

**ETHICS AND CAMPAIGN DISCLOSURE BOARD, IOWA[351]**

**Notice of Intended Action**

**Twenty-five interested persons, a governmental subdivision, an agency or association of 25 or more persons may demand an oral presentation hereon as provided in Iowa Code section 17A.4(1)“b.”**

**Notice is also given to the public that the Administrative Rules Review Committee may, on its own motion or on written request by any individual or group, review this proposed action under section 17A.8(6) at a regular or special meeting where the public or interested persons may be heard.**

Pursuant to the authority of Iowa Code section 68B.32A(1), the Iowa Ethics and Campaign Disclosure Board hereby gives Notice of Intended Action to amend Chapter 4, “Campaign Disclosure Procedures,” Iowa Administrative Code.

These proposed amendments are intended to implement 2015 Iowa Acts, Senate File 135, which increases the threshold for creating a “committee” from \$750 to \$1,000 and increases the maximum allowable anonymous contribution from \$10 to \$25.

Any interested person may make written suggestions or comments on the proposed amendments no later than December 1, 2015. Such written materials should be directed to Megan Tooker, Iowa Ethics and Campaign Disclosure Board, 510 E. 12th Street, Suite 1A, Des Moines, Iowa 50319; e-mail [megan.tooker@iowa.gov](mailto:megan.tooker@iowa.gov); or fax (515)281-4073.

The Iowa Ethics and Campaign Disclosure Board does not intend to grant waivers under the provisions of these rules, other than as allowed under the Board’s general rules regarding waivers.

After analysis and review of this rule making, no impact on jobs has been found.

These amendments are intended to implement 2015 Iowa Acts, Senate File 135.

The following amendments are proposed.

ITEM 1. Amend subrule 4.1(1) as follows:

**4.1(1) *Persons subject to requirement.*** Every committee shall file a statement of organization (Form DR-1) within ten days from the date of its organization. The forms shall be either typewritten or printed legibly in black ink.

*a. “Committee” defined.* “Committee” includes the following:

(1) A “candidate’s committee” that is the committee, even if the committee consists only of the candidate, designated by a candidate for a state or local office to receive contributions, make expenditures, or incur debts in excess of ~~\$750~~ \$1,000.

(2) A “political committee” (PAC) that is a committee exceeding the ~~\$750~~ \$1,000 organizational threshold to expressly advocate the nomination, election, or defeat of candidates or to expressly advocate the passage or defeat of a ballot issue. The board shall automatically classify as a political committee any political organization that loses its status as a political party because it fails to meet the requirements of Iowa Code section 43.2. The board shall automatically classify as a political committee any county central committee that operated under the former political party.

(3) A “state statutory political committee” (state party), “county statutory political party” (county central committee), or “city statutory political committee” (city central committee).

(4) A person that wishes to register a committee for purposes of using the short form “paid for by” attribution statement shall file Form DR-SFA pursuant to rule 351—4.11(68A).

*b. When organization occurs; financial thresholds.* At the latest, organization is construed to have occurred as of the date that the committee first exceeded ~~\$750~~ \$1,000 of financial activity in a calendar year in any of the following categories: contributions received (aggregate of monetary and in-kind contributions); expenditures made; or indebtedness incurred.

*c. Permanent organizations temporarily engaging in political activity.* The requirement to file the statement of organization applies to an entity that comes under the definition of a “political committee” (PAC) in Iowa Code ~~Supplement~~ section 68A.102(18) as amended by 2015 Iowa Acts, Senate File 135, by receiving contributions, making expenditures, or incurring debts in excess of ~~\$750~~ \$1,000 in any one

calendar year for the purpose of expressly advocating the election or defeat of a candidate for public office, or for the purpose of expressly advocating the passage or defeat of a ballot issue. A permanent organization that makes a one-time contribution in excess of ~~\$750~~ \$1,000 may in lieu of filing a statement of organization follow the procedure in rule 351—4.35(68A). A permanent organization that makes loans to a candidate or committee or that is owed debts from a candidate or committee is not deemed to be engaging in political activity requiring registration.

*d. Independent expenditure committee.* A person that is required to file campaign disclosure reports pursuant to ~~2009~~ Iowa Code Supplement section 68A.404(3) “a” ~~as amended by 2010 Iowa Acts, Senate File 2354, section 3,~~ due to the filing of an independent expenditure statement (Form Ind-Exp-O) shall be referred to as an “independent expenditure committee.” An independent expenditure committee, or a sole individual making an independent expenditure by filing Form Ind-Exp-I, is not required to file a statement of organization.

ITEM 2. Amend subrule 4.6(2) as follows:

**4.6(2) *New office sought.*** A candidate who filed a statement of organization for one office but eventually seeks another office may file an amended statement of organization to reflect the change in office sought in lieu of dissolving the old committee and organizing a new committee. A candidate filing an amended statement of organization for a new office shall continue to file the required campaign reports regardless of whether the ~~\$750~~ \$1,000 financial filing threshold for the new office has been exceeded. A candidate who has filed a statement of organization for one office and who then exceeds the financial activity threshold as set forth in Iowa Code section 68A.102(5) ~~as amended by 2015 Iowa Acts, Senate File 135,~~ for a new office shall, within ten days of exceeding the threshold, file either an amended statement of organization disclosing information for the new office sought or organize and register a new committee.

ITEM 3. Amend subrules 4.7(3) and 4.7(4) as follows:

**4.7(3) *Funds available from prior committee.*** If funds are available to a candidate’s committee from a prior candidacy of that candidate, or to a ballot issue committee from a prior effort on a ballot issue, and the prior candidacy or effort had not exceeded the financial reporting threshold, the carryover balance shall be disclosed by the new committee. The disclosure shall be made on Schedule A - Contributions and shall include the amount of the carryover, the date of the prior election, and the name and address of any source that made contributions to the candidacy or ballot effort that totaled more than ~~\$750~~ \$1,000 during the preceding three calendar years.

**4.7(4) *Funds available from preballot issue activity.*** Funds that are raised for an activity that is not included in the definition of a ballot issue in Iowa Code Supplement section 68A.102(1) and that are made available to a subsequent ballot issue committee shall be disclosed by the committee. The disclosure shall be made on Schedule A - Contributions and shall include the amount of the carryover balance, the date of the preballot issue activity, and the name and address of any source that made contributions to the activity that totaled more than ~~\$750~~ \$1,000 during the previous three calendar years.

ITEM 4. Amend subrules 4.11(1) and 4.11(2) as follows:

**4.11(1) *Persons voluntarily registering a committee.*** A person that has not exceeded the ~~\$750~~ \$1,000 financial filing threshold may file Form DR-SFA for purposes of using the short form “paid for by” attribution statement under Iowa Code section 68A.405 and rule 351—4.38(68A). A person using the short form “paid for by” attribution statement shall file Form DR-SFA with the board prior to distributing the political material containing the short form “paid for by” attribution statement.

**4.11(2) *\$750 \$1,000 threshold later exceeded.*** A person filing Form DR-SFA shall not be required to file a statement of organization or be required to file disclosure reports unless the ~~\$750~~ \$1,000 threshold is later exceeded. A person that later exceeds the ~~\$750~~ \$1,000 threshold and that fails to timely file a statement of organization or to timely file disclosure reports may be subject to the appropriate board sanctions as set out by statute and board rule.

ITEM 5. Amend subrule 4.14(4) as follows:

**4.14(4) Unitemized contributions and freewill donations.** If the committee does not choose to itemize all contributions under the itemization threshold (\$25 for most committees, see Iowa Code Supplement section ~~68A.402(3)“b”~~ 68A.402A(1)“b”), it shall aggregate these contributions and report the aggregate amount as “unitemized contributions.” No date received is required to be provided for miscellaneous unitemized contributions. Unitemized contributions may be solicited and received through a freewill donation such as a “fish bowl” or “pass the hat” collection if the collection is in compliance with rule 351—4.30(68A,68B). Unitemized contributions collected through freewill donations (the net amount of the collection after the itemization of those persons whose contributions of more than ~~\$10~~ \$25 in the freewill collection resulted in exceeding the annual itemization threshold) shall be reported by showing the net amount as “unitemized contributions—pass the hat (or can collection or fish bowl, for example) collection.” The “date received” to be reported for a freewill donation is the date a representative of the committee takes possession of the proceeds of the collection.

ITEM 6. Amend subrule 4.26(2) as follows:

**4.26(2) Transfer of assets for same candidate.** A candidate’s committee may transfer funds, assets, loans, and debts to a committee established for a different office when the same candidate established both committees. A candidate seeking to transfer funds, assets, loans, or debts under this subrule shall file either an amended statement of organization disclosing information for the new office sought or register a new committee regardless of whether the ~~\$750~~ \$1,000 financial filing threshold for the new office will be exceeded.

ITEM 7. Amend rule 351—4.27(68A) as follows:

**351—4.27(68A) Filing of independent expenditure statement.** Pursuant to ~~2009 Iowa Code Supplement section 68A.404 as amended by 2010 Iowa Acts, Senate File 2354, section 3~~ 2015 Iowa Acts, Senate File 135, any person except a candidate, a committee filing a statement of organization, a federal committee, or an out-of-state committee that makes one or more independent expenditures in excess of ~~\$750~~ \$1,000 in the aggregate shall file Form Ind-Exp-O. A sole individual making one or more independent expenditures in excess of ~~\$750~~ \$1,000 in the aggregate shall file Form Ind-Exp-I. A committee that has registered by filing a statement of organization shall disclose an independent expenditure on the appropriate campaign disclosure report.

**4.27(1) Independent expenditure defined.** “Independent expenditure” means an expenditure as defined in ~~2009 Iowa Code Supplement section 68A.404(1) as amended by 2010 Iowa Acts, Senate File 2354, section 3~~ 2015 Iowa Acts, Senate File 135.

**4.27(2) Independent expenditure reporting.** When applicable under ~~2009 Iowa Code Supplement section 68A.404 as amended by 2010 Iowa Acts, Senate File 2354, section 3~~, and rule 351—4.27(68A), Form Ind-Exp-O shall be filed by a person and Form Ind-Exp-I shall be filed by a sole individual. Both forms shall be in a format that will enable a person or sole individual making an independent expenditure to comply with all of the reporting requirements in ~~2009 Iowa Code Supplement section 68A.404 as amended by 2010 Iowa Acts, Senate File 2354, section 3~~ 2015 Iowa Acts, Senate File 135.

**4.27(3) Place of filing.** Form Ind-Exp-O and Form Ind-Exp-I shall be filed with the board electronically via the board’s Web site at [www.iowa.gov/ethics](http://www.iowa.gov/ethics).

**4.27(4) Time of filing.** Form Ind-Exp-O or Form Ind-Exp-I shall be filed within 48 hours of the person’s or sole individual’s making an independent expenditure exceeding ~~\$750~~ \$1,000 in the aggregate or within 48 hours of disseminating the communication to its intended audience, whichever is earlier. An independent expenditure is deemed made at the time that the cost is incurred regardless of whether or not the costs for the independent expenditure have been billed.

**4.27(5) Failure to file.** The failure to timely file either Form Ind-Exp-O or Form Ind-Exp-I shall be subject to the imposition of civil penalties pursuant to ~~351—~~subrule 4.59(7).

**4.27(6) Attribution statement applicable.** Any person that makes an independent expenditure in any amount shall comply with the appropriate “paid for by” attribution statement pursuant to ~~2009 Iowa~~

Code Supplement section 68A.405 as amended by 2010 Iowa Acts, Senate File 2354, section 4, and by 2010 Iowa Acts, Senate File 2195, section 7, and rule 351—4.38(68A).

This rule is intended to implement 2009 Iowa Code Supplement section 68A.404 as amended by 2010 Iowa Acts, Senate File 2354, section 3 2015 Iowa Acts, Senate File 135.

ITEM 8. Amend subrules 4.30(1), 4.30(2) and 4.30(4) as follows:

**4.30(1) *Anonymous contributions in excess of \$10 \$25 prohibited.*** No person shall make a contribution in excess of \$10 \$25 to a committee without providing the person's name and address to the committee. The committee shall not maintain in any campaign account funds in excess of \$10 \$25 that cannot be accounted for and reconciled with the committee's disclosure reports.

**4.30(2) *Escheat to the state.*** Any contribution in excess of \$10 \$25 from an unknown source or campaign funds in excess of \$10 \$25 that cannot be accounted for and reconciled shall escheat to the state of Iowa as required by Iowa Code section 68A.501 as amended by 2007 Iowa Acts, Senate File 39, section 8 2015 Iowa Acts, Senate File 135. A committee required to escheat shall escheat such funds by depositing the funds into the committee's campaign account and issuing a committee check to the general fund in the same amount. The committee check shall be sent to the board office at 510 East 12th Street, Suite 1A, Des Moines, Iowa 50319, for transmittal to the office of treasurer of state.

**4.30(4) *Notice at fund-raising event.*** Pursuant to Iowa Code Supplement section 68A.501 as amended by 2015 Iowa Acts, Senate File 135, a person requested to make a contribution at a fund-raising event shall be advised that it is illegal to make a contribution in excess of \$10 \$25 unless the person making the contribution also provides the person's name and address. Notice of the requirement to provide a person's name and address for a contribution in excess of \$10 \$25 may be made orally or in a written statement that is displayed at the fund-raising event.

ITEM 9. Amend subrule 4.31(3) as follows:

**4.31(3) *Registering a committee.*** A trust, except for a living or revocable trust, that raises or spends more than \$750 \$1,000 for campaign activities shall register a political committee (PAC) and shall file disclosure reports. A trust, except for a living or revocable trust, that makes a one-time contribution in excess of \$750 \$1,000 may file Form DR-OTC in lieu of filing a statement of organization and filing disclosure reports.

ITEM 10. Amend rule 351—4.35(68A) as follows:

**351—4.35(68A) Permanent organizations forming temporary political committees; one-time contributor filing Form DR-OTC.** Pursuant to Iowa Code section 68A.402(9), a permanent organization temporarily engaging in activity that exceeds the \$750 \$1,000 financial filing threshold described in rule 351—4.1(68A,68B) is required to organize and register a political committee (PAC), file disclosure reports, and, upon completion of activity, file a notice of dissolution. A permanent organization that is temporarily a political committee shall comply with all of the campaign laws in Iowa Code chapter 68A and this chapter. A permanent organization that makes loans to a candidate or committee or that is owed debts from a candidate or committee is not deemed to be engaging in political activity requiring registration.

**4.35(1) *Form DR-OTC.*** A permanent organization that makes a one-time contribution in excess of \$750 \$1,000 to a committee may, in lieu of filing a statement of organization, disclosure reports, and a notice of dissolution, file Form DR-OTC. The following information shall be disclosed on Form DR-OTC:

*a. to f.* No change.

A permanent organization that makes more than one contribution is not eligible to file Form DR-OTC and is required to file a statement of organization, file disclosure reports, and file a notice of dissolution.

**4.35(2) *Place of filing.*** Form DR-OTC shall be filed with the board at 510 East 12th Street, Suite 1A, Des Moines, Iowa 50319, filed by fax at (515)281-4073, or filed electronically using the board's Web site at [www.iowa.gov/ethics](http://www.iowa.gov/ethics).

**4.35(3) *Time of filing.*** Form DR-OTC shall be filed with the board within ten days after the one-time contribution in excess of \$750 \$1,000 is made. The form must be physically received by the board or,

if mailed, must bear a United States Postal Service postmark dated on or before the report due date. A faxed or electronically filed Form DR-OTC must be submitted on or before 11:59 p.m. of the tenth day after the organization of the committee is required. If the tenth day falls on a Saturday, Sunday, or holiday on which the board office is closed, the filing deadline is extended to the next working day when the board office is open.

**4.35(4) *Failure to register.*** If the board discovers that a permanent organization has become subject to the provisions of Iowa Code Supplement chapter 68A but did not timely file a statement of organization or file Form DR-OTC, as applicable, the permanent organization is subject to the possible imposition of board sanctions.

**4.35(5) *Partial refund of contribution.*** A committee that receives a contribution from a permanent organization that causes the organization to become subject to the provisions of Iowa Code Supplement chapter 68A may refund all or part of a contribution to the organization so as to reduce the contribution to ~~\$750~~ \$1,000 or less and remove the organization's filing obligations.

This rule is intended to implement Iowa Code sections 68A.102(18) and 68A.402.

ITEM 11. Amend paragraph **4.37(2)“a”** as follows:

*a.* A ledger or similar record-keeping device which details all contributions received by the committee. This record shall include the name and address of each person making a contribution in excess of ~~\$40~~ \$25, with the date and amount of the contribution. In lieu of or in addition to a ledger, the committee may record contributions received through a receipt book or other method of individually documenting the contributions, such as by making and keeping copies of the contribution checks.

ITEM 12. Amend subrule 4.59(8) as follows:

**4.59(8) *Form DR-OTC assessment.*** A permanent organization that has not previously made a contribution in excess of ~~\$750~~ \$1,000 and that fails to file Form DR-OTC within ten days of notice to do so by the board shall be assessed a \$20 civil penalty. A permanent organization that has previously made a contribution in excess of ~~\$750~~ \$1,000 and that fails to file Form DR-OTC within ten days of the date on which the contribution check is issued shall be assessed a \$20 civil penalty.