

## TITLE 4 - NEBRASKA ACCOUNTABILITY AND DISCLOSURE COMMISSION

### CHAPTER 4 - RULES AND REGULATIONS FOR DISSOLUTION OF COMMITTEES

(Adopted 7/20/84 and Amended 11/4/88 and 7/08/94)

001. **STATUTORY AUTHORITY.** This rule is adopted pursuant to the provisions of sections 49-1453, 49-14,123(1) and 49-14,123(2), of the Nebraska Statutes.

002. **SCOPE AND APPLICATION.** This rule provides for the dissolution of candidate and other committees as authorized by section 49-1453 of the Nebraska Political Accountability and Disclosure Act.

003. **ALL COMMITTEES.**

.01 A committee may terminate only upon filing a statement of dissolution on the appropriate Nebraska Accountability and Disclosure form or upon filing a written statement containing the same information with the filing officials with whom the committee's statement of organization was filed. Only a committee which will no longer receive any contributions or make any expenditures may dissolve, provided that such committee has no outstanding debts and obligations.

.02 In addition to the statement of dissolution, the committee shall also file a final Campaign Statement covering the period from the closing date of the last Campaign Statement filed through the date of dissolution. If the committee has never filed a Campaign Statement, the period covered shall begin with the date money was first raised, received or expended. Such Campaign Statement shall disclose the disposition of unexpended funds and any physical assets of the committee.

.03 No unexpended funds shall be transferred contrary to the provisions of section 49-1446.02 or to any person except a candidate committee, a political party committee, a tax exempt charitable institution, the Campaign Finance Limitation Act Cash Fund, the State of Nebraska or any agency thereof or a fund of any political subdivision of the State subject to the Nebraska Budget Act, or any or all of the contributors thereof, provided that no contributor shall receive more than he or she contributed.

.04 Any physical asset of a dissolving committee must be: a) sold at a reasonable price with the proceeds being transferred as set forth in Section 003.03; b) donated to a candidate or political party committee; or c) donated to a tax exempt charitable institution. In the case of a candidate committee, the physical asset(s) of the committee may be retained by the candidate if the candidate's contributions to the committee exceed the reasonable value of the asset(s) retained. The physical assets of the committee may otherwise be purchased by the candidate. If the candidate purchases or otherwise retains a physical asset of his or her committee, he or she shall provide to the Commission on request, documentation as to the reasonable value of the physical asset and the amount of the candidate's contributions to the committee.

004. **CANDIDATE COMMITTEES.** A candidate committee may be dissolved in the same manner as provided in section 003, except that a candidate committee of a person who is an incumbent, eligible for re-election to the same office, may not dissolve unless its statement of dissolution contains an additional verified declaration of such person that he or she has not filed and will not file for re-election to the same office or has withdrawn such filing.

.01 A candidate committee of an officeholder eligible for reelection to the same office may be

dissolved if the officeholder is seeking election to a different office and has established a separate candidate committee for that purpose. The committee shall be dissolved in the same manner as provided in section 003.

.02 An officeholder who is eligible for reelection may dissolve his or her candidate committee upon a showing that all of the following factors apply:

.002A The committee has no cash balance;

.002B The committee has no outstanding debts;

.002C The committee showed no activity on its last annual Campaign Statement;

.002D The candidate and treasurer agree to accept no contributions and make no expenditures until the calendar year in which the candidate next seeks reelection.

.03 An officeholder holding the office of Governor, Lieutenant Governor, Auditor of Public Accounts, Attorney General, State Treasurer, Secretary of State, member of the Legislature, member of the Public Service Commission, member of the Board of Regents of the University of Nebraska, or member of the State Board of Education is not eligible to dissolve his or her committee pursuant to this section.

#### 005. **ADMINISTRATIVE DISSOLUTION.**

.01 The Commission, on its own initiative, or upon the request of the committee itself, may commence an administrative dissolution process against a political committee if it finds any one of the following:

.01A The committee's Campaign Statement for the last reporting period for which a statement was filed discloses that neither contributions nor expenditures exceeded \$2,000;

.01B The committee's last Campaign Statement disclosed no receipt of contributions for the last reporting period;

.01C The committee's last Campaign Statement disclosed minimal expenditures;

.01D The committee's primary purpose for filing Campaign Statements has been to disclose outstanding debts and obligations;

.01E The committee has not filed a Campaign Statement for the last reporting period;

.01F The committee's last Campaign Statement disclosed that the committee does not have substantial outstanding accounts receivable;

.01G The committee's outstanding debts and obligations exceed the total of its cash on hand;

.01H The committee has never raised, received, no expended more than \$2,000 in any calendar year period as provided in §49-1413 or as such section may be amended from

time to time by the Legislature.

.02 The Commission may commence an administrative dissolution process against a candidate committee if the candidate is deceased. In such a case the Commission is not bound by the factors set forth in sections 005.01 and 005.03.

.03 The Commission shall send a notification by certified mail, return receipt requested, to the committee treasurer, or in the case of a candidate committee, to its candidate or treasurer of its intent to administratively dissolve such committee and may require the treasurer, and the candidate in the case of a candidate committee, to submit information, including a Campaign Statement as provided in section 003.02, with regard to the factors set forth in subsection .01 of section 005 hereof. The Commission may require the committee to provide information on the outstanding debts of the committee, the unexpended funds of the committee, and the physical assets of the committee. The treasurer and the candidate, in the case of a candidate committee shall respond, in writing, within 30 days of receipt of the commission's notice or request and if the committee objects to such dissolution, the committee's response shall so state.

.04 In the event that the Commission is unable to serve notice by certified mail as required by subsection .03, the Commission shall make a reasonable search to determine the whereabouts of the parties to be notified. If, after a reasonable search, the Commission is unable to determine the whereabouts of the parties to be notified, the person searching on behalf of the Commission shall execute an affidavit. The affidavit shall state that the searcher has made a reasonable search to determine the whereabouts of the parties to be notified and has been unable to do so. The affidavit shall further state generally what steps the searcher took to determine the whereabouts of the parties to be notified. Upon the filing of such an affidavit, the Commission may proceed with the administrative dissolution process.

.05 The Commission may administratively dissolve a committee if such committee fails to object to the commission's actions and the commission determines any one of the following to be true:

.05A The committee or its candidate has obtained credit to cover its unpaid debts and obligations;

.05B There has been a forgiveness of any loan(s) owed by the committee or its candidate;

.05C It appears that the collection of any outstanding loan(s) or accounts payable are barred by the statute of limitations as provided in §§25-205 and 25-206;

.05D It appears that the creditors of the committee consider the candidate to be an absent or absconding debtor as provided in §25-214;

.05E It does not appear from evidence available that the committee or its candidate has violated the Act or the Rules and Regulations promulgated thereunder;

.05F It appears from the evidence available that prosecution of the candidate, treasurer or committee for any violation of the Act is barred by the statute of limitations;

.05G It does not appear from the evidence available that the committee has ever raised, received, or expended more than \$2,000 in any calendar year period as provided in §49-1413 as the same may be amended from time to time by the Legislature; or

.05H In the case of a candidate committee of an incumbent eligible for re-election to the same office, such person has filed a verified declaration that he or she has not filed and will not file for re-election to the same office or has withdrawn such filing.

- .006 **CANDIDATE COMMITTEE CONTRIBUTIONS TO OTHER CANDIDATES.** No candidate committee shall make a contribution to or an independent expenditure on behalf of another candidate committee except pursuant to the provisions of section 49-1479(2) or upon dissolution pursuant to this rule.
- .007 **Preservation of Records.** The records of a committee shall be preserved for a period of five (5) years following the dissolution of the committee. The preservation of committee records is the responsibility of the committee treasurer. In the case of a candidate committee, the preservation of committee records is the joint responsibility of the committee treasurer and the candidate.
- .008 **AFTER DISSOLUTION.** After dissolution, no contributions shall be received or expenditures made.
- .009 **REPEALER.** That Rule 4, adopted December 21, 1977, as amended November 4, 1988, is repealed.