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## Emergency Regulation and Notice of Intended Regulatory Action (NOIRA) Agency Background Document

<b>Agency name</b>	Department of Elections
<b>Virginia Administrative Code (VAC) Chapter citation(s)</b>	1 VAC20-90-60 1VAC20-90-50
<b>VAC Chapter title(s)</b>	Dispute resolution. Time limitations.
<b>Action title</b>	Personal Use of Campaign Funds
<b>Date this document prepared</b>	April 8, 2026

This information is required for executive branch review and the Virginia Registrar of Regulations, pursuant to the Virginia Administrative Process Act (APA), Executive Order 19 (2022) (EO 19), any instructions or procedures issued by the Office of Regulatory Management (ORM) or the Department of Planning and Budget (DPB) pursuant to EO 19, the Regulations for Filing and Publishing Agency Regulations (1 VAC 7-10), and the *Form and Style Requirements for the Virginia Register of Regulations and Virginia Administrative Code*.

### Brief Summary

*Provide a brief summary (preferably no more than 2 or 3 paragraphs) of the subject matter, intent, and goals of this regulatory change (i.e., new regulation, amendments to an existing regulation, or repeal of an existing regulation). Alert the reader to all substantive matters or changes. If applicable, generally describe the existing regulation.*

Pursuant to Acts of Assembly Chapter 535, the Department of Elections has been directed to promulgate regulations enacting the newly created sections §§ 24.2-948.6 and 24.2-948.8 of the Code of Virginia which prohibit the use of campaign funds for personal use and establish a procedure for requesting advisory opinions related to uses of campaign funds from the State Board of Elections, respectively. The fourth enacting clause further specifies that the regulations promulgated should be "substantially similar" the existing federal regulations on the personal use of campaign funds and the availability of advisory opinions. The proposed regulations depart from their federal counterparts to account for preexisting differences between federal and Virginia law, such as existing provisions on vehicle and travel reimbursements, the

likelihood of candidates and officeholders having outside income due to Virginia's part-time legislature, and other differences between the relevant federal and Virginia statutes.

Overall, the regulations seek to clarify permissible and impermissible uses of campaign funds to ensure that campaign funds are used to further the goals of democracy-integrity, informed decision-making, and public participation-while combating avenues for corruption and fraudulent self-enrichment. While it is commonly agreed that the use of campaign funds for personal use is antithetical to these democratic values, these regulations are necessary for clarifying the boundaries and providing the legal framework for enforcement.

## Acronyms and Definitions

*Define all acronyms used in this form, and any technical terms that are not also defined in the "Definitions" section of the regulation.*

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**Personal Use** - The use of funds in a campaign account of a present or former candidate to fulfill a commitment, obligation, or expense of any person that would exist irrespective of the candidate's campaign or duties as an officeholder.

**Advisory Opinion** - An opinion of the State Board of Election clarifying a provision of § 24.2-948.8 as to what constitutes acceptable and unacceptable uses of campaign funds. Individuals who rely on relevant advisory opinions in good faith shall not be subject to sanctions pursuant to § 24.2-948.7.1

The regulations contain additional definitions necessary for implementation.

## Mandate and Impetus (Necessity for Emergency)

*Explain why this rulemaking is an emergency situation in accordance with § 2.2-4011 A and B of the Code of Virginia. In doing so, either:*

- a) *Indicate whether the Governor's Office has already approved the use of emergency regulatory authority for this regulatory change.*
- b) *Provide specific citations to Virginia statutory law, the appropriation act, federal law, or federal regulation that require that a regulation be effective in 280 days or less from its enactment.*

*As required by § 2.2-4011, also describe the nature of the emergency and of the necessity for this regulatory change. In addition, delineate any potential issues that may need to be addressed as part of this regulatory change.*

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As required by Acts of Assembly Chapter 535, the regulations enacting § 24.2-948.6 and § 24.2-948.8 must be promulgated within 280 days of the statute's enactment.

## Legal Basis

*Identify (1) the promulgating agency, and (2) the state and/or federal legal authority for the regulatory change, including the most relevant citations to the Code of Virginia or Acts and Assembly chapter number(s), if applicable. Your citation must include a specific provision, if any, authorizing the promulgating agency to regulate this specific subject or program, as well as a reference to the agency's overall regulatory authority.*

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The State Board of Elections, with the assistance of the Department of Elections, is granted the authority to promulgate these regulations enacting §§ 24.2-948.6 and 24.2-948.8 pursuant to the third enactment clause of Acts of Assembly Chapter 535.

### Purpose

*Describe the specific reasons why the agency has determined that this regulation is essential to protect the health, safety, or welfare of citizens. In addition, explain any potential issues that may need to be addressed as the regulation is developed.*

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The regulations are necessary for enacting and enforcing Va. Code §§ 24.2-948.6 and 24.2-948.8, which serve the welfare of citizens by helping ensure that campaign funds are used for their intended purpose and not misappropriated for corrupt or malicious purposes. While these concepts are long understood, only the enactment of § 24.2-948.6 ensures they have the force of law necessary for enforcement. These regulations ensure that § 24.2-948.6 is clear, workable, and not overbroad.

Since the regulations mirror the parallel federal regulations for candidates for U.S. House, Senate, and President, these drafted regulations are well-tested, understood, and clear. Furthermore, any confusing provisions may be clarified on a case-by-case basis with an Advisory Opinion request of the State Board of Elections.

### Substance

*Briefly identify and explain the new substantive provisions, the substantive changes to existing sections, or both. A more detailed discussion is provided in the "Detail of Changes" section below.*

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The drafted regulations for § 24.2-948.6 include:

#### Definitions

Details as to what constitutes "personal use" of campaign funds, such as paying for "a home, mortgage, rent, or utility payment," limitations on clothing and club membership expenses (e.g. country club, health club, etc.), and compensation for candidates paid out of their own campaign accounts.

Details as to what may be considered "personal use" of campaign funds depending on the circumstances, such as travel, legal, or dependent care expenses.

Details as to what are not considered "personal use" of campaign funds, such as transfers to other campaign accounts, official expenses, and certain charitable contributions.

Limitations on when third-party payments may be acceptable, such as with income derived from employment separate from one's candidacy or officeholding.

Further details on how campaign funds may be used to defray costs associated with officeholding and personal security.

Requirements that candidates retain records relating to their use of campaign funds.  
The method for reporting complaints to the Department of Elections in the event an individual is concerned that a candidate or campaign has misused their campaign funds.

The drafted regulations for § 24.2-948.8 include:

How an individual or campaign committee may request an advisory opinion from the State Board of Elections.

The public availability of such requests.

Details on how the public can comment on pending advisory opinion requests. Procedures and deadlines for the State Board to issue advisory opinion requests. Protections for those who rely upon an advisory opinion in good faith.

Procedures by which the State Board may reconsider recently issued advisory opinions.

## Issues

*Identify the issues associated with the regulatory change, including: 1) the primary advantages and disadvantages to the public, such as individual private citizens or businesses, of implementing the new or amended provisions; 2) the primary advantages and disadvantages to the agency or the Commonwealth; and 3) other pertinent matters of interest to the regulated community, government officials, and the public. If there are no disadvantages to the public or the Commonwealth, include a specific statement to that effect.*

The primary advantages, both to the Commonwealth and to individual private citizens and businesses, of these regulations are their efforts towards safeguarding our democratic processes from corruption, graft, and fraudulent activity. Campaigns for public office are one of the hallmarks of our democratic system, and ensuring their continued integrity is essential for fostering trust in government.

The primary disadvantages of these regulations are simply increased legal requirements for campaign spending and the costs associated with the Department of Elections and State Board to administer them. However, since restrictions on personal use have long been functionally understood as being part of the legal landscape of campaign finance, the costs anticipated in adherence to and administration of these regulations are expected to be minimal.

## Alternatives to Regulation

*Describe any viable alternatives to the regulatory change that were considered, and the rationale used by the agency to select the least burdensome or intrusive alternative that meets the essential purpose of the regulatory change. Also, include discussion of less intrusive or less costly alternatives for small businesses, as defined in § 2.2-4007.1 of the Code of Virginia, of achieving the purpose of the regulatory change.*

There were no less costly regulatory options contemplated, as the regulations hewed as closely as possible in burdens and costs to the minimum requirements of the fourth enactment clause of Acts of Assembly Chapter 535. There are no anticipated impacts on small businesses.

## Periodic Review and Small Business Impact Review Announcement

*If you wish to use this regulatory action to conduct, and this Emergency/NOIRA to announce, a periodic review (pursuant to § 2.2-4017 of the Code of Virginia and the ORM procedures), and a small business impact review (§ 2.2-4007.1 of the Code of Virginia) of this regulation, keep the following text. Modify it as*

necessary for your agency. Otherwise, delete the paragraph below and insert “This NOIRA is not being used to announce a periodic review or a small business impact review.”

*This NOIRA is not being used to announce a periodic review or a small business impact review.*

## Public Participation

*Indicate how the public should contact the agency to submit comments on this regulation, and whether a public hearing will be held, by completing the text below. In addition, as required by § 2.2-4007.02 of the Code of Virginia describe any other means that will be used to identify and notify interested parties and seek their input, such as regulatory advisory panels or general notices.*

The Department of Elections is providing an opportunity for comments on this regulatory proposal, including but not limited to (i) the costs and benefits of the regulatory proposal, (ii) any alternative approaches, and (iii) the potential impacts of the regulation.

Anyone wishing to submit written comments for the public comment file may do so through the Public Comment Forums feature of the Virginia Regulatory Town Hall web site at: <https://townhall.virginia.gov>. Comments may also be submitted by mail, email or fax to Nathan Joyner, 1100 Bank St 1st Floor, Richmond, VA 23219, 804-864-8901, and [Nathan.Joyner@Elections.virginia.gov](mailto:Nathan.Joyner@Elections.virginia.gov). In order to be considered, comments must be received by 11:59 pm on the last day of the public comment period.

A public hearing will be held following the publication of this stage, and notice of the hearing will be posted on the Virginia Regulatory Town Hall website (<https://townhall.virginia.gov>) and on the Commonwealth Calendar website (<https://commonwealthcalendar.virginia.gov/>). Both oral and written comments may be submitted at that time.

## Detail of Changes

*List all regulatory changes and the consequences of the changes. Explain the new requirements and what they mean rather than merely quoting the text of the regulation. For example, describe the intent of the language and the expected impact. Describe the difference between existing requirement(s) and/or agency practice(s) and what is being proposed in this regulatory change. Use all tables that apply, but delete inapplicable tables.*

*If an existing VAC Chapter(s) is being amended or repealed, use Table 1 to describe the changes between existing VAC Chapter(s) and the emergency regulation. If existing VAC Chapter(s) or sections are being repealed and replaced, ensure Table 1 clearly shows both the current number and the new number for each repealed section and the replacement section.*

**Table 1: Changes to Existing VAC Chapter(s)**

Current chapter-section number	New chapter-section number, if applicable	Current requirements in VAC	Change, intent, rationale, and likely impact of new requirements

If a new VAC Chapter(s) is being promulgated and is not replacing an existing Chapter(s), use Table 2.

**Table 2: Promulgating New VAC Chapter(s) without Repeal and Replace**

<b>New chapter-section number</b>	<b>New requirements to be added to VAC</b>	<b>Other regulations and laws that apply</b>	<b>Change, intent, rationale, and likely impact of new requirements</b>
1 VAC-20-90-50	Requirements outlining the acceptable uses of campaign funds to prevent their conversion to the personal use of the candidate or the candidate's family.	These regulations interpret §24.2-948.6 and generally fit into the broader framework of Title 24.2's regulation of campaign finance.	The impact is expected to be relatively minimal, as it has long been understood that campaign funds should not be used for personal use. However, for the integrity of our elections and the prevention of corruption, these regulations are necessary for clarifying and enforcing the boundaries of acceptable use in the event that impermissible use comes to light.
1VAC20-90-60	Regulations providing the procedure and requirements for requesting advisory opinions from the State board of Elections relating to the use campaign funds and whether such use constitutes impermissible "personal use."	These regulations interpret §24.2-948.8 in order to help administer §24.2-948.6 and the broader Title 24.2 framework of campaign finance regulation.	<p>These regulations, as they implement specific provisions of statute, create a mechanism by which candidates and committees can request guidance in advance of proposed actions to ensure proactive compliance with Virginia campaign finance law.</p> <p>The negative impacts are likely to be limited to the Department of Elections' staff time need to process, research, and draft these advisory opinions. The positive impacts are proactive compliance with Virginia law and, thus, increased trust and honesty in our elections.</p>