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CHAPTER 4503, CAMPAIGN FINANCE ACTIVITIES

4503.0100 DEFINITIONS.

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Subp. 8. 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. 9. 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. 10. Legislative party unit. “Legislative party unit” means a political party unit established by the party organization within a house of the legislature.

Subp. 11. 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.

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4503.0500 CONTRIBUTIONS.

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Subp. 7. 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, 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 pays the vendor the fair market value for the services provided to collect the contributions.

Subp. 8. [Repealed, L 2017 1Sp4 art 3 s 18] Underlying source funding. 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. Types of unregistered associations that are prohibited from making a contribution to a principal campaign committee, a party unit, or a political committee or fund that is not an independent expenditure or ballot question political committee or fund, include, but are not limited to:

A. a political committee under the Federal Election Campaign Act of 1971, as amended, including a separate segregated fund, that has received funding or administrative support from a corporation that is not exempt under Minnesota Statutes section 211B.15, subdivision 15;

B. a political organization under section 527 of the Internal Revenue Code, as amended, including an association that may be regulated by or operate within a state other than Minnesota, that has received funding or administrative support from a corporation that is not exempt under Minnesota Statutes section 211B.15, subdivision 15; and

C. an association that is not a political organization under section 527 of the Internal Revenue Code, as amended, including an association not operated primarily for the purpose of influencing elections, that has received funding or administrative support from a corporation that is not exempt under Minnesota Statutes section 211B.15, subdivision 15.

Subp. 9. [Repealed, L 2005 c 156 art 6 s 68]

4503.0800 DONATIONS IN KIND AND APPROVED EXPENDITURES.

[Version 1 – Would nullify [Advisory Opinion 434](#)]

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 [Repealed, L 2005 c 156 art 6 s 68] **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

[Version 2 – Would codify [Advisory Opinion 434](#)]

Subpart 1. [Repealed, L 2005 c 156 art 6 s 68] **Contributor payment of processing fee.** If a contributor pays a processing fee when making a contribution, equal to the fair market value of the services provided, the amount of the fee is not donation in kind to the recipient of the contribution.

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4503.0900 NONCAMPAIGN DISBURSEMENTS.

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Subp. 2. [Repealed, 21-SR-1779] 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. 3. 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, stationary, or other means of communication that identify the office holder as a member of a legislative caucus.

Subp. 4. 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.

4503.1700 VIOLATIONS RESULTING FROM COORDINATED EXPENDITURES.

[Repealed, L 2017-1Sp4 art 3 s 18] A principal campaign committee is responsible for a violation of a contribution limit or prohibition resulting from a coordinated expenditure, and the

spender is also responsible if it thereby violated a contribution limit or prohibition for which the contributor may be penalized by the board. A principal campaign committee's or spender's knowledge of the circumstances that resulted in an expenditure being a coordinated expenditure, including the use of a common vendor or subcontractor, is not necessary for the board to determine that a violation occurred as a result of a coordinated expenditure. When determining any penalty to be imposed for a violation resulting from a coordinated expenditure, the board must consider:

A. any steps taken prior to the violation to determine whether the candidate engaged in fundraising for the spender;

B. any steps taken prior to the violation to determine whether the candidate served as an officer of the spender;

C. any steps taken prior to the violation to determine whether a vendor or subcontractor provided or may provide services that may result in a coordinated expenditure;

D. any steps taken prior to the violation to determine whether a vendor or subcontractor that provides consulting services has satisfied the conditions in Minnesota Statutes, section 10A.176, subdivision 4;

E. any steps taken prior to the violation to determine whether a spender received nonpublic information regarding a candidate's campaign plans, strategy, or needs;

F. any steps taken prior to the violation to determine whether a spender provided nonpublic information to a candidate regarding an expenditure;

G. any steps taken prior to the violation to ensure that the candidate did not participate in making the expenditure;

H. any additional steps taken prior to the violation to ensure that the expenditure was not coordinated with the candidate;

I. any steps taken after the violation to mitigate its impact, including ceasing to disseminate a communication that is a coordinated expenditure;

J. any steps taken after the violation to prevent an additional violation; and

K. the factors listed in Minnesota Statutes, section 14.045.

4503.1800 DISCLAIMERS.

[Repealed, L 2017 1Sp4 art 3 s 18]Subpart 1. **Additional definitions.** The following definitions apply to this chapter and Minnesota Statutes, section 211B.04:

A. "Broadcast media" means a television station, radio station, cable television system, or satellite system.

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.

CHAPTER 4525, HEARINGS, AUDITS, AND INVESTIGATIONS

4525.0100 DEFINITIONS.

Subpart 1. **Scope.** The definitions in this part apply to this chapter and Minnesota Statutes, chapter 10A. The definitions in chapter 4501 and in Minnesota Statutes, chapter 10A, apply to this chapter.

Subp. 1a. ~~[Repealed, 20 SR 2504]~~

Subp. 2. ~~[Repealed, 20 SR 2504]~~

~~Subp. 2a.~~ **Complaint.** "Complaint" means a written statement, including any attachments, that:

A. alleges that the subject named in the complaint has violated Minnesota Statutes, chapter 10A, or another law under the board's jurisdiction; and

B. complies with the requirements in part 4525.0200, subpart 2.

Subp. ~~3a.~~ **Complainant.** "Complainant" means the filer of a complaint.

Subp. ~~4.~~ **Contested case.** "Contested case" means a proceeding conducted under Minnesota Statutes, chapter 14, in which the legal rights, duties, or privileges of specific parties are required by law or constitutional right to be determined after a board hearing. "Contested case" includes a proceeding pursuant to a request for exemption from campaign reporting requirements under Minnesota Statutes, section 10A.20, subdivisions 8 and 10; a hearing ordered by the board under part 4525.0900, subpart 2, concerning a complaint, investigation, or audit; and any other hearing which may be ordered by the board under parts 4525.0100 to 4525.1000 or which may be required by law.

"Contested case" does not include a board investigation or audit conducted under Minnesota Statutes, section 10A.022, subdivisions 1 and 2.

Subp. 4. ~~[Repealed, 20 SR 2504]~~

Subp. 5. ~~[Repealed, 39 SR 757]~~ **Preponderance of the evidence.** "Preponderance of the evidence" means, in light of the record as a whole, the evidence leads the board to believe that a fact is more likely to be true than not true.

Subp. 6. ~~[Repealed, 39 SR 757]~~

Subp. 7. ~~[Repealed, 20 SR 2504]~~

~~Subp. 8. Respondent.~~ "Respondent" means the subject of a complaint, an investigation, or an audit.

4525.0210 DETERMINATIONS PRIOR TO AND DURING FORMAL INVESTIGATION.

Subpart 1. [~~Repealed, L 2017-1Sp4 art 3 s 18~~]

~~Subp. 2. Making the prima facie determination.~~ In determining whether a complaint states a prima facie violation, any evidence outside the complaint and its attachments may not be considered. Arguments of the respondent, which are not themselves evidence, must be considered.

If a finding is made that a complaint does not state a prima facie violation, the complaint must be dismissed without prejudice. The dismissal must be ordered by the board member making the determination or by the full board if the full board makes the determination. The determination must be in writing and must indicate why the complaint does not state a prima facie violation.

If a finding is made that a complaint states a prima facie violation, the board chair must schedule the complaint for a probable cause determination.

Subp. ~~2~~3. **Action after prima facie violation determination.** The executive director must promptly notify the complainant and the respondent of the prima facie determination. The notice must include a copy of the prima facie determination.

If a determination is made that a complaint states a prima facie violation, the notice also must include the date of the meeting at which the board will make a probable cause determination regarding the complaint and a statement that the complainant and the respondent have the opportunity to be heard before the board makes the probable cause determination.

Subp. 3. 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 a complaint raises sufficient questions of fact which, if true, would result in the finding of a violation.

Subp. 4. **Action after probable cause not found.** If the board finds that probable cause does not exist to believe that a violation has occurred, the board must order that the complaint be dismissed without prejudice. The order must be in writing and must indicate why probable cause does not exist to believe that a violation has occurred.

The executive director must promptly notify the complainant and the respondent of the board's determination. The notice must include a copy of the order dismissing the complaint for lack of probable cause.

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:

A. include a copy of the probable cause order;

B. explain how the investigation is expected to proceed and what discovery methods are expected to be used;

C. explain the respondent's rights at each stage of the investigation, including the right to provide a written response and the right to counsel; and

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.

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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 to 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.

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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 Chapter 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 the audit from affecting respondents differently based on their political party affiliation, or if the respondents are candidates, based on their incumbency status.