



CANDIDATE PAPERWORK 101: Judicial Candidates

- **Form JCTA – Appointment of a Campaign Treasurer by a Judicial Candidate**
<http://www.ethics.state.tx.us/filinginfo/jcohrfrm.htm>
 - Must be filed before spending any money on campaign, including personal funds (253.031)
 - Where to file (252.005)
 - Courts of Appeals file with Texas Ethics Commission
 - District courts file with Texas Ethics Commission
 - Statutory county and statutory probate courts file with county filing authority
 - Fill-in PDF available online, but must file on paper; original signatures needed
 - Requires a decision to abide (or not) by voluntary spending limits (253.164)
 - Candidates (now officeholders) who filed a Final Report do *not* have a Treasurer's Appointment in effect (254.065)
 - Must file JCTA before accepting any campaign contribution or making any campaign expenditure (253.031, 253.036)
 - Must file a report within 15 days of appointing campaign treasurer (254.094)

- **Three other forms to file with JCTA** <http://www.ethics.state.tx.us/filinginfo/jcohrfrm.htm>
 - Form CFCP – Code of Fair Campaign Practices (not required, but encouraged) (Ch. 258)
 - Form PASS – Request for Electronic Filing Password (TEC filers)
 - Form TRAN – Statement of Electronic Transfer Method
 - States method of filing electronic reports (Internet, disk, web filer online)

- **Application for a Place on the Democratic Party General Primary Ballot**
 - Application period: December 3, 2009 – January 4, 2009
 - Must be received by 6 p.m. (not postmarked)
 - Applications available
 - From state and county parties
 - Online (fill-in PDF) at <http://www.sos.state.tx.us/elections/forms/a2-2.pdf>
 - Filing fees (172.024)
 - Court of appeals, \$1,875/\$2,500
 - District court, \$1,500/\$2,500
 - Statutory county court, \$1,500/\$2,500
 - Where to file (172.022)
 - State party if office filled by voters of more than one county
 - County party if office filled by voters of only one county
 - Petition in addition to filing fee (Bexar, Dallas, Harris, Tarrant, Travis): At least 250 signatures of voters eligible to vote for the office (172.021)
 - Petition in lieu of filing fee: 2% or max. 500 signatures (minimum of 750 if also required to do petition in addition to fee) (172.021, 172.025)
 - Petition forms and instructions available online at <http://www.sos.state.tx.us/elections/forms/a2-3.pdf>

□ **PFS – Personal Financial Statement**

<http://www.ethics.state.tx.us/filinginfo/pfsforms&ins.html>

- Candidates for 2010 election must file PFS covering calendar year 2009 early
- Due February 16, 2010 – no extensions (572.027, Gov’t Code)
- Where to file
 - Courts of appeals and district courts file with Texas Ethics Commission (Ch 572, Gov’t Code)
 - Statutory county and probate courts file with **either** the county clerk or TEC. If TEC is chosen, candidate must notify county clerk of decision on or before filing deadline (Ch 159, Local Gov’t Code)
- Fill-in PDF available online, but must be filed on paper; original signatures needed

CONTRIBUTION AND EXPENDITURE REPORTS

□ **Form JC/OH – Judicial Candidate/Officeholder Campaign Finance Report**

<http://www.ethics.state.tx.us/filinginfo/jcofrm.htm>

- Periodic report of political contributions and expenditures
- Where to file (254.066)
 - File reports where JCTA was required to be filed.
 - **NOTE: SB 1142, eff. 6/19/09, removed the dual-filing requirement for single-county district judges. Single-county district judges now file reports with TEC and are not required to also file with the county clerk.**
- Most TEC filers must file electronically, but filer should review paper version before filing; most people view the reports in paper analog form
- Non-TEC filers generally file on paper; counties now have authority to adopt e-filing
- Electronic filing
 - PC software available free for download or on CD
 - Mac users must use online web filer
 - Exemptions difficult—\$20,000 in or out (including personal funds), plus no computer use by filer or by any consultant or agent to keep contribution/expenditure records (254.036)

□ **JC/OH report schedule** (*Official dates not yet published; please verify*)

(assumes JCTA on file or filed before December 31, 2009, and opposition in all elections: March 2 Primary, April 6 Runoff, November 2 General) (254.063, 254.064)

Report	Due	Period covered
January semiannual	01/15/10	JCTA – 12/31/09
30-day pre-Primary	02/01/10	01/01/10 – 01/21/10
8-day pre-Primary	02/22/10	01/22/10 – 02/20/10
8-day pre-Runoff	03/29/10	02/21/10 – 03/27/10
July semiannual	07/15/10	03/30/10 – 06/30/10
30-day pre-General	10/04/10	07/01/10 – 09/23/10
8-day pre-General	10/25/10	09/24/10 – 10/23/10

- Additional Special Pre-election Reports (FKA telegram reports) (254.038)
 - Required if >\$1,000 accepted (aggregated) from a contributor in the period
 - Period: 9th day before an election through noon on day before election
 - Due: 5 p.m. first business day following

- Unopposed candidates do not file applicable 30-day/8-day pre-election reports

□ **2010 fundraising periods (253.153)**

- Begin June 6, 2009, and end
- June 30, 2010, for candidates who lose the March 2 primary
- August 11, 2010, for candidates who lose the April 6 runoff
- March 11, 2011, for candidates in the November 2 general election
- *NOTE: HB 4060, eff. 9/1/09, changed end dates to 120 days after last election in which candidate appeared on ballot, whether or not opposed.*

□ **Basic contribution limits (253.155)**

Judicial district population	Contribution limit
<250,000	\$1,000/election
250,000 – 1,000,000	\$2,500/election
>1,000,000	\$5,000/election

- BUT spouses and minor children share a single limit (253.158)
- AND law firm limits also apply if the contributor is a law firm or a person affiliated with a law firm (253.157)

□ **Candidate and candidate’s relatives**

- Expenditures from candidate’s personal funds are unlimited, but see reimbursement restrictions below
- Contributions from relatives to second degree of consanguinity are unlimited (253.159), but see prohibition on repaying loans from relatives below
 - Candidate’s parent or child (1st degree)
 - Candidate’s grandparent or grandchild (2nd degree)
 - 3rd degree blood relatives are restricted like any other contributor: uncle, aunt, nephew, niece, great-grandparent, great-grandchild
 - Relatives by marriage are restricted like any other contributor

□ **“Law firm” limit (253.157)**

Judicial district population	Contribution limit
<250,000	\$6,000/election
250,000 – 1,000,000	\$15,000/election
>1,000,000	\$30,000/election

- Applies in addition to individual contribution limits, e.g., all “members” of the firm together can give \$30,000, but contribution from firm account cannot exceed \$5,000
- “Members” of a law firm
 - Law firm itself
 - PAC established and controlled by the firm or by members of the firm
 - Partner, associate, shareholder of the firm
 - Person “of counsel” to the firm or “of the firm
 - Employee of the firm
 - Spouse or minor child of any of the above

□ **Overall GPAC limit (253.160)**

Judicial district population	Contribution limit
Appeals ≤1,000,000	\$52,500/election
Appeals >1,000,000	\$75,000/election

Others <250,000	\$15,000/election
Others 250,000 – 1,000,000	\$30,000/election
Others >1,000,000	\$52,500/election

- Equals 15% of voluntary spending limit
- Not a per-PAC limit, but a total on all contributions from GPACs in an election
- Law firm GPAC contributions would count against both the overall GPAC limit and the law firm's limit

□ **Special limits for unopposed candidates (253.1621)**

- Candidate unopposed in either primary or general may raise only 25% more than the contribution limit (e.g., \$6,250 rather than \$5,000) AND additional 25% may be used only for officeholder (not campaign) purposes
- Limit on personal funds reimbursement is not increased
- Voluntary limit on expenditures is not increased

□ **Prohibited contributions**

- Corporations (business/for-profit or non-profit/nonprofit) (253.091, 253.094)
 - NOT the political committees of corporations
 - NOT Texas Professional Corporations, professional associations, LLPs, LLCs (unless partner or member is business or nonprofit corporation)
- Labor organizations (253.094)
 - NOT the political committees of unions
- Foreign nationals (federal prohibition)
 - NOT permanent resident aliens—you need not be a citizen to contribute
- Partnerships with ANY incorporated partner or LLC with ANY incorporated member or owner (EAOs 215, 221, 383)

□ **Voluntary spending limit (253.168)**

Judicial district population	Contribution limit
Appeals ≤1,000,000	\$350,000/election
Appeals >1,000,000	\$500,000/election
Others <250,000	\$100,000/election
Others 250,000 – 1,000,000	\$200,000/election
Others >1,000,000	\$350,000/election

- Effect of noncompliance
 - Opponents released from limits on contributions, expenditures, and reimbursement of personal funds (253.165)
 - Disclaimer required: Political advertising paid for by [candidate/committee], [who/which] has rejected the voluntary limits of the Judicial Campaign Fairness Act. (255.008)

□ **Expenditures from personal funds (253.035(h), 253.0351)**

- Are reportable expenditures
- Count against spending limit
- Must be reported correctly to be reimbursable
 - In report for period in which incurred
 - On Schedule G of JC/OH report
 - May be reported on Schedule E (loans) but usually reported incorrectly
 - Reimbursement itself is reported on Schedule F

- No limit on amount of personal funds spent BUT only a certain amount (5 x contribution limit) can be reimbursed for each election in which the candidate's name is on ballot (unless unopposed, see special limits for unopposed candidates above)(253.162)

If contribution limit is...	Personal reimbursement is...
\$1,000	\$5,000
\$2,500	\$12,500
\$5,000	\$25,000

Expenditures by credit cards (254.035, TEC rules 20.59)

- Visa, Mastercard, Amex are NOT the payee
- On pre-election reports, reportable as of the date you used the card
- On other reports, reportable as of the statement date

Other expenditure restrictions

- Contributions to a political party (253.1611): Any amount that
 - Is in return for goods or services of equal or greater value
 - Is not more than the candidate's "pro rata share of the committee's normal overhead and administrative or operating costs" in the reporting period
- Contributions to others (from political funds) (253.1611)
 - \$100/calendar year to another candidate or officeholder
 - NO contribution to a political committee in connection with a primary election (assumes contribution made in a year when the judicial office is on the ballot)
 - \$500/calendar year to a political committee in connection with a general election (assumes contribution made in a year when the judicial office is on the ballot)
 - \$250/calendar year to a political committee in a year when the judicial office is not on the ballot
- Reimbursements of personal funds spent
 - (see table above)
- Repayments of certain relatives' loans (253.162)
 - NO political funds may be used to repay loans from 1st- and 2nd-degree blood relatives (relatives whose giving is unlimited)
 - Covers loans guaranteed by those relatives and extensions of credit
- Payments to candidate or relatives for personal services are prohibited (253.041)
- Payments to candidate's business are restricted (253.041)

EXPENDITURES BY OTHERS

Party expenditures (253.171)

- Party expenditures count as expenditures by the candidate (count against the spending limit) *except when for*
 - Generic GOTV campaign
 - Written list of two or more candidates with limits on content and distribution
 - Identifies candidates by name and office sought/held, photograph
 - No reference to judicial philosophy or issues positions of judicial candidates
 - Not broadcast, cablecast, published in newspaper or magazine, or on billboard

- Other party expenditures that would be contributions in-kind (expenditures made in cooperation with the candidates) would be apportioned among the candidates and reported to and by the candidates
- **Non-party expenditures (253.163)**
 - Non-party spender that makes political expenditures in a race that exceed \$5,000 must notify TEC
 - If the expenditures support a candidate, that candidate must also be notified
 - If the expenditures only oppose a candidate, all candidates must be notified
 - Notification must occur the earlier of
 - The date the person exceeds \$5,000
 - The 60th day before the election
 - Does not apply to restricted class communications
 - Third-party spending >\$5,000 can release opponents from contribution, expenditure, and reimbursement limits (253.170)

POLITICAL ADVERTISING

- **Required preposition (255.006)**
 - If the candidate does *not* hold the office sought, and the office sought is stated, “for” must be used and it must be at least ½ the type size of the name of the office
- **Roadway notice (255.007)**
 - NOTICE: IT IS A VIOLATION OF STATE LAW (CHAPTERS 392 AND 393, TRANSPORTATION CODE), TO PLACE THIS SIGN IN THE RIGHT-OF-WAY OF A HIGHWAY.
- **Complying candidate (255.008)**
 - Political advertising paid for by [candidate/committee] in compliance with the voluntary limits of the Judicial Campaign Fairness Act
- **Non-complying candidate (255.008)**
 - Political advertising paid for by [candidate/committee], [who/which] has rejected the voluntary limits of the Judicial Campaign Fairness Act