
A POLITICAL ADVERTISING CHEAT SHEET

WHAT CAN YOU CHARGE AND HOW MUST IT BE PAID?

You cannot charge more than your customary rate for comparable advertising. G.S. § 163-278.18(a). You also cannot favor one candidate over another with your rates. G.S. § 163-278.18(b). You **can** give volume or other discounts, so long as they are equally available to all political ad sponsors. G.S. § 163-278.18(b).

You cannot accept cash payments for political ads. “All expenditures for media expenses shall be made by a verifiable form of payment.” G.S. § 163-278.8(e). Checks and credit cards are fine.

WHAT RECORDS DO YOU HAVE TO KEEP?

You must get written authority for each expenditure from each candidate, treasurer or individual making or authorizing an expenditure, and ***those records are deemed “public records” by statute.*** G.S. § 163-278.17(a). Thus, anyone can come ask to review those records during regular business hours. The State Board of Elections’ Campaign Finance Manual has a complex and detailed form for tracking political media expenditures, but the statute’s requirements do not require the specifics of the ad or the schedule. The only thing required by the statute is this:

Each media outlet shall require written authority for each expenditure from each candidate, treasurer or individual making or authorizing an expenditure.

For that reason, you may consider keeping details of advertising on a *different* document and using a streamlined document to comply with the statutory requirements. A sample of such a form is included here. The law says that these records are “public records” that must be made available during regular business hours.

You must keep the authorizations for two years from the election to which they relate. G.S. § 163-278.35.

WHO IS COVERED?

When it comes to what is in a political ad and how big it is, understand this: The ***sponsor*** of an ad bears the responsibility of complying with the disclosure requirements of the statute, not the newspaper. Additionally, a newspaper representative should never give legal advice to an advertiser. This information is strictly for your background and understanding.

The disclosure requirements do not apply to an individual who makes uncoordinated expenditures in a candidate election totaling less than \$1,000. A coordinated expenditure is one that is made in concert or cooperation with, or at the request or suggestion of, a candidate, a candidate campaign committee, the agent of the candidate, or the agent of the candidate campaign committee. G.S. § 163-278.39C(1).

The disclosure requirements do not apply to an individual placing ads related to a referendum. G.S. § 163-278.39C(2).

WHAT'S IN THE AD?

The ad must state “Paid for by ...” and then name the candidate, candidate campaign committee, political party organization, political action committee, referendum committee, individual, or other sponsor. G.S. § 163-278.39.

If the sponsor is created pursuant to G.S. 163-278.19(b), the “name” must be the name of the corporation, insurance company, business entity, labor union or professional association whose officials, employees, or members established the committee. If not, the name must be or include the economic interest principally represented by the committee's organizers or intended to be advanced by use of the committee's receipts. G.S. § 163-278.7(b)(1).

If the sponsor is an individual, list all sponsors who are paying for the ad.

If the ad clearly supports or opposes a particular candidate, the ad must state whether it is authorized by the candidate: “Authorized by [name of candidate], candidate for [name of office]” or “Not authorized by a candidate.” This does not apply if the candidate or candidate’s campaign committee places the ad. G.S. § 163-278.39(a)(6).

If the ad was coordinated with a particular candidate and opposes another particular candidate, the ad must state which candidate is intended to benefit from the ad. G.S. § 163-278.39(a)(7).

HOW BIG DOES THE AD HAVE TO BE?

Again, this is not the newspaper's obligation to know, but just FYI: The disclosure must be 5% of the height of the ad, but the statute puts parameters on that. It must always be at least 12 point type, and even if the ad is so big that 5% yields a type size larger than 28 point, it only has to be 28 point. G.S. § 163-278.39(b).

STATEMENT OF MEDIA OUTLET RECEIVING POLITICAL ADVERTISING

Required pursuant to § 163-278.17

STATEMENT OF MEDIA OUTLET RECEIVING POLITICAL ADVERTISING

Placement and payment of advertising is authorized by _____.

Address (if this is an independent expenditure¹):

Pursuant to statute, payment for this media expense must be made by a verifiable form of payment. N.C. Gen. Stat. Ann. § 163-278.8(e).

By law, this statement will be maintained for two years from the date of the election referenced in the advertisement, G.S. § 163-278.35, and will be available for inspection during normal business hours. G.S. § 163-278.17(b).

¹ “Independent expenditure” means an expenditure to support or oppose the nomination or election of one or more clearly identified candidates that is not a coordinated expenditure. Supporting or opposing the election of clearly identified candidates includes supporting or opposing the candidates of a clearly identified political party. As applied to referenda, the term “independent expenditure” applies if consultation or coordination does not take place with a referendum committee that supports a ballot measure the expenditure supports, or a referendum committee that opposes the ballot measure the expenditure opposes. N.C.G.S. § 163-278.6(9)(a).

§ 163-278.17. Statements of media outlets regarding political advertising.

(a) Repealed by Session Laws 1985, c. 183, s. 1.

(b) Each media outlet shall require written authority for each expenditure from each candidate, treasurer or individual making or authorizing an expenditure. A candidate may authorize advertisement paid for by a treasurer appointed by the candidate. All written authorizations of expenditures signed by a candidate, treasurer or individual shall be deemed public records and copies of those written authorizations shall be available for inspection during normal business hours at the office(s) of the media outlet making the publication or broadcast nearest to the place(s) of publication or broadcast.

(c) Repealed by Session Laws 1985, c. 183, s. 2.

(d) Each media outlet shall require written authority for each independent expenditure or electioneering communication from each individual, person, or entity making or authorizing an independent expenditure or electioneering communication. All written authorizations of independent expenditures or electioneering communications shall be deemed public records, and copies of those written authorizations shall be available for inspection during normal business hours at the office(s) of the media outlet making the publication or broadcast nearest to the place(s) of publication or broadcast. The written authorization shall include all of the following:

(1) The name and address of the individual, person, or entity making the independent expenditure or electioneering communication.

(2) The information required by G.S. 163-278.39(a), provided however that the provisions of G.S. 163-278.39(a)(7) and (a)(8) shall not apply to radio or television advertising.

§ 163-278.18. Normal commercial charges for political advertising.

(a) No media and no supplier of materials or services shall charge or require a candidate, treasurer, political party, affiliated party committee, or individual to pay a charge for advertising, materials, space, or services purchased for or in support of or in opposition to any candidate, political committee, or political party that is higher than the normal charge it requires other customers to pay for comparable advertising, materials, space, or services purchased for other purposes.

(b) A newspaper, magazine, or other advertising medium shall not charge any candidate, treasurer, political committee, political party, or individual for any advertising for or in support of or in opposition to any candidate, political committee or political party at a rate higher than the comparable rate charged to other persons for advertising of comparable frequency and volume; and every candidate, treasurer, political party or individual, with respect to political advertising, shall be entitled to the same discounts afforded by the advertising medium to other advertisers under comparable conditions and circumstances.

§ 163-278.35. Preservation of records.

All reports, records and accounts required by this Article to be made, kept, filed, or maintained by any individual, media, candidate or treasurer shall be preserved and retained by the individual, media, candidate or treasurer for at least two years counting from the date of the election to which such reports, records and accounts refer.