

**Maryland General Assembly  
Department of Legislative Services**

**Proposed Regulations  
State Board of Elections**  
(DLS Control No. 15-217)

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**Overview and Legal and Fiscal Impact**

The regulations impose registration requirements for persons making disbursements for electioneering communications and require persons making disbursements for electioneering communications to disclose more information about donations they receive and whether their communications support or oppose identified candidates or ballot issues.

The regulations present no legal issues of concern.

There is no fiscal impact on State or local agencies.

**Regulations of COMAR Affected**

**State Board of Elections:**

Campaign Financing: Electioneering Communication Requirements:  
COMAR 33.13.09.02 and .03

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**Legal Analysis**

**Background**

Chapter 419 of 2013 made many changes to the State's campaign finance laws, implementing many recommendations of the Commission to Study Campaign Finance Law. Among these changes were several modifications to the statutory provisions requiring disclosure of electioneering communications. "Electioneering communications" are mass communications disseminated shortly before an election that mention a candidate or a ballot issue but do not expressly advocate the success or defeat of the candidate or ballot issue and are not coordinated with a candidate or ballot issue committee. New registration requirements for persons making disbursements for electioneering communications and new requirements to disclose donations to persons making disbursements for electioneering communications were imposed.

**Summary of Regulations**

The regulations require a person to register with the State Board of Elections within 48 hours after making aggregate disbursements for electioneering communications of \$5,000 or more in an election cycle and to disclose in the registration whether the electioneering communications support or oppose the candidate or ballot issue to which the communications

relate. The regulations also require a person making disbursements for electioneering communications to disclose in the electioneering communication report any donations received of \$6,000 or more during the reporting period. A person making disbursements for electioneering communications is also required to report whether the electioneering communications support or oppose the candidate or ballot issue to which the communications relate.

### **Legal Issue**

The regulations present no legal issues of concern.

### **Statutory Authority and Legislative Intent**

The State board cites §§ 2-102(b)(4) and Title 13, Subtitle 4, Part I of the Election Law Article as statutory authority for the regulations. Section 2-102(b)(4) grants the State board broad authority to adopt regulations to implement its powers and duties. The remaining cited authority is not relevant for these regulations.

Although not cited by the State board, § 13-307 of the Election Law Article, as amended by Chapter 419 of 2013, provides additional statutory authority for the regulations. Section 13-307(b) requires a person to register with the State board after making aggregate disbursements for electioneering communications of \$5,000 or more in an election cycle. Section 13-307(e)(5) requires a person making disbursements for electioneering communications to report “the identity of each person who made cumulative donations of \$6,000 or more” during the reporting period. Additionally, § 13-307(l) authorizes the State board to adopt regulations to implement the electioneering communications disclosure law. This provision provides adequate authority to support the requirement that a person disclose whether electioneering communications support or oppose a candidate or ballot issue.

With the addition of § 13-307 of the Election Law Article, the relevant cited authority is correct and complete. The regulations comply with the legislative intent of the law.

### **Technical Corrections and Special Notes**

In response to a suggestion from the Department of Legislative Services, the State board agrees to add § 13-307 of the Election Law Article as statutory authority for the regulations.

### **Fiscal Analysis**

There is no fiscal impact on State or local agencies.

## **Agency Estimate of Projected Fiscal Impact**

The State Board of Elections advises that the regulations have no impact on State or local governments. The Department of Legislative Services concurs. The regulations partially implement Chapter 419 of 2013 by updating electioneering communication reporting requirements. The fiscal and policy note for House Bill 1499 of 2013 (enacted as Chapter 419) did not include any fiscal impact specifically attributed to the electioneering communication provisions which these regulations implement, though it did include an increase in general fund expenditures for modification of the State Board of Elections' online campaign finance reporting system to account for certain unspecified changes under the bill. These regulations should not have any independent fiscal impact.

### **Impact on Budget**

There is no impact on the State operating or capital budget.

## **Agency Estimate of Projected Small Business Impact**

The State Board of Elections advises that the regulations have minimal or no economic impact on small businesses in the State. The Department of Legislative Services concurs.

## **Contact Information**

**Legal Analysis:** Stanford D. Ward – (410) 946/(301) 970-5350

**Fiscal Analysis:** Scott D. Kennedy – (410) 946/(301) 970-5510