

STATE OF MINNESOTA
COUNTY OF RAMSEY

ETHICAL PRACTICES BOARD

In the matter of Proposed Rules governing
Campaign Financing (9MCARSS1.0001-1.0043);
Economic Interest Disclosure (9MCARSS1.0100-
1.0111); Lobbyists (9MCARSS1.0200-1.0209);
Conflict of Interest (EC300-307);
Representation Disclosure (EC500-507); and
Hearings (EC601-623)

STATEMENT OF NEED
AND REASONABLENESS

The Ethics in Government Act, Minn. Stat. ch. 10A, enacted in 1974, authorized the Ethical Practices Board to promulgate rules to carry out the purposes of the Act. Rules have been adopted governing Campaign Financing (9MCARSS1.0001-1.0043 - adopted 1974; amended 1976, 1978, 1979); Economic Interest Disclosure (9MCARSS1.0100-1.0111 - adopted 1974; amended 1976, 1978, 1979); Lobbyists (9MCARSS1.0200-1.0209 - adopted 1974; amended 1979); Conflict of Interest (EC300-307 - adopted 1975); Representation Disclosure (EC500-507 - adopted 1975); and Hearings (EC601-623 - adopted 1975; amended 1977).

The need to amend these rules arises in order to implement registration and reporting requirements of Minn. Stat. ch. 10A enacted in Laws of 1977 Chapter 346, Laws of 1978 Chapter 463, and Laws of 1980 Chapters 607 and 614, and nomenclature changes in Minn. Stat. ch. 15 enacted in Laws of 1975, Chapter 271; to enable the Board to provide direction for the 1982 elections to individuals and associations required to register and file statements and reports with the Board; to guide the Board in providing forms and monitoring compliance; to provide the public with information regarding the data collected by Minn. Stat. §§10A.01-10A.34; to remove obsolete provisions and language from existing rules; and to incorporate applicable advisory opinions which lapse on the day of adjournment of the regular session of the Legislature in the second year following the date of the opinion.

The following material describes the need for and reasonableness of each rule proposed; texts of advisory opinions cited are attached and hereby incorporated in this statement. To assist members of the public who are not trained in the law or in political activities and who are involved in endeavors regulated and administered by Minn. Stat. ch. 10A, rules which paraphrase statutory language are crucial to the understanding of the rules.

CHAPTER ONE: CAMPAIGN FINANCING RULES

9MCARS1.0001 Applicability. This rule clarifies the applicability of campaign financing rules to associations and individuals that raise or spend more than \$100 in a calendar year to promote or defeat a ballot question under Laws of 1980, Chapter 607.

9MCARS1.0008 Association newsletters on behalf of a candidate. This rule clarifies the application of Minn. Stat. § 10A.01, subd. 3, to this existing rule.

9MCARS1.0012 Change of office sought by candidate. Language changes in this rule provide uniform reference to the tax credit agreement; substance of the rule is unchanged.

9MCARS1.0016 Contributions from non-Minnesota domiciled associations and domiciled, federally registered political committees or political funds. Language added to this rule clarifies the application of Minn. Stat.

§ 10A.01, subd. 3, by specifying that the options for registration and reporting authorized in this existing rule do not apply to a group located in Minnesota which does not have a federally-registered political committee or political fund; substance of the rule is unchanged.

9MCARS1.0017 Contribution limits; political party definition. Language added to this rule clarifies the application of Minn. Stat. § 10A.27, subd. 4, by adding reference to Minn. Stat. § 10A.01, subd. 3.

9MCARS1.0025 Joint limits for Governor and Lieutenant Governor. Language changes in this rule provide uniform reference to the tax credit agreement; substance of the rule is unchanged.

9MCARS1.0029 Noncampaign disbursements; constituent services. Language added to this rule incorporates provisions of Laws of 1980, Chapter 614, Section 40, which extended the period before constituent services must be reported as campaign expenditures.

9MCARS1.0031 Organization of political committees and political funds. Clause A clarifies that registration requirements explained in this rule apply to any group of two or more persons which raises or spends more than \$100 in a calendar year to promote or defeat a ballot question under Laws of 1980, Chapter 607. Clause E clarifies language in the present rule by adding reference to another form of interest-bearing deposit to give guidance to political committees and funds.

9MCARS1.0040 Tax credit agreement. Language changes in this rule provide uniform reference to the tax credit agreement; substance of the rule is unchanged.

9MCARS1.0041 Tax credit agreement and public financing agreement. Language change in this rule provides uniform reference to tax credit agreement; substance of the rule is unchanged.

CHAPTER TWO: ECONOMIC INTEREST DISCLOSURE RULES

9MCARS1.0100 Public official. This rule incorporates the substance of Advisory Opinion #47 and clarifies the application of Minn. Stat. § 10A.18 to part-time employees.

9MCARS1.0101 Definitions. Terms used in existing rules 9MCARS1.0102, 1.0103, 1.0104 and 1.0110 have been placed in this rule for clarity; substance of these rules is unchanged. Language in present rule 9MCARS1.0101 has been moved to 9MCARS1.0112 Joint interests; substance of the rule is unchanged.

9MCARS1.0109 Securities. Clause A adds reference to other forms of interest-bearing savings deposits and incorporates the substance of Advisory Opinion #49 to clarify additional exemptions from the definition of "securities". Clause F incorporates the substance of Advisory Opinion #69 to give guidance to public officials who may be trustees of the referenced associations.

9MCARS1.0112 Joint interests. The substance of this rule is in effect as 9MCARS1.0101 Business with which the individual is associated. The Board proposes to strike the present headnote as repetitions of language in Minn. Stat. § 10A.01, subd. 4; move the rule, unchanged, to this enumeration; and provide a headnote descriptive of the content for ease of reference by individuals required to file Statements of Economic Interest.

CHAPTER THREE: LOBBYIST REGISTRATION AND REPORTING RULES

9MCARS1.0200 Purpose. This rule removes obsolete language in reference to the rules; substance of the rule is unchanged.

9MCARS1.0202 Obligation to register. This rule corrects the reference to Minn. Stat. § 15.0412, subd. 2, in the existing rule; substance of the rule is unchanged.

9MCARS1.0203 Obligation to report. Clause B clarifies the application of Minn. Stat. § 10A.04, subd. 4a; substance of the present rule is unchanged and appears in Clause A.

9MCARS1.0204 Lobbyist disbursement reports and reporting. Except for language inserted in A(3)(c) to clarify the reporting of costs incurred for lobbying purposes, the substance of the rule is unchanged.

9MCARS1.0210 Contested case hearing. This rule incorporates the substance of Advisory Opinions #33 and #15 in Clauses A and B, respectively, to give guidance about who may or may not be required to register as a lobbyist.

CHAPTER FOUR: CONFLICTS OF INTEREST RULES

9MCARS1.0300 Purpose. This rule removes obsolete language in reference to the rules. The rule is currently in effect as rule EC300.

9MCARS1.0302 Applicability of the conflicts of interest provisions. This rule removes obsolete language and corrects reference to the Potential Conflict of Interest Notice form, which was renamed in 1979, following Board investigations of complaints. The substance of the present rule is unchanged; rule is currently in effect as EC302.

9MCARS1.0303 Notice of conflict of interest. This rule removes obsolete language, including reference to "Ethics Commission" which was changed to Ethical Practices Board by Laws of 1975, Chapter 271, Section 6. The final sentence of A is stricken because it repeats statutory language (see Minn. Stat. § 10A.07, Subd. 1(c)). The substance of the present rule is unchanged; rule is currently in effect as rule EC303.

9MCARS1.0304 Removal from conflict of interest. This rule removes obsolete language but does not alter substance of present rule. The rule is currently in effect as rule EC304.

9MCARS1.0305 Obtaining and filing forms. This rule removes obsolete language but does not alter substance of present rule. The rule is currently in effect as rule EC305.

9MCARS1.0306 Changes and corrections. This rule removes obsolete language but does not alter substance of present rule. The rule is currently in effect as rule EC306.

9MCARS1.0307 Filing of false statements. This rule reflects enactment of Laws of 1978, Chapter 463, Section 38 which changed the penalty for filing false statements under Minn. Stat. § 10A.10 from felony to gross misdemeanor. This rule is currently in effect as rule EC307.

CHAPTER FIVE: REPRESENTATION DISCLOSURE RULES

9MCARS1.0500 Purpose. This rule removes obsolete language in reference to the rules. The rule is currently in effect as rule EC500.

9MCARS1.0502 Applicability of representation disclosure. This rule changes references to state agencies to conform to Laws of 1975, Chapter 271. Additionally, the rule provides references to conform to Laws of 1975, Chapter 307, Section 1 and Laws of 1978, Chapter 463, Section 1 which amended Minn. Stat. § 10A.01, subd. 2, clarifying authority of agencies under Minn. Stat. ch. 15. The rule is presently in effect as rule EC502.

9MCARS1.0503 Obligation and time to report. This rule changes reference to state agencies under Laws of 1975, Chapter 271; reflects enactment of Laws of 1976, Chapter 307, Section 1 and Laws of 1978, Chapter 463, Section 1 which amended Minn. Stat. § 10A.01, subd. 2, clarifying authority of agencies under Minn. Stat. ch. 15. The rule is currently in effect as rule EC503.

9MCARS1.0504 Required reporting information. This rule provides current reference to state agencies; substance of the rule is unchanged. The rule is currently in effect as rule EC504.

9MCARS1.0505 Obtaining and filing forms. This rule removes obsolete language; substance of the rule is unchanged. The rule is currently in effect as rule EC505.

9MCARS1.0506 Changes and corrections. This rule removes obsolete language; substance of the rule is unchanged. The rule is currently in effect as rule EC506.

9MCARS1.0507 Filing of false statements. This rule reflects enactment of Laws of 1978, Chapter 463, Section 38 which changed the penalty for filing false statements under Minn. Stat. § 10A.08 from felony to gross misdemeanor. This rule is currently in effect as rule EC507.

CHAPTER SIX: HEARINGS RULES

9MCARS1.0604 Initiating a contested case. This rule removes obsolete language from EC605, currently in effect; the substance of EC605 is unaltered.

9MCARS1.0605 Initiating anonymous proceedings. This rule removes obsolete language from EC606, currently in effect; the substance of EC606 is unaltered.

REPEALER

9MCARS1.0039 Severability. This rule is repealed because the need for individual severability rules was superseded by Laws of 1981, Chapter 253, Section 38, which states that statutes governing severability now apply to rules.

9MCARS1.0110 Source of compensation. This rule is repealed as a separate rule and is proposed as Clause D in 9MCARS1.0101 Definitions with other definitions of compensation for ease of reference by individuals who are required to file Statements of Economic Interest.

EC601 Introduction - This rule was repealed by publication in the State Register, May 7, 1977.

EC604 Hearing officers - This rule was repealed by publication in the State Register, May 7, 1977.

EC607 Commencement of a contested case - This rule was repealed by publication in the State Register, May 7, 1977.

EC608 Answer - This rule was repealed by publication in the State Register, May 7, 1977.

EC609 Right to Counsel - This rule was repealed by publication in the State Register, May 7, 1977.

EC610 Informal disposition - This rule was repealed by publication in the State Register, May 7, 1977.

EC611 Default - This rule was repealed by publication in the State Register, May 7, 1977.

EC612 Intervention - This rule was repealed by publication in the State Register, May 7, 1977.

EC613 Consolidation - This rule was repealed by publication in the State Register, May 7, 1977.

EC614 Discovery - This rule was repealed by publication in the State Register, May 7, 1977.

EC615 Service of motions - This rule was repealed by publication in the State Register, May 7, 1977.

EC616 Disqualification - This rule was repealed by publication in the State Register, May 7, 1977.

EC617 Prehearing conference - This rule was repealed by publication in the State Register, May 7, 1977.

EC618 Notice of hearing - This rule was repealed by publication in the State Register, May 7, 1977.

EC619 The hearing - This rule was repealed by publication in the State Register, May 7, 1977.

EC620 The Commission decision - This rule was repealed by publication in the State Register, May 7, 1977.

EC621 Rehearing - This rule was repealed by publication in the State Register, May 7, 1977.

EC622 Appeal by Commission - This rule was repealed by publication in the State Register, May 7, 1977.

EC623 Emergency procedures - This rule was repealed by publication in the State Register, May 7, 1977.