

# Rule changes affecting the Georgia Government Transparency and Campaign Finance Act

January 28, 2016

At the December 15, 2015 meeting, the Georgia Government Transparency and Campaign Finance Commission (Commission) approved several changes to Commission rules interpreting the Georgia Government Transparency and Campaign Finance Act. Some of the new rules will have noteworthy impacts on the 2016 election cycle, particularly those additions modifying campaign contribution limits and lobbyist reporting obligations. We have summarized some of the most impactful rule changes below.

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## New contribution limits

Contribution limits for statewide offices will change as follows:

Election type	Old limit	New limit
Primary	\$6,300	\$6,600
Primary run-off	\$3,700	\$3,900
General	\$6,300	\$6,600
General run-off	\$3,700	\$3,900

Contribution limits for all other offices will change as follows:

Election type	Old limit	New limit
Primary	\$2,500	\$2,600
Primary run-off	\$1,300	\$1,400
General	\$2,500	\$2,600
General run-off	\$1,300	\$1,400

After January 1, 2016, individuals who contributed the maximum amount under the old limits to current candidates are allowed to contribute an amount up to the new maximum limits.

## Other significant rule changes

- Lobbying expenditures for family members of public officials.** Expenditures made by lobbyists for the benefit of a public official's spouse, parents, or dependent children will now constitute "lobbying expenditures" that must be

reported.

- **Declaration of Intent requirement clarification.** The Commission clarified that candidates will be required to file a "Declaration of Intent to Accept Campaign Contributions" before accepting any items of value that constitute campaign contributions. Personal loans, contributions to office holders seeking a different office, and contributions to campaign committees of office holders seeking a new office all constitute "campaign contributions" under this rule and must be preceded by the Declaration of Intent.
- **Date of contribution receipt clarification.** The Commission clarified that campaign contributions made by check or negotiable instrument will be deemed "received" when a candidate or his committee physically receives the check or negotiable instrument.
- **Anonymous contributions.** Candidates or campaign committees will have to transmit to the state treasury any anonymous campaign contributions they receive. In addition, the Commission will now require that the candidate or campaign committee disclose the anonymous contribution and transmittal on its next regularly filed Campaign Contribution Disclosure Report.
- **Annual contribution limit adjustments.** At its first regularly scheduled meeting each year, the Commission will be required to review the active campaign contribution limits and make changes, if necessary, in \$100 increments to account for inflation or deflation.
- **"In-kind expenditures" definition.** The Commission added a definition for "in-kind expenditures" to the Rules. An "in-kind expenditure" is defined to be "an expenditure of any goods or services for which a candidate or campaign committee did not extend payment to an end-recipient for the goods or services provided, but for which the campaign received the use/benefit of said goods or services."
- **"Independent expenditure" definition.** The Commission added a definition of "independent expenditure" to the Rules. An "independent expenditure" is defined to be "a political campaign communication that expressly advocates the election or defeat of a clearly identifiable candidate that is not made in cooperation, consultation, or concert with or at the request or suggestion of a candidate, candidate's authorized committees."
- **"Technical defect" definition.** The Commission added a definition of "technical defect" to the Rules. A "technical defect" is defined to be "an inadvertent or scrivener's error in the preparation or making of a filing with the Commission or with a local filing officer."
- **Correcting technical defects clarification.** The Commission clarified that complaints alleging technical defects must be resolved in compliance with O.C.G.A. § 21-5-7, regarding initiation of complaints. In addition, the amended Rules require respondents to assert in writing within thirty days of receiving a complaint that an alleged violation of the Campaign Finance Act is a technical defect, and likewise obligate respondents to correct such deficits within the same time period.
- **New investigation standard.** The Commission will no longer be required to have probable cause in order to initiate an investigation. The Commission staff will be able to initiate an investigation whenever it discovers evidence of a violation and deems that an investigation is necessary.
- **New "contested case" threshold.** A matter will become a "contested case" only after an initial investigation leads to reasonable grounds for the Commission to believe a violation has occurred. The rules of the Georgia Administrative Procedures Act and the Commission will govern.
- **Hearing requirement.** After determining if technical defects apply, Commission staff will be able to initiate an investigation if a candidate or public official omitted information required to be disclosed by law or has included false or misleading information on a filing. All matters not administratively dismissed or solely containing technical

defects must be scheduled for a hearing.

- **Administrative subpoenas.** Commission staff may serve an Administrative Subpoena to secure documents or witness testimony in the course of an investigation or for a hearing. A person served with an Administrative Subpoena may file a motion to quash the subpoena within ten business days of receiving the subpoena.
- **Travel in non-commercial aircraft partially or completely owned.** When a candidate or campaign travels on a non-commercial aircraft partially or completely owned by the candidate or a family member, he or she will be required to report the cost in regular filings pursuant to the following formula:

(1) In the case of travel on an aircraft that is owned or leased under a shared-ownership or other time-share arrangement, where the travel does not exceed the candidate's or immediate family member's proportional share of the ownership interest in the aircraft, the candidate must pay and report the hourly, mileage, or other applicable rate charged the candidate or immediate family member for the costs of the travel; or

(2) In the case of travel on an aircraft that is owned or leased under a shared-ownership or other time-share arrangement, where the travel exceeds the candidate's or immediate family member's proportional share of the ownership interest in the aircraft, the candidate must pay and report the normal and usual charter fare or rental charge for travel on a comparable aircraft of comparable size.

On January 1, 2016, the above amendments to the Georgia Government Transparency and Campaign Finance Commission Rules went into effect. Dentons will closely monitor any further changes proposed by the Commission and our Political Law team will be happy to provide further analysis of these changes to our clients.

## Your Key Contacts



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