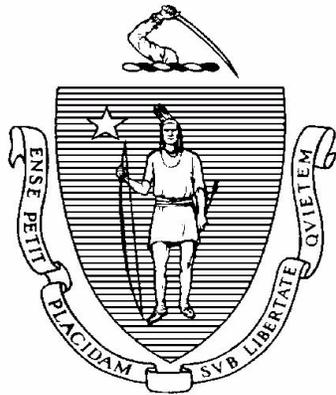


CAMPAIGN FINANCE GUIDE

*Candidates for
The General Court
(House & Senate)*



Office of Campaign and Political Finance
Commonwealth of Massachusetts

This brochure is designed to introduce candidates for the General Court (the state Senate and House of Representatives) and the treasurers of their political committees to the provisions of the campaign finance law. The Office of Campaign and Political Finance (OCPF) is responsible for administering Massachusetts General Laws Chapter 55, the campaign finance law. The office is available to assist individuals in understanding and complying with the statute and encourages candidates, treasurers, committee members and interested parties to familiarize themselves with these laws and regulations.

This publication is meant only to be an introductory guide to the campaign finance law, not a substitute for it. For additional information please contact the

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Office of Campaign and Political Finance

Chapter 1173 of the Acts of 1973 strengthened the state campaign finance law and established the Office of Campaign and Political Finance. While the 1970s saw a push for reforms in campaign finance disclosure laws all across the country, portions of the campaign finance law were on the books in Massachusetts as early as 1884. Some of those original laws provide for restrictions on and protections for public employees and will be discussed later in this brochure. Significant changes to the law were also made in 1994, 2009 and 2014. Many of these changes affect General Court candidates and are addressed in detail in this brochure.

Chapter 55 of the Massachusetts General Laws is a comprehensive statute concerning the financing of political campaigns in the Commonwealth. The statute requires, for example, that candidates and political committees disclose all contributions received and expenditures made. The campaign finance law also provides for limitations, and in some cases absolute prohibitions, on certain sources of campaign contributions. Additionally, the way in which campaign funds may be spent is regulated by the statute as well as by regulations and guidelines established by OCPF. Finally, Chapter 55 regulates certain conduct in connection with the raising and spending of campaign funds, such as the activities of public employees, and prohibits the use of governmental resources for political purposes. OCPF has promulgated regulations (970 CMR) on contributions and expenditures, which should be consulted for more specific guidelines on these requirements.

The General Court Candidate

This brochure is designed to address issues concerning candidates for the state Senate and House of Representatives, known collectively as the General Court. If you are thinking about running for the General Court, you should contact OCPF before undertaking any activity. The statute has a very broad definition of “candidate,” and you may be considered a candidate under the law before any formal announcement of candidacy is made.

Organization and Disclosure Forms

The following is a summary of the appropriate forms required for legislative candidates and their committees. OCPF staff would be glad to review with you these forms and the procedures for filing them.

FORM CPF 101: Statement of Organization of A Candidate Committee

Although the law does not require a candidate to have a political committee organized on his or her behalf, most legislative candidates have one. Public employees who run for elective office and wish to raise money for their campaigns must organize a committee and have the committee handle all fundraising because public employees are prohibited by law from political fundraising, even for their own campaigns.

A political committee may not accept any contributions nor incur any expenses until it e-files Form CPF 101 with OCPF. The online filer organization system is available by [clicking here](#).

This form contains the names and addresses of the committee chairman and treasurer and the name of the candidate for whom the committee is organized. Any change in information previously submitted should be reported to OCPF within 10 days of such change. Political committees are prohibited from receiving or expending funds without a treasurer. Any change in treasurer should therefore be reported by completing Form [CPF T 101](#) and filing it immediately with OCPF.

A candidate may have only one committee organized on his or her behalf, even if the candidate holds more than one elective office. If a candidate plans to seek state or county office and later wishes to seek office at the municipal level, or vice versa, such candidate must transfer his committee from the state to the municipality, or vice versa. OCPF can assist you in accomplishing these transfers.

By law, a committee must name a chairman and a treasurer. The chairman and the treasurer may be the same person, unless that person is a public employee. A public employee may not serve as the treasurer of any political committee. A candidate may not be the treasurer of his or her own committee.

FORM CPF 102 ND: Campaign Finance Report

Each legislative candidate and his or her political committee, if any, are required to e-file Form CPF 102 ND with OCPF on or before each reporting date as discussed in the next section. The report must be filed with OCPF electronically over the Internet.

The following information should be filed with or on Form CPF 102 ND:

- o Receipts Schedule: An alphabetical listing of all contributions in excess of \$50 received in a reporting period, including the date the contribution was received and the residential address of the contributor. This information must also be reported for receipts of \$50 or less if the total contributions from the individual have exceeded \$50 in the calendar year. Otherwise, receipts of \$50 and under are totaled on one line and included in total receipts. However, complete information, including date, name, residential address and amount must be kept by the candidate or committee regardless of the amount of the contribution. If the contribution is \$200 or more, or if the individual's total contributions are \$200 or more in the calendar year, the occupation and employer of the contributor must also be disclosed. Contributions from PACs must be reported alphabetically by PAC name and include the five-digit PAC identification number assigned by OCPF.
- o Expenditures Schedule: An alphabetical listing of all disbursements in excess of \$50 with the amount and date of payment, the name and address of the payee and the purpose of the expenditure. Expenditures of \$50 or less may be added together on one line and included on the total expenditures line. However, complete information concerning all expenditures, including date, payee, address, amount and purpose, must be kept by the candidate or committee regardless of the amount.
- o In-Kind Contributions Schedule: An alphabetical listing of all in-kind contributions of anything of value other than money with a value in excess of \$50 in a calendar year. This listing includes the date, the name and residential address of the contributor from whom it was received and a description of the contribution. The occupation and employer of any contributor of \$200 or more in in-kind goods or services, or a combination of money and in-kind contributions, is also required. For those contributions valued at \$50 and under, a one-line total is included in the total of all in-kind contributions for the period. In-kind contributions do not include volunteers' personal services or the exercise of ordinary hospitality.
- o Liabilities Schedule: An alphabetical listing of all outstanding, unpaid obligations, including loans, as of the last day of the reporting period, regardless of when the liability was incurred. Included is the amount, the date the liability was incurred, the name and address to whom it is due and its purpose. If a liability has been incurred but a bill has not yet been received, the liability must still be reported, with an estimate of the amount owed. Liabilities are carried over from each report to the successive report until such time as they are satisfied.

Records of all receipts and expenditures must be maintained by the candidate and committee for all of its activities, regardless of amount. Candidates and treasurers of all political committees organized in Massachusetts are required by law to preserve detailed accounts, vouchers and receipts for six years from the date of the relevant election.

Filing Deadlines

Candidates and/or their committees are required by statute to file periodic campaign finance reports and are responsible for the legality, validity, completeness and accuracy of those reports. The following is the schedule for filing reports. **These reports must be e-filed whether or not money has been raised or expended during the reporting period and whether or not the candidate is nominated or elected. Reports are filed using OCPF's web-based *Reporter* program. Please call OCPF for instructions on how to use *Reporter*.**

The candidate is personally liable for a \$25 per day fine, up to \$5,000, for each day that any report is late.

- o **Pre-Primary Report:** Due on or before the 8th day preceding the state primary, complete from the day following the ending date of the last report filed through 10 days before the due date. If this is a candidate's initial report, the activity period is from the day following the date of the last election for the office sought through 10 days before the due date.
- o **Pre-Election Report:** Due on or before the 8th day preceding the state election, complete from the day following the ending date of the last report filed through 10 days before the due date.
- o **Year-end Report:** Due on or before January 20 in the following year complete from the day following the ending date of the last report filed through December 31. This year-end report must be filed every year so long as the committee is in existence or if the candidate maintains a campaign fund, has outstanding liabilities or is an incumbent elected official.
- o **Mid-Year Report:** Due on or before July 20 in odd numbered years complete from the day following the ending date of the last report filed through June 30. The mid-year report must be filed by all candidates and candidate committees.
- o **Late Contributions:** Campaigns that receive and deposit contributions of \$500 or more after the 18th day but more than 72 hours before an election, must disclose those contributions electronically within 72 hours.
- o **Special Elections:** Candidates and treasurers in a special state primary or election follow a reporting schedule similar to that described above, and also file an additional report due on or before the 30th day following the special election. Candidates and committee treasurers should contact OCPF for specific dates in the event of a special election.

Contribution Limits

All campaign funds received must be placed in a separate fund apart from any and all other funds. The following is a summary of limitations placed on contributions made to a candidate or candidate's committee:

- o An *individual* may contribute up to an aggregate of \$1,000 to a candidate and that candidate's committee in a calendar year. The candidate, however, may contribute without limit to his or her own campaign.

- o Registered *lobbyists* may only contribute up to an aggregate of \$200 per year to a candidate and that candidate's committee.
- o A *political action committee (PAC)* or a *people's committee* may contribute up to an aggregate of \$500 per year to a candidate and that candidate's committee. Legislative candidates are subject to an aggregate limit on what they may accept from all PACs in a calendar year. For state Senate candidates that limit is \$18,750; for state Representative candidates that limit is \$7,500. It is the responsibility of the candidate to know when he or she has exceeded his or her aggregate annual PAC limit. There are no aggregate limits, however, on how much candidates may accept from people's committees.
- o A *local (ward, town or city) political party committee* may contribute up to an aggregate of \$1,000 per year to a candidate and that candidate's committee. There is no limit on in-kind contributions from a local party committee.
- o A *state party committee* may contribute up to an aggregate of \$3,000 per year to a candidate and that candidate's committee. There is no limit on in-kind contributions from a state party committee.
- o A candidate or candidate's committee may not accept any contribution, including an in-kind contribution of goods, services, equipment, personnel, facilities or the like, from *business or professional corporations, partnerships, limited liability companies and limited liability partnerships*, or from any association or organization comprised in whole or in part of such businesses. A business may not necessarily use "incorporated" or "corporation" or "LLC/LLP" or "partnership" in its name; therefore, before accepting a contribution, candidates and committees should verify whether a business is legally permitted to make contributions.

The 2010 Supreme Court decision, **Citizens United v. FEC**, now allows these business entities to make *independent expenditures* to support or oppose candidates. Such activity must comply with the definition of "independent expenditure" in section 1 of Chapter 55 and must be disclosed as required by Section 18A of Chapter 55.

- o Individuals may use their *unincorporated sole proprietorship* business to make individual campaign contributions. The contributions must be attributable to an individual proprietor in that business and is applied to his or her \$1,000 individual contribution limit. The reporting of all contributions received by a candidate or a candidate's committee is required under M.G.L. Chapter 55. Some of the requirements for disclosure are outlined below.
- o Each contributor must furnish the candidate or committee with his/her true name and address at the time the contribution is made.
- o The candidate or committee must ask once at the time of solicitation and, if necessary, in one written follow-up request for the occupation and employer for any contributor who has given \$200 or more in a calendar year. A copy of the written request must be kept as part of the candidate's records. If a contributor still does not provide the information after two requests, the candidate or committee may keep the contribution.
- o Contributions from the same person which in the aggregate in a calendar year exceed \$50 must be made by a personal check or debit card on an account for which the contributor is personally liable, or by credit card. If contributions are made by credit card, candidates and committees should contact OCPF for its regulations concerning the process.

- o **Cash** is prohibited in any amounts greater than \$50 in the aggregate per contributor per calendar year. **Money order** contributions are limited to \$100 per calendar year.
- o Contributions of anything of value other than monetary contributions are “in-kind” contributions, are reportable on the in-kind schedule and are subject to the same contribution limits previously mentioned. Monetary and in-kind contributions are counted in combination toward an individual’s \$1,000 contribution limit. Examples of in-kind contributions include, but are not limited to, rental space, furniture, office equipment, printing, postage and advertisements.
- o Loans are defined as contributions and are subject to the same contribution limits previously mentioned. Therefore, loans may make up some or all of an individual’s contribution, provided the total amount loaned does not exceed the annual limit. A state Senate candidate may not loan his or her committee more than \$50,000 per election. A state Representative candidate may not loan his or her committee more than \$30,000 per election. The primary and the general election are considered separate elections for the purposes of this limitation. A loan is reported as a receipt **and** on the liabilities schedule.
- o **Special Election Limits:** An individual can contribute up to \$1,000 to a candidate for a special election, and up to \$1,000 during the period that begins on the day after the special election and ends Dec. 31. This statute is only in effect during state election years, and only applies to House and Senate candidates in special elections during a state election year.

Expenditures

Candidates and candidate committees should be aware of the following limitations on expenditures:

- o Expenditures may be made for the enhancement of the political future of the candidate so long as such expenditure is not primarily for the candidate’s or any person’s personal use. Expenditures may be made to reimburse an agent of a committee for expenses paid out of pocket for the benefit of, and with the authorization of, the committee, provided that disclosure is made of the original expenditure. For any reimbursement in excess of \$50, Form CPF R 1 must also be e-filed with the periodic campaign finance report (CPF 102 ND).
- o A candidate may make expenditures from his or her personal funds without limitation for the purposes of his or her own campaign, including making contributions to his or her own committee. All such expenditures and contributions must be fully disclosed on the campaign finance report (CPF 102 ND).
- o If a candidate has no committee and makes expenditures only from his or her own personal funds without raising any money from others, the candidate must report all funds that he or she expended on a campaign finance report (CPF 102 ND). The funds would be reported on the receipts schedule as having been contributed by the candidate to his or her own campaign **and** on the expenditures schedule as having been expended.
- o Professional corporations, partnerships, limited liability companies and limited liability partnerships may not expend money on behalf of any candidate, candidate’s committee, PAC, people’s committee or committee of a political party. They also may not provide goods, services, equipment, personnel, facilities, etc. unless it is paid fair market value for such items by the candidate or committee.
- o Expenditures in amounts exceeding \$50 must be made by check or credit card, including debit cards.

- o A political committee that makes a payment to or incurs a liability to a vendor must disclose the full name and address of each *sub-vendor* receiving payments of more than \$500 in total during a calendar year from the original vendor. A vendor is any person, including a consultant, who provides goods or services to a political committee and either receives or is promised \$5,000 or more during a calendar year by the committee for goods or services. Vendors are required to report sub-vendor payments to the candidate's committee, who is then required to disclose the expenditure information on reports with OCPF.
- o A legislative candidate's committee may not give in the aggregate in a calendar year more than \$100 to another candidate or candidate's committee.
- o No person, including a candidate, who is authorized to make an expenditure from a political committee may sign a committee check payable to himself or herself. For example, if a candidate pays for lawn signs using her personal funds and wishes to be reimbursed for the expense, she cannot write the reimbursement check to herself. Another person authorized on the checking account would have to sign the check.
- o Surplus campaign money may be placed in an interest bearing money market or savings account. No other type of investment is allowed by law.

Dissolution of a Committee

Committees that have no cash balance, assets or outstanding liabilities and wish to dissolve may do so, as long as the candidate represented by the committee does not still hold elected office. Candidates and committees that do not dissolve must continue to report on a regular basis.

All residual funds from committee or candidate accounts must be donated to any of the following: (1) the Commonwealth of Massachusetts General Fund; (2) the general fund of a city or town; (3) a scholarship fund; or (4) a charitable or religious organization. Donations to scholarship funds and charities are subject to certain restrictions. Contact OCPF for more information.

Treasurers of committees are required by law to preserve detailed accounts, vouchers and receipts for six years from the date of the relevant election. This statutory provision applies to all political committees organized in Massachusetts.

Public Employees, Buildings and Resources

OCPF administers Sections 13-17 of M.G.L. Chapter 55, which concern political activity involving public employees, building and other resources that are publicly funded. These laws were designed to: protect public employees from being coerced into providing political contributions or services as a condition of their employment; separate governmental activity from political campaign activity; and protect individuals doing business with the state from being coerced into providing political contributions or services.

OCPF has published a guide to *Public Employees, Public Resources and Political Activity*, which is available upon request. The following is a summary of the limitations on the political finance activities of public employees and the use of public buildings and resources in campaigns:

- o No compensated state, county, city or town employee, other than an elected official, may directly or indirectly solicit or receive any contribution or anything of value for ANY political purpose whatsoever.
- o Public employees may not be treasurers of political committees.
- o If a person is both a public employee and an elected official, the prohibitions against soliciting or receiving political contributions would still apply to him or her.
- o Soliciting or receiving campaign contributions by anyone in a building occupied for any state, county or municipal purpose is prohibited.
- o No person in the public service or in private employment may be compelled to make a political contribution or to render any political service.
- o No public official or employee may be prejudiced in his or her employment for failure to make a political contribution, or be rewarded for making a political contribution.
- o A political committee may not solicit or receive a contribution on behalf of a candidate who is a state, county or municipal employee, if the contributor has an interest in any particular matter in which the state, county or municipal employee participates, is an employee of the candidate or is otherwise the subject of his official responsibility.
- o No public resource may be expended or utilized in order to promote or oppose the nomination or election of any candidate to public office or to promote or oppose any ballot question placed before the voters. Examples of public resources include: paid staff time of public employees; office equipment; vehicles; buildings; supplies, etc.

In some cases, agency policy or the conflict-of-interest law, M.G.L. Chapter 268A, establishes stricter standards for public employee participation in political activities. Public employees should consult the State Ethics Commission as well as their supervisor/agency head.

Seeking Guidance from OCPF

OCPF welcomes inquiries regarding campaign finance activities. The office issues written advice, including advisory opinions and guidance letters, to individuals based on written requests describing specific facts and circumstances. OCPF will issue opinions only on prospective activities. If you have any questions concerning advisory opinions, please contact the office. You may also obtain informal, oral advice by calling the office at the numbers listed on Page 1 or the back cover of this brochure.

In addition to issuing specific written advice, OCPF occasionally issues interpretive bulletins and memoranda setting guidelines on a variety of subjects. These documents are available from OCPF and may be helpful in assisting candidates, committees and other organizations.

Filing a Complaint

Individuals with information concerning possible violations of the campaign finance laws may call or write OCPF. If you have reason to believe that a violation has occurred, you may file a complaint. The office reviews

all matters brought to its attention, regardless of the source of the complaint. The identity of complainants is kept confidential.

OCPF cannot comment on any matter that is under review or investigation. Consequently, an individual making a complaint will not receive periodic information on the status of the complaint. The complainant will receive notice, however, of any public disposition of a case.

Frequently Asked Questions

Q: *Am I required to organize a committee for my campaign for legislative office?*

A: The campaign finance law does not require a candidate to form a committee unless he or she is a public employee and plans to raise money from other persons for his or her campaign. Such candidates must form a committee because public employees may not solicit or receive campaign contributions. However, OCPF always recommends that candidates form committees to receive and disburse funds and handle recordkeeping.

Q: *May a candidate be the treasurer or chair of his or her own political committee?*

A: A candidate may not be treasurer of his or her own committee, but may serve as chair.

Q: *May the treasurer and chairman of the committee be the same person?*

A: Yes, unless that person is the candidate or a public employee. A public employee may not be a treasurer of any political committee and may also encounter difficulties serving as the chairman of a political committee because of the fundraising restriction. If you are a public employee contemplating serving as a committee chairman, contact OCPF.

Q: *May a business make a contribution to a candidate?*

A: Professional corporations, partnerships, limited liability companies and limited liability partnerships may not make contributions to candidates or their political committees. However, an individual may use his or her sole proprietorship business to make a contribution to the campaign fund of a candidate. In such cases, the contribution should be reported with the name of the individual owner or partner who is d/b/a (doing business as) the unincorporated business as well as the name of the business (e.g., John Smith d/b/a Smith's Hardware).

Q: *What number should I give the bank for the committee tax identification number?*

A: Political committees should consult the Internal Revenue Service for information on how to obtain a [federal tax identification number](#). In addition, you should contact the Massachusetts Department of Revenue for information on any state tax requirements that may be applicable.

Q: *How much may I contribute to my own campaign?*

A: While individual contributions are limited to \$1,000 in a calendar year (\$200 for registered lobbyists), a candidate may contribute without limit from his or her personal funds to his or her own campaign. However, you may not loan your committee more than \$50,000 per election if you are a candidate for state Senator or \$30,000 per election if you are a candidate for state Representative. If you make a loan to your committee, it must be reported both as a contribution on the receipts schedule, and as a liability.

Q: *What is the date my campaign finance reports are due, and how do I figure out the beginning and ending dates of the reporting period?*

A: The reporting period is the period for which the candidate and his/her committee, if any, must report all campaign finance activity. This includes all activity from the day following the date of the last report filed

through 10 days before the due date. OCPF will advise candidates and committees of upcoming reporting dates.

For example: If the primary election is scheduled for Tuesday, September 17, the pre-primary report is due to OCPF on or before Monday, September 9 (eight days before the primary election). This report covers the period from the day following the ending date of the last report filed through 10 days before its due date.

Therefore, if the candidate or committee filed a previous report in January, complete through December 31, the pre-primary reporting period will begin on January 1 and end 10 days before the report is due, i.e. August 31. For first-time filers, the beginning date of this initial report is the day following the date of the last election held for the office the candidate is seeking. The ending date is the same as described above, that is 10 days before the due date.

Q: *I would like to change some information on the previously filed Form CPF 101 (Statement of Organization of a Candidate Committee). How would I do that?*

A: Any changes to Form CPF 101 must be filed within 10 days of the actual change. For most changes, a letter of amendment clearly stating the change from the previously-filed Form CPF 101 may be filed with OCPF. The only exception to this is in the case of a change of treasurer, for which the candidate and the new treasurer must file Form CPF T 101 (Change of Treasurer) with OCPF. No funds may be raised or spent by the committee until the new treasurer is qualified for the office.

Q: *I am thinking of running for a municipal office in my community. Can I keep the same committee I had for my campaign for the General Court?*

A: Yes. In fact, since the law allows a candidate to have only one political committee organized on his or her behalf, a candidate for a municipal office who currently has a political committee organized with OCPF would have to transfer the existing political committee to the municipal election official. The organization of a second political committee for the candidate would be a violation of state law. Please contact OCPF for more information on transferring an existing political committee from this office to your municipality.

Q: *I am an appointed, paid public employee. May I ask a friend or relative to purchase a ticket to a fundraiser for a candidate?*

A: No. Section 13 prohibits this activity at any time.

Q: *I am an appointed public employee. May I run for elected office?*

A: Yes. While M.G.L. Chapter 55 does not prevent a public employee from running for public office, it does prohibit fundraising by a public employee for any candidate. If you run for office, you must organize a political committee and have that committee handle all fundraising activity. You should also check with your agency, the State Ethics Commission or your city or town for further guidance or restrictions.

Q: *May a committee use a public building as an address to which to send a contribution to a candidate's political committee?*

A: No. Such action is prohibited by Section 14.

Q: *I am an appointed public employee as well as a candidate for the General Court. May I use the printing machine in the office I work in to prepare a flyer or letter about my candidacy?*

A: No. The campaign finance law prohibits any person from using a public resource such as office space or equipment for political purposes. The law also prohibits an appointed public employee from engaging in campaign activities while being paid by his or her public agency during work hours.

Q: *I am a candidate for the state legislature. May I serve as the treasurer of a PAC or of another candidate's committee?*

A: A candidate or elected official on the state, county or municipal level is prohibited by law from serving as the principal officer of, or organizing, financing, maintaining or controlling a PAC. Candidates and elected officials may, however, serve as officers of people's committees and other candidate committees.

Q. *I lost the election or have recently left elected office. What are my future filing obligations with OCPF?*

A. If you do not plan to seek office again, you should close down your committee after paying any unpaid liabilities and remaining funds. Funds must be disposed of through the Residual Funds clause (see page 14). Former candidates are not required to shut down after losing or leaving office, however, and in fact may continue to operate a committee for future political activity, but must continue to file disclosure reports with OCPF once a year in even numbered years (year-end report) and twice in odd numbered years (year-end and mid-year reports). If you become a candidate again, you would report on the filing schedule for that office. Contact OCPF if you decide to seek local office, which would involve filing with the local election official and possibly filing copies with OCPF.

Q. *Without my campaign's knowledge, an organization mailed thousands of postcards to voters a few weeks before an election. The cards said I am in favor of improving public safety in Massachusetts. The mailing did not ask residents to vote for me. Do I have any reporting responsibilities?*

A. No. The organization that paid for the mailing, which is called an *electioneering communication*, is responsible for filing a disclosure report with OCPF. An electioneering communication is any broadcast, cable, mail, satellite or print communication that refers to a clearly identified candidate but is not reportable as an expenditure or contribution, and is publicly distributed within 90 days before an election in which the candidate is seeking election or reelection

Q. *I ran in a special election for legislative office in the spring of a state election year. My brother contributed \$1,000, the annual limit, to my special election campaign. Can he donate to my re-election campaign for the November general election that same year?*

A. Yes. An individual can contribute up to \$1,000 for the special election, and up to \$1,000 during the period that begins on the day after the special election and ends Dec. 31. This statute is only in effect during state election years, and only applies to House and Senate candidates in special elections during a state election year.

All OCPF guides are available online at www.ocpf.us

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