



January 11, 2023

Ms. Ashley Kemp  
Oklahoma Ethics Commission  
2300 North Lincoln Boulevard, G-27  
Oklahoma City, OK 73105

Dear Ms. Kemp:

The 2022 election has come and gone with the voters casting their votes for Republicans, Democrats, and Libertarians. In all instances, Republicans came out on top in our state's constitutional offices and laid the groundwork for the people's work to be driven by Republican principles. It is a trust we regard, and a trust we seek not to break.

2022 provided a new brand of campaigning not seen before in our state. In at least two instances, candidates for state office expended fewer dollars than independent expenditure entities did in support of them. For example, in Governor Kevin Stitt's race for governor, Democrat Joy Hofmeister had the luxury of running for office behind more than \$30 million in independent expenditure dollars, and in the Republican primary for State Auditor, Cindy Byrd faced Steve McQuillan, a candidate who raised and spent only \$2,350. Mr. McQuillan was supported solely by independent expenditure dollars. To be sure, both Governor Stitt and Auditor Byrd won reelection. But independent expenditure dollars and their potential were on full display in Oklahoma, and it would be a mistake to look away from how they were brandished this past year.

Under *Citizens United v. FEC*, 558 U.S. 310 (2010), and other First Amendment case law, independent expenditure entities may lawfully operate. This letter is not written to suggest that case law should be undone, nor would I support that. But we also cannot stick our heads in the sand and force regulated entities to play by rules that effectively handcuff them. Such is the way political parties are treated under the Oklahoma Ethics Commission rules in today's environment.

Rules of the Commission effectively restrict collaboration between candidates and parties in material ways, where federal law allows a political party to work freely with their candidates. This and other issues must be addressed to allow political parties to operate effectively in today's landscape.

On behalf of the Oklahoma Republican Party, I come to the Commission to request that a public study of Commission rules be undertaken to contemplate the purpose, effectiveness, and wisdom of Commission regulation in relation to political parties. In addition, I ask that the Commission specifically contemplate the following concepts:

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- Consider the definition of “influence elections” in Art. IX, § 40 of the Oklahoma Constitution, specifically related to whether it excludes operational costs, non-campaign political expenses, and building maintenance funds.
- Analyze the purpose of restrictions on political transfers and “surplus fund” restrictions between political parties and elected officials.
- Examine the structure of county party and auxiliary group registration and whether state parties should continue to maintain liability for their reporting activity.
- Consider contribution limits to funds provided to political parties, specifically whether those limits should be significantly increased, or simply eliminated.

This list is not exhaustive of the examinations that should occur. And certainly, I approach this examination and any potential rules changes with a firm belief that “the salvation of the state is watchfulness in the citizen.”<sup>1</sup>

But this examination must occur. In today’s world of independent expenditures, re-approaching the existing desire to stifle political party speech must end. Oklahoma’s political parties must be given wider latitude under the Ethics Commission’s rules.

The request I advance with this letter should take place during this calendar year with the intention to offer the Oklahoma Legislature proposed rules in the 2023 session. But the exercise does not need to conclude at that point. If necessary, additional considerations should continue after the deadline to submit rules for the 2023 session.

Thank you very much for the consideration of this letter. I am available to discuss my concerns with your staff; the Oklahoma Republican Party looks forward to engaging in this process.

Respectfully,

A handwritten signature in blue ink, appearing to read 'Anthony J. Ferate'.

Anthony J. Ferate

cc: Alicia Andrews, Chairwoman, Oklahoma Democrat Party  
William Daugherty, State Chair, Libertarian Party of Oklahoma

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<sup>1</sup> Inscribed above the entrance to the Nebraska Capitol – a state that in 2015 eliminated all contribution restrictions at the same time Oklahoma overhauled and enacted its current restrictive regime.