

Texas Ethics Commission Adopts New Rules for Campaign Expenditures and Discounted Items

November 2015

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The Texas Ethics Commission recently adopted several updates to its rules for reporting of political contributions and expenditures. The Commission adopted a formal definition for expenditures made “in connection with a campaign” and clarified when a discount constitutes a reportable in-kind contribution. As we previously noted, the new definitions will affect if and when a group must register and report as a political committee in Texas, as well as its obligation to file independent expenditure reports. All of the new provisions are in effect as of October 27, 2015.

After several revisions to the draft language, the final adopted rule clarifies that the following expenditures are made “in connection with a campaign”:

- An expenditure that expressly advocates for or against a candidate or ballot measure;
- An expenditure made by a candidate or political committee to support or oppose a candidate;
- An expenditure that is a campaign contribution to a candidate or political committee; and
- An expenditure for a communication that refers to a clearly identified candidate and is broadcast or distributed within 30 days of an election to the geographical area the candidate seeks to represent.

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In addition, the Commission adopted a formal definition of a “discount” and integrated guidelines to determine when a discount would become a reportable in-kind contribution. The new regulations clarify that a discount is any difference between the fair market value of the goods or services received and the amount actually charged for those goods or services. Discounts constitute an in-kind political contribution unless the terms reflect normal industry practice and are typical of terms offered to political and non-political persons alike.