

111-3-05

Use of the funds or property of a corporation, nonprofit corporation, or labor organization to advocate the election or defeat of a candidate.

(A) Notwithstanding the provisions of section 3599.03 of the Revised Code, a corporation, a nonprofit corporation, or a labor organization may use its funds or property to advocate the election or defeat of an identified candidate or candidates to be nominated or elected at any election, provided that the use of funds or property is not made with the consent of, in coordination, cooperation, or consultation with, or at the request or suggestion of any candidate or candidates, the campaign committee or agent of the candidate or candidates, or any legislative campaign fund or political party or agent of a legislative campaign fund or political party.

(1) "Identified candidate" means that the name of the candidate appears, a photograph or drawing of the candidate appears, or the identity of the candidate is otherwise apparent by unambiguous reference in the communication advocating the election or defeat of an identified candidate or candidates to be nominated or elected at any election.

(2) "Made with the consent of, in coordination, cooperation, or consultation with, or at the request or suggestion of any candidate or candidates, the campaign committee or agent of the candidate or candidates, or any legislative campaign fund or political party or agent of a legislative campaign fund or political party" means made pursuant to any arrangement, coordination, or direction by the candidate, the candidate's campaign committee, a legislative campaign fund or a political party, or agent of a candidate, candidate's campaign committee, legislative campaign fund, or political party prior to the publication, distribution, display, or broadcast of the communication. The use of funds or property is presumed to be so made when it is any of the following:

(a) Based on information about the candidate's plans, projects, or needs provided to the person making the expenditure by the candidate, by the candidate's campaign committee, a legislative campaign fund, or a political party, or an agent of the candidate, campaign committee, legislative campaign fund, or political party with a view toward having an expenditure made;

(b) Made by or through any person who is, or has been, authorized to raise or expend funds, who is, or has been, an officer of the candidate's campaign committee, a legislative campaign fund, or a political party or who is, or has been, receiving any form of compensation or reimbursement from the candidate or the candidate's campaign committee, a legislative campaign fund or a political party or any of their agents;

(c) "Agent" means any person who has actual oral or written authority, either express or implied, to make or to authorize the making of expenditures on behalf of a candidate, candidate's campaign committee, legislative campaign fund, or political party or means any person who has been placed in a position with the candidate's campaign committee or organization, or a legislative campaign fund or political party such that it would reasonably appear that in the ordinary course of campaign-related activities the person may authorize expenditures.

(B) Whenever a corporation, nonprofit corporation, or labor organization uses its funds or property for the purpose of financing communications to advocate the election or defeat of an identified candidate or candidates to be nominated or elected at any election, a statement shall appear or be presented in a clear and conspicuous manner in the advertising that does both of the following:

- (1) Clearly indicates that the communication or public political advertising is not authorized by the candidate or candidates;
- (2) Clearly identifies the corporation, nonprofit corporation, or labor organization that has paid for the communication or public political advertising in accordance with paragraphs (D) to (F) of this rule.

(C) Whenever any corporation, nonprofit corporation, or labor organization uses its funds or property to advocate the election or defeat of an identified candidate or candidates to be nominated or elected at any election, the corporation, nonprofit corporation, or labor organization shall report this use of funds or property on a form prescribed by the secretary of state. Reports of the use of funds or property to advocate the election or defeat of a statewide candidate, as defined in section 3517.10 of the Revised Code, shall be filed with the secretary of state. Reports of the use of funds or property to advocate the election or defeat of a candidate for county office, as defined in section 3517.10 of the Revised Code, shall be filed with the board of elections of the county in which the individual is a candidate. The report shall be made not later than four p.m. on the fifth day after the use of the funds or property. The report shall include the following information:

- (1) The name of the candidate whose nomination, election, or defeat was advocated;
- (2) The office sought by the candidate whose nomination, election, or defeat was advocated;
- (3) Whether the funds or property were used to advocate the nomination, election, or defeat of the candidate;
- (4) The full name and address of each individual or entity to whom funds or property were paid or given to advocate the election or defeat of an identified

candidate or candidates to be nominated or elected at any election:

- (5) The amount of funds or property to paid or given to advocate the election or defeat of an identified candidate or candidates to be nominated or elected at any election;
- (6) The date that funds or property were paid or given to advocate the election or defeat of an identified candidate or candidates to be nominated or elected at any election.
- (D) No corporation, nonprofit corporation, or labor organization shall issue a form of political publication that is designed to advocate the election or defeat of an identified candidate or candidates to be nominated or elected at any election, or shall use its funds or property for the purpose of financing political communications that are designed to advocate the election or defeat of an identified candidate or candidates to be nominated or elected at any election through public political advertising, unless the name and residence or business address of the chairperson, chief executive officer, treasurer, or secretary of the corporation, nonprofit corporation, or labor organization and internet address of the website, if any, of the corporation, nonprofit corporation, or labor organization appears in a conspicuous place on that political publication or is contained within that political communication.
- (E) No corporation, nonprofit corporation, or labor organization shall utter or cause to be uttered, over the broadcasting facilities of any radio or television station within this state, any communication that is designed to advocate the election or defeat of an identified candidate or candidates to be nominated or elected at any election, unless the speaker identifies the speaker with the speaker's name and residence address or unless the communication identifies the chairperson, chief executive officer, treasurer, or secretary of the corporation, nonprofit corporation, or labor organization responsible for the communication with the name and residence or business address of that officer and internet address of the website, if any, of the corporation, nonprofit corporation, or labor organization, except that communications by radio need not broadcast the residence or business address of the officer. However, a radio station, for a period of at least six months, shall keep the residence or business address on file and divulge it to any person upon request. No person operating a broadcast station or a print media outlet shall broadcast or print a paid political communication that does not contain the identification required by this paragraph. This paragraph does not apply to any communications made on behalf of a radio or television station or network by any employee of such radio or television station or network while acting in the course of the employee's employment.
- (F) No corporation, nonprofit corporation, or labor organization shall conduct a telephone bank, as defined in division (A) of section 3517.20 of the Revised Code, that is designed to advocate the election or defeat of an identified candidate or candidates

to be nominated or elected at any election, unless the call includes a disclaimer that identifies the name of the corporation, nonprofit corporation, or labor organization, and the name of the chairperson, chief executive officer, treasurer, or secretary of the corporation, nonprofit corporation, or labor organization paying for the telephone bank.

(G) Notwithstanding paragraph (A) of this rule, no corporation or nonprofit corporation owned twenty percent or more by persons or entities whose domicile, in the case of a corporation or nonprofit corporation, or citizenship, in the case of an individual or unincorporated association or entity, is outside the United States of America may use its funds or property to advocate the election or defeat of an identified candidate or candidates to be nominated or elected at any election.

(H) Notwithstanding paragraph (A) of this rule, beginning on the date that state funds or federal funds issued by the state of Ohio are awarded and extending until one year following the award of those funds, no corporation or nonprofit corporation that receives state or federal funds may use its funds or property to advocate the election or defeat of an identified candidate or candidates to be nominated or elected at any election.

(1) For purposes of this paragraph, "state funds" means any payment or other thing of value received from any agency or department of this state.

(2) For purposes of this paragraph, "federal funds issued by the State of Ohio" means any payment or other thing of value received from any agency or department of the government of the United States at the direction of any agency or department of this state.

Effective: 01/07/2011

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CERTIFIED ELECTRONICALLY

Certification

12/27/2010

Date

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