ELECTION LAW

Election Integrity Unit (PARTIALLY VETOED)

- Creates the Election Integrity Unit in the office of the Secretary of State (SOS).
- Requires the Unit to investigate alleged violations of the Election Law upon receiving complaints from the public or on its own initiative.
- Allows the Unit to administer oaths, issue subpoenas, summon witnesses, compel the production of evidence, and hold hearings.
- Requires the Unit to submit annual reports of its activities to the Governor and the General Assembly.
- Requires prosecuting authorities, within one year of receiving a referral, to either prosecute the violation, request additional evidence from the Election Integrity Unit, or decline to prosecute via a written statement.
- Would have permitted the Election Integrity Unit to refer a case to the Attorney General (AG) if the prosecuting authority declines to prosecute the violation within one year (VETOED).
- If the prosecuting authority requests additional evidence from the Unit, requires the Unit to respond to the request within 90 days.
- If the Unit provides additional evidence, gives the prosecuting authority 180 days to prosecute or decline to prosecute via written statement; if the prosecuting authority does neither, permits the Unit to refer the case to the AG.

Ohio Election Integrity Commission

- Abolishes the Ohio Elections Commission (ELC) on January 1, 2026, and replaces it with the Ohio Election Integrity Commission (OEIC) in the Office of the Secretary of State (SOS).
- Requires the ELC to continue to operate under the current law between September 30, 2025, and January 1, 2026.
- Transfers any complaint that is still pending before the ELC on January 1 to the OEIC.

Commission structure and organization

- Specifies that the OEIC consists of five members, with one appointed by each of the SOS, the Speaker of the House, the House Minority Leader, the Senate President, and the Senate Minority Leader.
- Requires that, in addition to meeting the current qualifications of ELC members, the members of the OEIC meet certain education or experience requirements.
- Requires members of the OEIC to serve four-year terms, with members limited to two successive terms.

- Compensates members of the OEIC at the rate of $25,000 per year plus reimbursement for expenses.
- Creates a process for the appointing authorities to remove a member of the OEIC for cause by filing a complaint with the Ohio Supreme Court.
- Transfers the ELC's current staff to the SOS and requires the SOS to provide staff to the OEIC, provided that the OEIC may request counsel from the Attorney General (AG).

Commission jurisdiction

- Gives the OEIC the same jurisdiction as the ELC, plus new jurisdiction over certain violations of the Election Law related to election petitions, voter registration, and voting.
- Clarifies that for enforcement purposes, the Campaign Finance Law includes the laws governing campaign practices by candidates for the governing boards of Ohio's five public employee retirement systems.

Advisory opinions

- Transfers the ELC's authority to render advisory opinions to the OEIC and makes the ELC's existing advisory opinions into OEIC opinions, unless and until the OEIC amends or rescinds them.

Complaint and hearing process

- Retains the current requirements for filing a complaint, but requires complaints to be filed with the SOS instead of the OEIC.
- Requires the SOS's Election Integrity Unit to review and investigate complaints.
- Requires the SOS to dismiss a complaint without further investigation if it fails to allege a violation over which the OEIC has jurisdiction or if the complainant lacks the required personal knowledge.
- Requires the SOS to review the Election Integrity Unit's report and recommendations and to either request a further investigation and a revised recommendation or to make a finding and, if applicable, impose a penalty or refer the matter for prosecution.
- Specifies that, if the subject of the complaint objects to the SOS's finding, the SOS instead must refer the matter to the OEIC for rehearing.
- Prescribes procedures to follow if the SOS has a conflict of interest regarding a complaint, requiring the AG to appoint an investigator and to determine how to dispose of the complaint.
- Requires the OEIC, when hearing an appeal, to appoint an attorney to conduct a hearing under the Administrative Procedure Act (APA) and make a recommendation to the OEIC.
- Modifies the potential findings and penalties the SOS or the OEIC may impose.
- Requires the SOS to certify past due administrative fines to the AG for collection.

- Clarifies that the criminal penalty for any violation is the penalty that was in effect at the time the violation occurred.

Commission funding

- Replaces the Ohio Elections Commission Fund with the Ohio Election Integrity Fund administered by the SOS and gives it the same funding sources as the current ELC Fund.

Other transitional provisions

- Makes the OEIC the ELC's successor for all purposes.

Technical changes to the Campaign Finance Law

- Makes several technical changes to sections of the Campaign Finance Law that are amended for other purposes.

School district board members nominated by primary election (VETOED)

- Would have required candidates for the office of member of a school district board of education or member of the governing board of an educational service center to be nominated by primary election or, in the case of an independent candidate, by nominating petition.
- Would have required candidates for those offices to appear on the general election ballot with a political party designation along with other partisan offices.

Board of Elections Fund

- Renames the Board of Elections Reimbursement and Education Fund to the Board of Elections Fund in the state treasury.
- Specifies that the Secretary of State can provide advancements, subject to recoupment, to boards of elections using money from the fund.

Election Integrity Unit (PARTIALLY VETOED)

(R.C. 3501.05 and 3501.055)

The act creates the Election Integrity Unit (Unit) within the office of the Secretary of State (SOS).

Under SOS direction, the Unit must investigate allegations of violations of the Election Law, whether on the Unit's own initiative, upon receiving a complaint, or upon the filing of a complaint with the SOS (see "**Ohio Election Integrity Commission**," below). The public may submit allegations of violations to the Unit.

On or by January 15 of each year, the Unit must submit a report to the Governor and General Assembly reporting the following information:

- The number of allegations the unit received from members of the public;

- The number of allegations the unit investigated on its own initiative;
- The number of allegations the unit referred to another agency for further investigation or prosecution;
- The general nature of each allegation, the county in which the violation is alleged to have occurred; and whether the allegation has been referred to another agency for further investigation or prosecution, and if so, to which agency, and the current status of the investigation or any resulting criminal or civil proceeding.

The Unit is empowered to administer oaths, issue subpoenas, summon witnesses, compel the production of books, papers, records, and other evidence, and hold hearings.

Within a year after receiving a referral for further investigation or prosecution from the Unit, the prosecuting attorney must either prosecute the violation, provide the Unit a written statement declining to prosecute the referral, or request any additional evidence needed. The Governor vetoed provisions that would have required the statement declining to prosecute to explain the reasons why, and that would have required the additional evidence requested to meet the prima facie standard of fraud under the election criminal law.

The Governor also vetoed a provision that would have permitted the Unit to refer the violation to the Attorney General (AG) for further investigation or prosecution if the prosecuting attorney declined to prosecute the violation within one year after receiving the referral, either through inaction or through the written statement.

If the prosecuting attorney or the AG requests additional evidence, the Unit must provide the evidence, if available, within 90 days after receiving the request.

Within 180 days after receiving the additional evidence, the prosecuting attorney either must prosecute the violation or provide a written statement to the Unit explaining a reason for declining to prosecute.

If the prosecuting attorney fails to provide this statement within 180 days after receiving the additional evidence, the Unit may refer the violation to the AG for further investigation or prosecution. The Governor vetoed a provision that would have permitted the Unit to refer the violation to the AG if the prosecuting attorney failed to prosecute within 180 days.

Ohio Election Integrity Commission

(R.C. 3501.05, 3501.11, 3513.10, 3517.01, 3517.102, 3517.109, 3517.1012, 3517.152 (3517.14), 3517.153 (3517.15), 3517.154 (3517.16), 3517.155 (3517.17), 3517.157 (3517.18), 3517.993 (3517.171), 3517.992 (3517.99), and 3517.991 (reenacted); Section 525.50; repeal of R.C. 3517.14, 3517.151, 3517.156, 3517.99, and 3517.991; and conforming changes in R.C. 109.02, 145.055, 145.99, 742.043, 742.044, 742.99, 3307.073, 3307.074, 3307.99, 3309.073, 3309.074, 3309.99, 3513.05, 3513.261, 3517.08, 3517.081, 3517.11, 3517.121, 3517.20, 3517.21, 3517.22, 3517.23, 5505.045, 5505.046, and 5505.99)

The act abolishes the Ohio Elections Commission (ELC) on January 1, 2026, and replaces it with the Ohio Election Integrity Commission (OEIC), which the act creates within the Office of the Secretary of State (SOS).

The ELC was responsible for enforcing Ohio's Campaign Finance Law with respect to state and local elections. In almost all cases involving a violation of that law, the ELC was required to hear an administrative complaint before a criminal case could be brought in court. For example, the ELC heard complaints alleging failure to file a complete, accurate, or timely statement of political contributions and expenditures, failure to disclose the source of political advertising, or failure to comply with dollar limits on contributions. If the ELC determined that a violation had occurred, it could impose a civil fine or refer the matter for criminal prosecution. The ELC also issued advisory opinions that interpret the Campaign Finance Law and could recommend legislation.

The act replaces the ELC with the OEIC, which generally must fulfill the same duties as the ELC. However, under the act, the OEIC serves more as an appellate body. All complaints must be filed with the SOS, and the SOS is responsible for disposing of the complaint. The OEIC hears a matter only if the person who is the subject of the complaint objects to the SOS's decision.

Between September 30, 2025, and January 1, 2026, the ELC must continue to operate under the prior law. Any complaint that is still pending before the ELC on January 1, along with all records regarding the complaint, is transferred to the OEIC for hearing and disposition.

Commission structure and organization

Membership

Under the act, the OEIC consists of five members, with one member appointed by each of the following: the SOS, the Speaker and Minority Leader of the House, and the President and Minority Leader of the Senate. The member appointed by the SOS is the chairperson. Four of five members constitutes a quorum to do business, and most actions require a simple majority vote of three members.

The ELC previously consisted of seven members, with six members appointed by the Governor with the advice and consent of the Senate (three Republicans and three Democrats), and the seventh member, an independent, appointed by the partisan members of the ELC. The ELC also had three alternate members – one Republican, one Democrat, and one independent – who were appointed in the same manner as the regular members. When a regular member of the ELC was recused from hearing a complaint or was otherwise unavailable, the alternate of the appropriate affiliation took the member's place. In making appointments to the ELC, the Governor was required to take into consideration the various geographic areas of Ohio so that those areas were represented on the ELC in a balanced manner, to the extent feasible. The members elected a chairperson and a vice-chairperson annually, with the chair's party affiliation switching every year. Five of seven members constituted a quorum, and most actions required a simple majority vote of four members.

Qualifications

The act requires that each member of the OEIC be a registered elector who is either an attorney in good standing before the Ohio Supreme Court or a person with at least four years of work experience in election administration. At any given time, at least three members of the OEIC must be attorneys. When multiple appointments to the OEIC are made simultaneously, if too few of the chosen appointees are attorneys, the appointing authorities receive priority in selecting

their preferred appointees in the following order: the SOS, the Speaker, the President, the Senate Minority Leader, and the House Minority Leader. In other words, the officials with higher priority have the option to appoint nonattorneys, while the officials with lower priority must appoint attorneys if necessary to ensure that at least three members are attorneys.

Under prior law, members of the ELC, including alternates, were required to be registered electors of good moral character, but they were not required to have any particular education or experience.

The act retains provisions of the previous law that prohibit commission members from doing or being any of the following:

- Holding, or being a candidate for, a public office;
- Serving on a committee supporting or opposing a candidate or ballot question or issue;
- Being an officer of a state or local political party;
- Being a legislative or executive agency lobbyist;
- Making a campaign contribution;
- Soliciting, or being involved in soliciting, campaign contributions;
- Being in the unclassified service of the state or local government (this category includes most politically- or policy-oriented jobs, such as an appointed department head, as well as legislative employees);[167]
- Being a public officer or employee who is excluded from being considered a public employee for collective bargaining purposes, such as a supervisor, manager, or judicial employee.[168]

Terms of office

The act sets the terms of OEIC members at four years, with members being limited to two successive terms, according to the same standards that apply to other term-limited state offices. However, for the terms beginning January 1, 2026, the members appointed by the Speaker of the House and the Senate Minority Leader serve for two years instead of four, and those terms are counted as full terms for purposes of the term limits. The initial short terms ensure that going forward, two or three members' terms expire on December 31 of each odd-numbered year.

ELC members were limited to one five-year term unless the terms were nonconsecutive.

Compensation

The act requires OEIC members to receive a salary of $25,000 per year, plus reimbursement for their actual and necessary expenses incurred in performing their official

[167] R.C. 124.11, not in the act.

[168] R.C. 4117.01, not in the act.

duties, the same as members of the ELC received. Alternate members of the ELC received $125 per day served, plus reimbursement for expenses.

Removal

Under the act, the SOS, the Speaker or Minority Leader of the House, or the President or Minority Leader of the Senate may file a complaint in the Ohio Supreme Court, seeking the removal of an OEIC member on any of the following grounds:

- That the member does not meet the statutory qualifications or has taken a prohibited action (see "**Qualifications**," above);
- That the member has been absent from three or more meetings in a calendar year (prior law allowed five ELC members to vote to remove a member for that reason);
- That the member is guilty of misconduct in office, as provided under the general laws allowing the removal of a public official upon complaint and hearing.

The Court must hear the complaint on an expedited basis. If the Court determines that the charges in the complaint are true, the Court must order the member removed from the OEIC, and the seat is considered vacant. Vacancies are to be filled in the same manner as the original appointment.

The previous law governing the ELC did not provide any special method of removal, other than the provision allowing the ELC to remove one of its members for failing to attend meetings. Continuing law allows the Governor to remove or suspend an officer who is appointed by the Governor with the advice and consent of the Senate (as in the case of a partisan member of the ELC) for certain listed causes. That law does not apply to the OEIC because its members are not appointed by the Governor.

Under continuing law, any public official may be removed for misconduct upon the filing of a complaint in the court of common pleas of the county in which the official resides, accompanied by a petition signed by 15% of the electors. The court then must follow a statutory process to determine whether the official is guilty of misconduct. Additionally, the General Assembly can remove a public official by impeachment.[169]

Commission staff

The act requires the SOS to provide the necessary staff for the OEIC. Previously, the ELC hired its own staff by a vote of five of seven members and could terminate an employee by a majority vote. Under the act, the ELC's existing staff are transferred to the SOS as of January 1.

The Attorney General (AG) must provide legal counsel to the OEIC upon request. Under prior law, the ELC employed its own full-time attorney and could hire additional investigatory attorneys.

[169] R.C. 3.04 and 3.07 through 3.10, not in the act, and Ohio Const., art. II, secs. 23 and 24.

Commission jurisdiction

The act gives the OEIC expanded jurisdiction compared to the ELC. The OEIC retains the ELC's previous jurisdiction over violations of the Campaign Finance Law, except that under continuing law, the AG has exclusive jurisdiction to investigate and prosecute any violation of the law against campaign spending by foreign nationals. The act also gives the OEIC jurisdiction over all of the following offenses that occur on or after September 30, 2025:

- Offenses related to election petitions;[170]
- Offenses involving absent voter's ballots;[171]
- Offenses involving false voter registration;[172]
- Voting or attempting to vote when not qualified to do so;[173]
- Voting or attempting to vote more than once in the same election.[174]

Under continuing law, no prosecution may commence for a violation of the Campaign Finance Law unless an administrative complaint has been filed and all administrative proceedings are completed. However, a prosecution for a voting- or petition-related offense falling under the OEIC's expanded jurisdiction may commence at any time, regardless of whether any complaint has been filed with the OEIC. The act also clarifies in several provisions of law that for enforcement purposes, the Campaign Finance Law includes the laws governing campaign practices by candidates for the governing boards of Ohio's five public employee retirement systems. Those laws are not located in R.C. Chapter 3517, but they did fall within the ELC's purview.

False campaign statements

Until 2016, many of the complaints the ELC heard were for violations of Ohio's law that prohibits making false campaign statements about a candidate or ballot issue. That year, however, in *Susan B. Anthony List v. Driehaus,* a federal appeals court overturned the law under the First Amendment, partly based on flaws the court identified in the ELC's process for enforcing the law, and partly based on other aspects of the law that the act does not change. Because the act retains the existing law against false campaign statements while replacing the ELC process, it is not clear under the act whether the SOS or the OEIC might resume enforcing the law. If the SOS or the OEIC did so, a reviewing court might consider whether the act's new procedures

[170] R.C. 3599.13 and 3599.14, not in the act.

[171] R.C. 3599.21, not in the act.

[172] R.C. 3599.11(A), not in the act.

[173] R.C. 3599.12(A)(1), not in the act.

[174] R.C. 3599.12(A)(2), not in the act.

sufficiently address the problems identified in *Susan B. Anthony List*, such that Ohio can enforce the law again.[175]

Advisory opinions

The act transfers the ELC's authority to render advisory opinions to the OEIC. The OEIC may render opinions interpreting any law over which it has jurisdiction – note the expansion of jurisdiction as discussed above. Any ELC advisory opinion in effect as of September 30, 2025, is considered an advisory opinion of the OEIC, unless and until the OEIC amends or rescinds it. Under continuing law, when an advisory opinion determines that a particular action or set of circumstances would not violate the law, any person in that situation may reasonably rely on the opinion and is immune from criminal prosecution or any civil action, including removal from office, based on facts and circumstances covered by the opinion.

Complaint and hearing process

Filing complaints

The act generally retains the current requirements for filing a complaint, except that it must be filed with the SOS instead of the OEIC. A complaint must be filed on a form prescribed by the SOS and signed under penalty of perjury, by (1) a member of the public who has personal knowledge of a failure to comply with the law, or (2) an official at a board of elections. The SOS's Election Integrity Unit, created by the act, also may initiate a complaint on its own (see "**Election Integrity Unit**," above).

Continuing law requires a complaint to be filed within two years after the occurrence of the violation, except that if the violation involves fraud, concealment, or misrepresentation and was not discovered during that two-year period, a complaint may be filed within one year after the violation is discovered. A person who files a complaint may withdraw it at any time.

Initial determination by SOS

The act requires the Election Integrity Unit to review each complaint and make a recommendation to the SOS. Previously, the ELC's attorney was required to review each complaint and make a recommendation for its disposition within one business day after the complaint is filed. The act does not impose such a deadline for initial review.

Under continuing law, the authority reviewing a complaint may join two or more complaints that are of the same or similar character, are based on the same act or failure to act, or are based on two or more acts or failures to act constituting parts of a common scheme or plan. The authority also may separate a complaint into multiple complaints if the allegations are not of the same or similar character, are not based on the same act or failure to act, or are not based on two or more acts or failures to act constituting parts of a common scheme or plan.

In the case of a complaint filed by a member of the public or by an official at a board of elections, the Election Integrity Unit must conduct an initial review to determine whether it may proceed. The SOS must dismiss the complaint if it does not allege a violation over which the OEIC

[175] *Susan B. Anthony List v. Driehaus,* 814 F.3d 466, 473 (6th Cir. 2016).

has jurisdiction or if the filer lacks the required personal knowledge of the violation. A dismissal is without prejudice, meaning that it can be re-filed, except that after a complaint is dismissed for lack of personal knowledge, if the same person files another complaint alleging the same or a substantially similar violation and the complaint still is not based on personal knowledge, the SOS must dismiss the complaint with prejudice.

Under previous law, the ELC or a panel of the ELC had the authority to dismiss a complaint, any complaint that met the formal requirements apparently was guaranteed at least one hearing, at which the ELC or a panel could dismiss it.

If the SOS does not dismiss the complaint, the act requires the Election Integrity Unit to investigate the complaint, draft a report, and recommend a disposition. The SOS must review the report and recommendation and either (1) refer the matter back to the Unit for further investigation and a revised recommendation, or (2) make a finding and, if applicable, impose a fine or refer the matter for prosecution (see "**Penalties for violations**," below).

When the SOS makes a decision, the SOS must serve notice of the decision on the alleged violator in accordance with the Administrative Procedure Act. The alleged violator then has 14 days to object to the SOS's decision. If the alleged violator does not object, the SOS's decision is final. If the alleged violator objects, any penalty imposed by the SOS does not apply, and the SOS must refer the matter to the OEIC, as described below.

Conflict of interest

The act includes a different procedure to follow if any of the following apply to the complaint:

- The SOS is a party to the complaint.
- A candidate for an office for which the SOS is also a candidate (in other words, the SOS's opponent) is a party to the complaint or is otherwise involved in the complaint.
- The complaint involves a contribution, expenditure, or independent expenditure made to advocate the election or defeat of the SOS or a candidate for an office for which the SOS is also a candidate.
- The SOS determines that the SOS otherwise has a conflict of interest with respect to the complaint or that the SOS should follow the conflict-of-interest procedure to avoid any appearance of impropriety.

In that situation, the SOS must request the AG to designate one or more persons to review the complaint instead of having the Election Integrity Unit do so. The AG's designee must make a recommendation to the AG, who decides whether to dismiss the complaint or have the designee investigate it further. After any investigation is complete, the AG must make a determination in the same manner as the SOS, as described above. The alleged violator may appeal the AG's determination to the OEIC.

Appeal to OEIC

When a decision is appealed to the OEIC, the OEIC must appoint an attorney to review and hear the complaint and make a report and recommendation to the OEIC. The OEIC then may

either (1) refer the matter back to the hearing officer for further investigation and a revised recommendation, or (2) make a finding and, if applicable, impose a penalty or refer the matter for prosecution. Like the ELC, the OEIC may discuss pending complaints only in meetings that are open to the public.

Under prior law, the ELC held its own hearings instead of having an attorney hearing officer conduct them. The ELC could delegate to its attorney the power to rule on the admissibility of evidence and to advise on other procedural matters.

Timeline

The act requires the OEIC to make a finding on any matter that is appealed to it within 180 days. However, if the matter involves a candidate or ballot issue at an upcoming election and is referred to the OEIC less than 180 days before the election, the OEIC must resolve it before the election if practicable. These time limits do not apply to any pending complaints that are transferred from the ELC to the OEIC when the ELC is abolished on January 1, 2026.

Previously, unless an expedited hearing procedure applied, the ELC was required to hold the first hearing within 180 business days after the complaint was filed, or within 240 business days if the ELC asked an investigative attorney to find additional evidence for the ELC to consider. After the close of all the evidence presented, the ELC was required to render a decision within 30 days. However, there was no apparent limit on how long a case could be pending before the ELC after its first hearing but before all the evidence had been presented.

The following complaints were subject to the ELC's expedited hearing procedure:

- Complaints filed during the 60 days before a primary or special election or during the 90 days before a general election, alleging a violation of the laws against any of the following:
  - Making false campaign statements (see "**False campaign statements**," above);
  - Infiltrating a campaign;
  - Concealing or misrepresenting contributions;
  - Awarding an unbid government contract to a campaign donor;
  - Misusing campaign funds.
- Other complaints filed during the 60 days before a primary or special election or during the 90 days before a general election, if the ELC's attorney recommended an expedited hearing based on the following factors:
  - The number of prior violations of the Election Law the subject of the complaint had committed and any prior penalties the ELC had imposed on the person;
  - The time between alleged violations and whether the cumulative nature of the alleged violations indicated a systematic disregard for the law;
  - If the complaint involved a late filing, how late the filing was and how long after the filing deadline the complaint was filed;

- If the complaint involved unreported or late-reported contributions or expenditures, the number of those contributions or expenditures and, if applicable, how late they were reported;
- If the complaint involved unreported contributions to a candidate, whether any of the donors had a personal or professional relationship with the candidate;
- If the complaint involved an incomplete statement, the degree to which it was incomplete;
- If the complaint involved the receipt of unlawful corporate contributions, the dollar amount and number of the contributions;
- If the complaint involved a failure to disclose the source of political advertising or a misstatement of the source, whether the failure or misstatement was on purpose;
- The number of pending expedited hearings. The attorney was prohibited from referring a case for an expedited hearing if it would place an undue burden on a panel of the ELC.

- Any other complaint, upon the request of the person filing the complaint, if the ELC determined that an expedited hearing was practicable and decided to grant the request.

Expedited hearings began with a hearing held by a panel of at least three members of the ELC, which had to determine whether there was probable cause to believe that a violation had occurred. The panel generally was required to hold a probable cause hearing within seven business days after the attorney referred the complaint to the panel. But, the parties could agree to delay the hearing until up to 180 business days after the complaint was filed. The law did not guarantee that a complaint would receive a probable cause determination before the election.

If the panel determined that probable cause existed, the full ELC was required to hold a hearing on the complaint within ten days after the panel made its decision. After the close of all the evidence presented, the ELC was to render a decision within 30 days. Again, however, there was no apparent limit on how long a case that received an expedited probable cause hearing could be pending before the full ELC made a final determination.

Investigative powers

The act gives the OEIC the same investigative powers as the ELC; under continuing law, the SOS also has these powers. Those entities may administer oaths (that is, take sworn testimony from witnesses), and they may subpoena witnesses and documents within Ohio.

Procedural requirements

Under the act, all hearings conducted by the OEIC's hearing officer, and all meetings of the OEIC with respect to a complaint, must be held in person, except that the alleged violator may choose for the person, the person's legal counsel, or both to appear at any hearing or meeting by means of video conference. In all other respects, the act requires the OEIC to follow the adjudicatory procedures of the Administrative Procedure Act (APA), which apply to most executive agencies that hold disciplinary or other hearings. Under continuing law, the APA sets

out general requirements on such topics as notifying the parties of a hearing, keeping records of the proceedings, and the right to be represented by an attorney.[176]

Previously, the Ohio Rules of Evidence and the Ohio Rules of Civil Procedure applied to all proceedings before the ELC, except as otherwise specified by the ELC's rules.[177] The Rules of Civil Procedure govern, for example, the manner in which the parties to a civil lawsuit may obtain evidence relevant to the case, while the Rules of Evidence limit the extent to which hearsay may be considered as evidence, or what evidence might be considered inadmissible because it is irrelevant or overly prejudicial. By contrast, the act does not allow the OEIC to adopt its own procedural rules. Under continuing law, the Rules of Evidence and Civil Procedure do not necessarily apply to hearings conducted under the APA.[178]

Standard of proof

The act retains the current standards of proof that must be met for a person to be penalized for a violation. Under continuing law, if the authority hearing a complaint finds that a violation has occurred, it must make that finding by a preponderance of the evidence. This is the standard of proof that applies in most civil cases. However, any finding of a violation of the law prohibiting false campaign statements or infiltrating a campaign must be made by clear and convincing evidence, which is a higher standard (see "**False campaign statements**," above). By contrast, to convict a person of a crime, a judge or jury must find the person guilty beyond a reasonable doubt, the highest standard used in Ohio's legal system.

Frivolous complaints

Under the act, like under prior law, if the SOS or the OEIC that determines a complaint is frivolous, it may order the filer to pay reasonable attorney's fees and the agency's costs.

Penalties for violations

Under the act, the SOS or the OEIC may dispose of a complaint as follows:

- Find that no violation has occurred;
- Find that a violation has occurred and impose the following administrative fine, as applicable:
  - For a campaign finance violation, a fine in an amount up to the maximum fine a court could impose for a criminal violation, except that for a violation occurring between April 4, 1985, and August 23, 1995, the fine must be the fine set by the ELC's fine schedule at the time of the violation (this is the same administrative penalty as under prior law);

[176] R.C. 119.05 through 119.13, not in the act.

[177] O.A.C. 3517-1-01 and Ohio Supreme Court, Ohio Rules of Civil Procedure (PDF) and Ohio Rules of Evidence (PDF), available at supremecourt.ohio.gov under "Rules of Court."

[178] See Ohio Attorney General, Administrative Law Handbook (PDF) at pp. 24 and 49 (2020), available at ohioattorneygeneral.gov under "Publications," "Legal."

- For a petition-, voter registration-, or voting-related violation, a fine of up to $1,000 per violation;

- Find that a significant violation has occurred or that repeated violations have occurred and refer the matter to the appropriate prosecutor (see "**Appropriate prosecutor**," below).

Previously, the ELC had the option to find that a violation had occurred but to impose no penalty and to refrain from referring the matter for prosecution. Prior law also did not provide a standard for determining whether a violation should trigger an administrative fine instead of referral for prosecution.

Under continuing law, any violation of the law prohibiting false campaign statements (see "**False campaign statements**," above) or infiltrating a campaign must be referred for prosecution instead of penalized with an administrative fine.

Continuing law allows the authority imposing an administrative fine to suspend all or part of the fine upon whatever terms and conditions the authority considers just. In determining whether to impose a maximum fine, the authority must consider all of the following:

- Whether the violator has been found guilty of any other violation of the Election Law or has any outstanding fines for such a violation (the act adds violations related to retirement system board elections as violations to be considered);

- Whether the violation was made knowingly or purposely;

- Whether any relevant statements, addenda, or affidavits required to be filed have not been filed;

- Whether the violation occurred during the course of a campaign.

In determining whether to impose a minimal fine or no fine, the authority must consider all of the following:

- Whether the violator previously has not been found guilty of any other violation of the Election Law (the act adds violations related to retirement system board elections as violations to be considered);

- Whether the violator has promptly corrected the violator's violation;

- Whether the nature and circumstances of the violation merit a minimum fine;

- Whether there are substantial grounds tending to excuse or justify the violation, although failing to establish a defense to the violation;

- Whether the violation was not purposely committed.

Under the act, if the violator does not pay an administrative fine within 45 days, the SOS must certify the amount to the AG for collection in the same manner as other past due debts to the state. The SOS also must do so for any unpaid fines that are still owed to the ELC.

The act does not make any substantive changes to the criminal penalties for violating the Campaign Finance Law. But, the act clarifies that the penalty for any violation is the penalty that was in effect at the time the violation occurred, which is generally true for any criminal law. In other words, an old violation must be punished under the old law. The act repeals existing sections of law that refer to violations that occurred before August 23, 1995, when the legislature made a number of changes to the ELC and the Campaign Finance Law, but those older laws still would apply in the case of any violation committed before that date, even though the act removes them from the Revised Code.

Appeal of decision

Any appeal of a decision by the OEIC may be filed with the court of common pleas of the appealing party's home county or the Franklin County Court of Common Pleas, the same as any other appeal of an agency decision under the APA. The same requirement previously applied to appeals of ELC decisions.[179]

Appropriate prosecutor

The act generally retains the previous standards for determining the "appropriate prosecutor" to whom a violation may be referred. In a case involving any of the following, the appropriate prosecutor is the Franklin County Prosecutor:

- A candidate for Governor, Lieutenant Governor, AG, SOS, Auditor of State, Treasurer of State, or justice or chief justice of the Supreme Court;
- A state or county political party;
- A legislative campaign fund;
- A political action committee (PAC) or political contributing entity (PCE) that is required to file its statements of contributions and expenditures with the SOS, meaning a PAC or PCE that does any of the following:
  - Makes contributions to candidates for statewide office or the General Assembly;
  - Makes contributions to political parties or legislative campaign funds;
  - Receives contributions or makes expenditures in connection with a statewide ballot issue; or
  - Makes contributions to other PACs or PCEs.

In any other case, the matter may be referred to the Franklin County Prosecutor or to the prosecutor of the most populous county in which the candidacy or ballot question or issue appears on the ballot. The act adds an option to refer the matter to the county prosecutor of the county in which the violator resides.

[179] R.C. 119.12, not in the act.

Records of proceedings

The act requires the OEIC to post all of the following on its official website and update it regularly:

- All decisions and advisory opinions issued by the OEIC;
- All decisions and advisory opinions issued by the ELC before it was abolished;
- Copies of the Election Law.

Prior law required the ELC to post all of its decisions and advisory opinions online, along with copies of the Election Law, and to keep them updated.

Under continuing law, complaints regarding campaign finance violations generally are considered public records, but they are not required to be posted online.

Commission funding

The act replaces the Ohio Elections Commission Fund with the Ohio Election Integrity Commission Fund administered by the SOS, which has the same funding sources:

- Administrative fines imposed by the SOS or the OEIC;
- A portion of candidate and petition filing fees;
- Excess funds donated by a campaign committee or legislative campaign fund that chooses to dispose of its excess funds in that manner;
- Excess funds confiscated by a court from a campaign committee or legislative campaign fund that fails to dispose of excess funds as required under the law;
- Funds appropriated by the General Assembly.

Other transitional provisions

The act transfers the ELC's employees to the OEIC and makes the OEIC the ELC's successor for all other purposes. When the ELC is abolished on January 1, 2026, the OEIC must do all of the following:

- Receive all of the ELC's records, assets, and liabilities;
- Complete any unfinished ELC business. The act specifies that no validation, cure, right, privilege, remedy, obligation, or liability is lost or impaired by reason of the transfer.
- Prosecute or defend any pending action or proceeding in place of the ELC;
- Assume and pay off any outstanding obligations of the ELC. On January 1, 2026, or as soon as possible thereafter, the OBM Director must transfer the cash balance of the ELC Fund to the new OEIC Fund. Upon completion of the transfer, the ELC Fund is abolished. The OBM Director must cancel any existing encumbrances against the ELC's appropriation item and reestablish them against the OEIC's appropriation item. The act appropriates the reestablished encumbrance amounts.

Any remaining reference to the ELC or its Executive Director in any law, contract, or other document must be deemed to refer to the OEIC.

Technical changes

The act makes several technical changes to sections of the Campaign Finance Law that are amended for other purposes. First, the act removes an incorrect cross-reference in R.C. 3517.1012 and corrects the section to restore the meaning it had before the error arose. R.C. 3517.1012 lists the purposes for which a state or county political party may use its restricted fund, which may receive certain corporate and labor union contributions. Until 2019, the law allowed the party to use that fund for the same purposes as those for which the party could use the funds it received from the Ohio Political Party Fund under an income tax return checkoff program. But, when the tax checkoff and the Ohio Political Party Fund were eliminated in 2019, the cross-reference remained in R.C. 3517.1012.

The act clarifies that a state or county party may use its restricted fund for any of the following purposes, as allowed before 2019:

- The defraying of operating and maintenance costs associated with political party headquarters, including rental or leasing costs, staff salaries, office equipment and supplies, postage, and the purchase, lease, or maintenance of computer hardware and software;
- The organization of voter registration programs and get-out-the-vote campaigns and the costs associated with voter registration and get-out-the-vote activities, including, but not limited to, rental costs for booth spaces at fairs, festivals, or similar events if voter registration forms are available at those booths, printing costs for registration forms, mailing costs for communications soliciting voter registration, and payments for the services of persons conducting voter registration and get-out-the-vote activities;
- The administration of party fundraising drives;
- Direct mail campaigns or other communications with the registered voters of a party that are not related to any particular candidate or election;
- The preparation of reports required by law.

The act also corrects an incorrect reference in R.C. 3517.20 to refer to a "political contributing entity," which is a defined term under the continuing law, instead of to a "political contributing committee," which is not.

Finally, in R.C. 3517.992 (renumbered as 3517.99), the act eliminates a reference to an obsolete provision of law related to declarations of no limits on campaign contributions, which are no longer used.

School district board members nominated by primary election (VETOED)

(R.C. 3311.053, 3501.01, 3505.03, 3505.04, 3513.04, 3513.05, 3513.052, 3513.19, 3513.254, 3513.255, 3513.256, and 3513.259, repealed; Section 735.10)

The Governor vetoed provisions that would have required candidates for the office of member of a school district board of education or member of the governing board of an educational service center to be nominated by primary election and to appear on the general election ballot with a political party designation. Currently, those candidates are nominated by petition and appear on the nonpartisan ballot with no party designation. A detailed description of the vetoed provisions is available pages 185-188 of LSC's analysis of H.B. 96, As Passed by the Senate (PDF), which is available on the General Assembly's website at legislature.ohio.gov.

Board of Elections Fund

(R.C. 111.27)

The act renames the Board of Elections Reimbursement and Education Fund as the Board of Elections Fund in the state treasury. Under continuing law, the fund can be used by the SOS to reimburse boards of elections for costs of certain special elections or recounts and to provide training and educational programs for boards of elections members and employees. The act specifies that the SOS can also provide advancements, subject to recoupment, to boards of elections using money from the fund.