E. the expenditures and noncampaign disbursements are aggregated over a period of no more than 31 days; and

F. all expenditures and noncampaign disbursements made prior to the end of a reporting period are included within the report covering that period.

Lump sums must be dated based on the last date within the period over which the expenditures or noncampaign disbursements are aggregated. This subpart does not alter the date an expenditure is made for purposes of the registration requirements provided in Minnesota Statutes, section 10A.14.

4503.2000 DISCLAIMERS.

Subpart 1. **Additional definitions.** The following definitions apply to this part and Minnesota Statutes, section 211B.04:

A. "broadcast media" means a television station, radio station, cable television system, or satellite system; and

B. "social media platform" means a website or application that allows multiple users to create, share, and view user-generated content, excluding a website controlled primarily by the association or individual that caused the communication to be prepared or disseminated.

Subp. 2. **Material linked to a disclaimer.** Minnesota Statutes, section 211B.04, does not apply to the following communications that link directly to an online page that includes a disclaimer in the form required by that section if the communication is made by or on behalf of a candidate, principal campaign committee, political committee, political fund, political party unit, or person who has made an electioneering communication, as those terms are defined in Minnesota Statutes, chapter 10A:

- A. text, images, video, or audio disseminated via a social media platform;
- B. a text or multimedia message disseminated only to telephone numbers;
- C. text, images, video, or audio disseminated using an application accessed primarily via mobile phone, excluding email messages, telephone calls, and voicemail messages; and
- D. paid electronic advertisements disseminated via the internet by a third party, including but not limited to online banner advertisements and advertisements appearing within the electronic version of a newspaper, periodical, or magazine.

The link must be conspicuous and when selected must result in the display of an online page that prominently includes the required disclaimer.

4511.0100 DEFINITIONS.

[For text of subparts 1 and 1a, see Minnesota Rules]

Subp. 1b. **Administrative overhead expenses.** "Administrative overhead expenses" means costs incurred by the principal for office space, transportation costs, and website operations that are used to support lobbying in Minnesota.

Subp. 1c. **Development of prospective legislation.** "Development of prospective legislation" means communications that request support for legislation that has not been introduced as a bill, communications that provide language, or comments on language, used in draft legislation that has not been introduced as a bill, or communications that are intended to facilitate the drafting of language, or comments on language, used in draft legislation that has not been introduced as a bill. The following actions do not constitute development of prospective legislation:

- A. responding to a request for information by a public official;

B. requesting that a public official respond to a survey on the official's support or opposition for an issue;

C. providing information to public officials in order to raise awareness and educate on an issue or topic; or

D. advocating for an issue without requesting action by the public official.

[For text of subpart 2, see Minnesota Rules]

Subp. 3. **Lobbying.** "Lobbying" means attempting to influence legislative action, administrative action, or the official action of a ~~metropolitan governmental unit~~ political subdivision by communicating with or urging others to communicate with public officials or local officials in ~~metropolitan governmental units~~. Any activity that directly supports this communication is considered a part of lobbying. Payment of an application fee, or processing charge, for a government service, permit, or license is not lobbying or an activity that directly supports lobbying.

Subp. 4. **Lobbyist's disbursements.** "Lobbyist's disbursements" include ~~all~~ disbursements for ~~lobbying made~~ each gift given by the lobbyist, the lobbyist's employer ~~or employee~~, or any person or association represented by the lobbyist, ~~but do not include compensation paid to the lobbyist.~~

Subp. 5. **Original source of funds.** "Original source of funds" means a source of funds, provided by an individual or association other than the entity for which a lobbyist is registered, paid to the lobbyist, the lobbyist's employer, the entity represented by the lobbyist, or the lobbyist's principal, for lobbying purposes.

Subp. 5a. **Pay or consideration for lobbying.** "Pay or consideration for lobbying" means the gross compensation paid to an individual for lobbying. An individual whose job responsibilities do not include lobbying, and who has not been directed or requested to

lobby on an issue by their employer, does not receive pay or consideration for lobbying they undertake on their own initiative.

[For text of subpart 6, see Minnesota Rules]

Subp. 7. **Reporting lobbyist.** "Reporting lobbyist" means a lobbyist responsible for reporting lobbying ~~disbursements~~ activity of two or more lobbyists representing the same entity. Lobbying ~~disbursements-made~~ activity on behalf of an entity may be reported by each individual lobbyist that represents an entity, or by one or more reporting lobbyists, or a combination of individual reports and reports from a reporting lobbyist.

Subp. 8. **State agency.** "State agency" means any office, officer, department, division, bureau, board, commission, authority, district, or agency of the state of Minnesota.

4511.0200 REGISTRATION.

[For text of subpart 1, see Minnesota Rules]

Subp. 2. **Separate registration for each lobbyist.** Multiple lobbyists representing the same individual, association, political subdivision, or higher education system must each register separately. A lobbyist who ~~provides reports~~ lobbying disbursements activity to the board through a reporting lobbyist must list the name and registration number of the reporting lobbyist on a lobbyist registration. If the reporting lobbyist changes, or if the lobbyist ceases to report through a reporting lobbyist, the lobbyist must amend the registration within ten days.

Subp. 2a. **Registration threshold.** An individual must register as a lobbyist with the board upon the earlier of when:

A. the individual receives total pay or consideration from all sources that exceeds \$3,000 in a calendar year for the purpose of lobbying or from a business whose primary source of revenue is derived from facilitating government relations or government affairs services if the individual's job duties include offering direct or indirect consulting or advice

that helps the business provide those services to clients. The pay or consideration for lobbying for an individual whose job duties include both lobbying and functions unrelated to lobbying is determined by multiplying the gross compensation of the individual by the percentage of the individual's work time spent lobbying in the calendar year; or

B. the individual spends more than \$3,000 of their own funds in a calendar year for the purpose of lobbying. Membership dues paid by the individual, and expenses for transportation, lodging, and meals used to support lobbying by the individual, are not costs that count toward the \$3,000 expenditure threshold that requires registration.

Subp. 2b. **Registration not required.** An individual is not required to register as a lobbyist with the board:

A. to represent the lobbyist's own interests if the lobbyist is already registered to represent one or more principals, unless the lobbyist spends over \$3,000 in personal funds in a calendar year for the purpose of lobbying; or

B. as a result of serving on the board or governing body of an association that is a principal, unless the individual receives pay or other consideration to lobby on behalf of the association, and the aggregate pay or consideration for lobbying from all sources exceeds \$3,000 in a calendar year.

[For text of subpart 3, see Minnesota Rules]

Subp. 4. **Registration of reporting lobbyist.** A reporting lobbyist must indicate on the lobbyist registration form that the lobbyist will be reporting ~~disbursements~~ lobbying activity for additional lobbyists representing the same entity. The registration must list the name and registration number of each lobbyist that will be included in reports of ~~disbursements~~ to the board made by the reporting lobbyist. Changes to the list of lobbyists represented by a reporting lobbyist must be amended on the reporting lobbyist registration

within ten days, or provided to the board at the time of filing a report required by Minnesota Statutes, section 10A.04, subdivision 2.

4511.0300 PRINCIPALS.

Individuals or associations represented by lobbyists are presumed to be principals until they establish that they do not fall within the statutory definition of a principal. A political subdivision; public higher education system; or any office, department, division, bureau, board, commission, authority, district, or agency of the state of Minnesota is not an association under Minnesota Statutes, section 10A.01, and is not a principal.

4511.0400 TERMINATION.

Subpart 1. **Lobbyist termination.** A lobbyist who has ceased lobbying for a particular entity may terminate registration by filing a lobbyist termination form and a lobbyist ~~disbursement~~ report covering the period from the last report filed through the date of termination. If the lobbying ~~disbursements~~ activity of the lobbyist ~~are~~ is reported by a reporting lobbyist, the nonreporting lobbyist may terminate by filing a lobbyist termination form and notifying the reporting lobbyist of all ~~disbursements made~~ lobbying activity by the lobbyist during the period from the last report filed through the date of termination.

Subp. 2. **Reporting lobbyist termination.** A reporting lobbyist who has ceased lobbying for a particular entity may terminate registration by filing a lobbyist termination form and a lobbyist ~~disbursement~~ report covering the period from the last report filed through the date of termination. The termination of a reporting lobbyist reverts the reporting responsibility back to each lobbyist listed on the registration of the reporting lobbyist.

Subp. 3. **Designated lobbyist termination.** A designated lobbyist who has ceased lobbying for a particular entity may terminate their registration using the procedure provided in subpart 1. When the designated lobbyist of a lobbying entity terminates, the entity is

responsible to assign the responsibility to report ~~entity~~ the entity's lobbying disbursements to another lobbyist.

4511.0500 LOBBYIST REPORTING REQUIREMENTS.

Subpart 1. **Separate reporting required for each entity.** A lobbyist must report separately for each entity for which the lobbyist is registered, unless ~~the disbursements are~~ their activity is reported in the manner provided in subpart 2 Minnesota Statutes, section 10A.04, subdivision 9.

Subp. 2. [Repealed, L 2017 1Sp4 art 3 s 18]

Subp. 3. **~~Report of officers and directors information~~ designated lobbyist.** With each report of lobbyist ~~disbursements~~ activity, a designated lobbyist must report ~~any change in the name and address of:~~

A. the name and address of each person, if any, by whom the lobbyist is retained or employed or on whose behalf the lobbyist appears; ~~or~~

B. if the lobbyist represents an association, a current list of the names and addresses of each officer and director of the association;

C. each original source of money in excess of \$500 provided to the individual or association that the lobbyist represents; and

D. each gift to a public or local official given by or on behalf of a principal or a lobbyist registered for the principal.

[For text of subpart 4, see Minnesota Rules]

Subp. 5. [See repealer.]

4511.0600 REPORTING DISBURSEMENTS.

Subpart 1. **Determination of actual costs required.** To the extent that actual costs of lobbying activities or administrative overhead expenses incurred by the principal to

support lobbying can be obtained or calculated by reasonable means, those actual costs must be determined, recorded, and used for reporting purposes.

Subp. 2. **Approximation of costs.** If the actual cost of a lobbying activity or administrative overhead expenses incurred by the principal to support lobbying cannot be obtained or calculated through reasonable means, those costs must be reasonably approximated.

[For text of subparts 3 to 6, see Minnesota Rules]

4511.0700 REPORTING COMPENSATION PAID TO LOBBYIST.

Subpart 1. **Reporting by lobbyist.** Compensation paid to a lobbyist for lobbying is not reportable by the lobbyist ~~as a lobbyist disbursement~~.

[For text of subpart 2, see Minnesota Rules]

4511.0900 LOBBYIST REPORTING FOR POLITICAL SUBDIVISION MEMBERSHIP ORGANIZATIONS.

Subpart 1. **Required reporting.** An association whose membership consists of political subdivisions within Minnesota and which is a principal that provides lobbyist representation on issues as directed by its membership must report:

A. attempts to influence administrative action on behalf of the organization's membership;

B. attempts to influence legislative action on behalf of the organization's membership; and

C. attempts to influence the official action of a political subdivision on behalf of the organization's membership, unless the political subdivision is a member of the association.

Subp. 2. **Communication with membership.** A membership association described in subpart 1 is not lobbying political subdivisions when the association communicates with

its membership regarding lobbying efforts made on the members' behalf, or when the association recommends actions by its membership to support a lobbying effort.

4511.1000 ACTIONS AND APPROVAL OF ELECTED LOCAL OFFICIALS.

Subpart 1. **An action that requires a vote of the governing body.** Attempting to influence the vote of an elected local official while acting in their official capacity is lobbying of that official's political subdivision.

Subp. 2. **Approval by an elected local official.** Attempting to influence a decision of an elected local official that does not require a vote by the elected local official is lobbying if the elected local official has discretion in their official capacity to either approve or deny a government service or action. Approval by an elected local official does not include:

A. issuing a government license, permit, or variance that is routinely provided when the applicant has complied with the requirements of existing state code or local ordinances;

B. any action which is performed by the office of the elected local official and which does not require personal approval by an elected local official;

C. prosecutorial discretion exercised by a county attorney; or

D. participating in discussions with a party or a party's representative regarding litigation between the party and the political subdivision of the elected local official.

4511.1100 MAJOR DECISION OF NONELECTED LOCAL OFFICIALS.

Subpart 1. **Major decision regarding the expenditure of public money.** Attempting to influence a nonelected local official is lobbying if the nonelected local official may make, recommend, or vote on as a member of the political subdivision's governing body, a major decision regarding an expenditure or investment of public money.

Subp. 2. **Actions that are a major decision regarding public funds.** A major decision regarding the expenditure or investment of public money includes but is not limited to a decision on:

A. the development and ratification of operating and capital budgets of a political subdivision, including development of the budget request for an office or department within the political subdivision;

B. whether to apply for or accept state or federal funding or private grant funding;

C. selecting recipients for government grants from the political subdivision; or

D. expenditures on public infrastructure used to support private housing or business developments.

Subp. 3. **Actions that are not a major decision.** A major decision regarding the expenditure of public money does not include:

A. the purchase of goods or services with public funds in the operating or capital budget of a political subdivision;

B. collective bargaining of a labor contract on behalf of a political subdivision;
or

C. participating in discussions with a party or a party's representative regarding litigation between the party and the political subdivision of the local official.

4512.0200 GIFTS WHICH MAY NOT BE ACCEPTED.

Subpart 1. **Acceptance.** An official may not accept a gift given by a lobbyist or lobbyist principal or given as the result of a request by a lobbyist or lobbyist principal unless the gift satisfies an exception under this part or Minnesota Statutes, section 10A.071.

Subp. 2. **Use of gift to ~~metropolitan governmental unit~~ a political subdivision.** An official may not use a gift given by a lobbyist or lobbyist principal to a ~~metropolitan~~

~~governmental unit~~ political subdivision until the gift has been formally accepted by an official action of the governing body of the ~~metropolitan governmental unit~~ political subdivision.

Subp. 3. **Exception.** A gift is not prohibited if it consists of informational material given by a lobbyist or principal to assist an official in the performance of official duties and the lobbyist or principal had a significant role in the creation, development, or production of that material.

4525.0100 DEFINITIONS.

[For text of subparts 1 to 6, see Minnesota Rules]

Subp. 6a. **Preponderance of the evidence.** "Preponderance of the evidence" means, in light of the evidence obtained by or known to the board, the evidence leads the board to believe that a fact is more likely to be true than not true.

[For text of subparts 7 and 8, see Minnesota Rules]

4525.0200 COMPLAINTS OF VIOLATIONS.

[For text of subpart 1, see Minnesota Rules]

Subp. 2. **Form.** Complaints must be submitted in writing. The name and address of the person making the complaint, or of the individual who has signed the complaint while acting on the complainant's behalf, must be included on the complaint ~~and it.~~ The complaint must be signed by the complainant or an individual authorized to act on behalf of the complainant. A complainant shall must list the alleged violator and the alleged violator's address if known by the complainant and describe the complainant's knowledge of the alleged violation. Any evidentiary material should be submitted with the complaint. Complaints are not available for public inspection or copying until after the complaint is dismissed or withdrawn or the board makes a finding.

Subp. 3. [Repealed, 30 SR 903]

Subp. 3a. **Withdrawal.** Prior to a prima facie determination being made, a complaint may be withdrawn upon the written request of the person making the complaint or any individual authorized to act on that person's behalf. After a prima facie determination is made, a complaint may not be withdrawn.

[For text of subparts 4 to 6, see Minnesota Rules]

4525.0210 DETERMINATIONS PRIOR TO AND DURING FORMAL INVESTIGATION.

[For text of subparts 1 to 3, see Minnesota Rules]

Subp. 3a. **Making the probable cause determination.** In determining whether there is probable cause to believe a violation occurred, any evidence obtained by or known to the board may be considered. Arguments of the respondent and complainant must be considered. Probable cause exists if there are sufficient facts and reasonable inferences to be drawn therefrom to believe that a violation of law has occurred.

[For text of subpart 4, see Minnesota Rules]

Subp. 5. **Action after probable cause found.** If the board finds that probable cause exists to believe that a violation has occurred, the board then must determine whether the alleged violation warrants a formal investigation.

When making this determination, the board must consider the type of possible violation; the magnitude of the violation if it is a financial violation; the extent of knowledge or intent of the violator; the benefit of formal findings, conclusions, and orders compared to informal resolution of the matter; the availability of board resources; whether the violation has been remedied; and any other similar factor necessary to decide whether the alleged violation warrants a formal investigation.

If the board orders a formal investigation, the order must be in writing and must describe the basis for the board's determination, the possible violations to be investigated, the scope

of the investigation, and the discovery methods available for use by the board in the investigation.

The executive director must promptly notify the complainant and the respondent of the board's determination.

The notice to the respondent also must:

[For text of items A to C, see Minnesota Rules]

D. state that the respondent will be given an opportunity to be heard by the board prior to the board's determination as to whether any violation occurred.

At the conclusion of the investigation, the board must determine whether a violation occurred. The board's determination of any disputed facts must be based upon a preponderance of the evidence.

[For text of subpart 6, see Minnesota Rules]

4525.0220 SUMMARY PROCEEDINGS.

[For text of subparts 1 and 2, see Minnesota Rules]

Subp. 3. **Consideration of request by board.** Upon receipt of a request for a summary proceeding, the executive director must submit the request to the board. If the matter was initiated by a complaint, the complaint has not been dismissed, and a probable cause determination has not been made, the executive director must send a copy of the request to the complainant no later than the time that the request is submitted to the board. Under any other circumstances a complainant must not be notified or provided a copy of the request. The request must be considered by the board at its next meeting that occurs at least ten days after the request was received. If the executive director sends a copy of the request to the complainant pursuant to this subpart, the complainant must be given an opportunity to be heard by the board.

The board is not required to agree to a request for a summary proceeding. If the board modifies the respondent's request for a summary proceeding, the board must obtain the respondent's agreement to the modifications before undertaking the summary proceeding.

4525.0500 INVESTIGATIONS AND AUDITS; GENERAL PROVISIONS.

[For text of subparts 1 and 2, see Minnesota Rules]

Subp. 2a. **Penalties.** In exercising discretion as to the imposition of a civil penalty for violation of a statute within the board's jurisdiction, the board must consider the factors identified in Minnesota Statutes, section 14.045. The board also may consider additional factors such as whether a violator created and complied with appropriate internal controls or policies before the violation occurred, whether the violator could have avoided the violation, whether the violator voluntarily reported or corrected any violation, and whether the violator took measures to remedy or mitigate any violation or avoid future violations.

[For text of subparts 3 to 7, see Minnesota Rules]

4525.0550 FORMAL AUDITS.

Subpart 1. **Formal audit.** The purpose of a formal audit is to ensure that all information included in the report or statement being audited is accurately reported. The fact that the board is conducting a formal audit does not imply that the subject of the audit has violated any law. When conducting an audit, the board may require testimony under oath, permit written statements to be given under oath, and issue subpoenas and cause them to be served. When conducting an audit the board may require the production of any records required to be retained under Minnesota Statutes, section 10A.025.

[For text of subparts 2 and 3, see Minnesota Rules]

Subp. 4. **Audits of affidavits of contributions.** The board may audit the affidavit of contributions filed by a candidate or the candidate's treasurer to determine whether the candidate is eligible to receive a public subsidy payment. The executive director must contact

the principal campaign committee of a candidate and request the information necessary to audit any affidavit of contributions that was not filed by electronic filing system, if the committee has accepted contributions from individuals totaling less than twice the amount required to qualify for a public subsidy payment.

Subp. 5. **Audits of other campaign finance filings.** The board may audit any campaign finance report or statement that is filed or required to be filed with the board under Minnesota Statutes, chapter 10A or 211B. The board may conduct a partial audit, including auditing a campaign finance report to determine whether a beginning or ending balance reconciles with the filer's financial records. In determining whether to undertake an audit, the board must consider the availability of board resources, the possible benefit to the public, and the magnitude of any reporting failures or violations that may be discovered as a result of the audit. The board may conduct audits in which respondents are selected on a randomized basis designed to capture a sample of respondents that meet certain criteria. The board may conduct audits in which all respondents meet certain criteria. When undertaking an audit with respondents selected on a randomized basis, the board must, to the extent possible, seek to prevent selecting respondents based on their political party affiliation, or if the respondents are candidates, based on their incumbency status.

RENUMBERING INSTRUCTION. A. Renumber Minnesota Rules, part 4501.0100, subpart 7a, as Minnesota Rules, part 4501.0100, subpart 7c.

B. Renumber Minnesota Rules, part 4503.0100, subpart 3a, as Minnesota Rules, part 4503.0100, subpart 3c.

REPEALER. Minnesota Rules, part 4511.0500, subpart 5, is repealed.