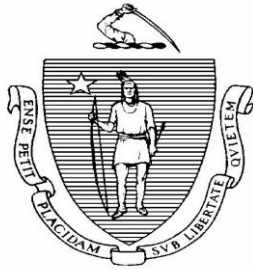


CAMPAIGN FINANCE GUIDE

State Ballot Question Committees



Office of Campaign and Political Finance
Commonwealth of Massachusetts

This guide is designed to introduce the state campaign finance law to treasurers and other officials of political committees organized to favor or oppose a question appearing on a state ballot. The Office of Campaign and Political Finance (OCPF) is responsible for administering and enforcing Massachusetts General Laws Chapter 55, the campaign finance law. The office is available to assist individuals in complying with the statute and encourages committee treasurers and members, campaign workers and any interested persons 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. It is the responsibility of all those participating in political campaign financing in Massachusetts to become familiar with the provisions of the law and regulations. For additional information, please contact:

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This publication and all other campaign finance guides are available online at www.mass.gov/ocpf/homepage_guides.htm.

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 guide. Significant changes to the law were made in 1994, 2009 and 2014. Some of these changes affect ballot question committees and are addressed in this guide.

Chapter 55 of the Massachusetts General Laws is a comprehensive statute governing 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 through the statute as well as through regulations and guidelines established by OCPF.

The Ballot Question Committee

A ballot question committee is defined in Chapter 55 as “a political committee which receives or expends money or other things of value for the purpose of favoring or opposing the adoption or rejection of a specific question or questions submitted to the voters including, without limitation, a charter

change, an initiative or referendum question or a constitutional amendment.” If you are thinking of undertaking any activity to support or oppose a ballot question, you should contact OCPF prior to doing so. Expenditures made early in the initiative petition process may be subject to the provisions of Chapter 55. If a question appears on a **state ballot**, including those put before all voters in a county or a legislative district, a committee favoring or opposing such a question must organize with OCPF prior to raising any money, and file reports electronically.

If a question appears on the ballot of an administrative or regional **district** (e.g., fire, water or school), the filing location for campaign finance documents may vary according to the makeup of the district. In general, campaign finance documents in a water or fire district are filed with the district clerk. Filing requirements in a regional school district vary, depending on whether there is a district clerk and whether the question is put to voters in the entire district or one or more member cities or towns. Contact district officials or OCPF for further guidance.

If the question appears on the ballot in a **single city or town**, campaign finance documents are filed with the local election official (city or town clerk or election commission), who should be consulted for the proper filing schedule.

Ballot question committees that report to district clerks or municipal election officials should consult OCPF’s *Campaign Finance Guide: Municipal Ballot Question Committees* for further information.

Organization and Disclosure Forms

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

FORM CPF 101 BQ: Statement of Organization Ballot Question Committee

A ballot question committee may not accept any contributions nor incur any expenses until it has organized with OCPF by completing, signing and filing Form CPF 101 BQ. This form contains the names and addresses of the committee chairman, treasurer and any other officers, including finance committee members, if any. 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 who has accepted the position in writing and filed his or her acceptance with OCPF. Any change in treasurer should be submitted by completing Form CPF T 101 (Change of Treasurer) and filing it immediately with OCPF.

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.

The name of a ballot question committee must clearly identify the economic or other special interest of a majority of its contributors, and, if a majority of its contributors share a common employer, must clearly identify that employer. If the economic or other special interest or common employer of contributors is not identifiable, then the committee must use a name which clearly identifies the economic or other special interest of a majority of its organizers, and, if a majority of its

organizers share a common employer, identifies that employer. If the committee is organized, financed, controlled or maintained by an individual, the name of the committee must identify that individual. No ballot question committee may use any name other than the name included in its Statement of Organization.

FORM CPF 102 BQ: Campaign Finance Report

Every state ballot question committee is required to complete and e-file Form CPF 102 BQ with OCPF on or before each reporting date as discussed in the next section. **All CPF 102 BQ forms are filed electronically.** Contact OCPF for further details concerning e-filing.

The committee treasurer files this report under the penalties of perjury and is responsible for the legality, validity, completeness and accuracy of each report. The following information should be filed on or with Form CPF 102 BQ:

Receipts: An alphabetical listing of all contributions in excess of \$50 in a reporting period, including the date the contribution was received and the address of the contributor, which, if the contributor is an individual, must be his or her residential address. This information must also be reported for receipts of \$50 or less if the total contributions from the contributor have exceeded \$50 in the calendar year. Otherwise, receipts of \$50 and under are totaled on Line 10 and included in total receipts. However, complete information, including date, name, address and amount, must be kept by the 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 committee must also ask for the occupation and employer of the contributor and disclose that information if it is provided. Contributions from political action committees must be

reported by PAC name and include the PAC identification number as assigned by OCPF.

Expenditures: A 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. Those amounts of \$50 can be itemized or reported as a lump sum. **No person who is authorized to sign committee checks can sign a check to himself or herself.**

In-Kind Contributions: 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 and a description of the contribution. As with monetary contributions, a committee is required to ask for the occupation and employer of any individual who contributes \$200 or more in in-kind goods or services, or a combination of money and in-kind contributions, in a calendar year. 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.

Liabilities: 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 are the amount, the date the liability was incurred, the name and address to whom it is due and the purpose of the liability. Liabilities are carried over from each report to the successive report until they are satisfied.

Records of all receipts and expenditures must be maintained by the committee for all of its activities, regardless of amount, and are subject to review by OCPF. 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

State ballot question committees are required by statute to e-file periodic campaign finance reports (Form CPF 102 BQ). These reports must be filed whether or not money has been raised or expended during the reporting period and whether or not the question has passed or failed. **The treasurer of the committee is personally liable for a \$25 per day late fine imposed for each day any report is late.** The following is the schedule for filing reports:

Initial Report: This report should be filed along with Form CPF 101 BQ (Statement of Organization) to disclose any activity that has occurred since the last state election up to the date Form CPF 101 BQ is filed. ***In most cases, a ballot question committee will have no receipts or expenditures to disclose on its initial report.***

60th Day Prior to the Election Report: Filed on or before the 60th day prior to the election. This report discloses activity undertaken subsequent to the filing of Form CPF 101 BQ and the Initial Report described above, complete as of the preceding fifth day.

5th and 20th Day of the Month Reports: After filing the report due on the 60th day prior to the election, the committee then files reports on the 5th and 20th day of each month, **up to and including November 20th**, complete as of the preceding 1st and 15th day of the month, respectively. A committee may dissolve as of the Nov. 20 report, provided it has no remaining assets or liabilities.

January 20: All existing ballot question committees must file a report on January 20, regardless of whether their

respective questions were on the ballot in the most recent election. The report must run from the day after the closing date of the previous report through December 31 and be filed as long as the committee remains in existence.

Late Contributions: Statewide ballot question committees that receive and deposit contributions of \$500 or more within 18 days of an election must file electronic disclosure reports with OCPF within 72 hours. For more information on late contribution reports, see OCPF interpretive bulletin IB-10-02.

Receipts and Expenditures

The laws regarding ballot question committees are primarily disclosure laws and do not, generally, place limitations on contributions to such committees.

- o *Individuals* may contribute to ballot question committees without limitation.
- o *Corporations*, including business, professional and not-for-profit corporations, may contribute to ballot question committees without limitation. Any corporation that has paid or expended any money or anything of value, or promised to do so, in order to influence or affect the vote on any question submitted to voters must electronically file Form CPF 22 (Report of Ballot Question Expenditures by Corporation or Organization). Please contact OCPF for information on filing dates and instructions for completing Form CPF 22.

Form CPF 22 is not required for monetary or in-kind contributions made directly to ballot question committees by individuals, businesses, groups and other organizations.

- o *Partnerships and other unincorporated businesses* may also contribute to ballot question committees without limitation, and will electronically e-file a Form CPF 22 to disclose all ballot question expenditures that are not monetary or in-kind contributions made directly to a ballot question committee. A ballot question committee receiving contributions from a partnership or unincorporated business must disclose those contributions as having been received from the individual partner or owner D/B/A the name of the partnership or unincorporated business.
- o *Organizations and other groups*, such as associations, unions or trusts, may contribute to ballot question committees without limitation. Any such group that has expended any money or any valuable thing, or promised to do so, in order to influence or affect the vote on any question submitted to the voters must electronically file Form CPF 22 (Report of Ballot Question Expenditures by Corporation or Organization) with OCPF on the same filing schedule set forth for ballot question committees. **Form CPF 22 is not required for monetary or in-kind contributions made directly to ballot question committees by individuals, groups and other organizations.**
- o *An individual* who makes a direct *expenditure* of \$250 or more to influence or affect the vote on any question submitted to the voters will electronically file Form CPF 22 with OCPF on the same filing schedule set forth for ballot question committees. An individual who makes a *contribution* to a ballot question committee is not required to file a Form CPF 22.
- o Committees organized on behalf of candidates for *statewide constitutional office* are prohibited from contributing money or anything of value to a ballot question committee during any calendar year in which the committee receives

public financing. In any other year, the committee may contribute to a ballot question committee. Other candidate committees may contribute without limitation to ballot question committees provided the purpose of the contribution is consistent with the purpose for which the committee is organized, i.e., the enhancement of the political future of the candidate.

- o *Political action committees (PACs), people's committees and state and local party committees* may contribute to a ballot question committee without limitation, provided making the contribution is consistent with the principle for which the contributing committee was organized.
- o Each contributor must furnish the committee with his or her true name and address at the time the contribution is made.
- o A committee must disclose the name and address of each contributor of more than \$50 in a calendar year. If an individual gives \$200 or more in a calendar year, the committee must also ask once at the time of solicitation and, if necessary, in one written follow-up request for the contributor's occupation and employer. A copy of the written request must be kept as part of the committee's records. If a contributor still does not provide the information after the two requests, the committee has complied with the law and may keep the contribution.
- o A state, municipal or other governmental unit may not give, pay, expend or contribute money or anything of value to a ballot question committee, or promise to do so, nor may such a governmental unit make expenditures or use public resources to promote or oppose any question that appears on a state ballot. If, however, a governmental unit has made such a contribution or expenditure, its treasurer must electronically file Form CPF 22A (Report of Governmental Treasurer) with OCPF.

- o Any contribution exceeding \$50 in the aggregate during a calendar year must be made by check. Contributions by cash, money order, cashier's check, bank check, payroll deduction or other negotiable instrument are prohibited in any amounts greater than \$50 in the aggregate per contributor per calendar year. Contributions may be made by credit card; candidates and committees should contact OCPF for its regulations concerning the process.

- o Expenditures by a ballot question committee may be made only for the enhancement of the principle for which the committee was organized (namely, the passage or defeat of a specific ballot question or questions), provided such expenditures are not primarily for anyone's personal use. Expenditures may be made to reimburse an agent of the 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 (Itemization of Reimbursement) must be completed and e-filed with Form CPF 102 BQ.

- o **Ballot question committees are required to disclose sub-vendor information** on the regular reporting schedule. Committees that pay \$5,000 or more in a calendar year to a consultant or other vendor must disclose how that money was spent, if any subsequent amount paid to a sub-vendor is \$500 or more. The vendor must provide sub-vendor information to the ballot question committee within five days of making expenditures to sub-vendors.

The sub-vendor reporting requirement also applies to individuals, groups and entities other than ballot question committees that make expenditures to support or oppose ballot questions. *For example,* a group pays \$50,000 to a political consultant to support a ballot

question, and the political consultant makes a payment to a newspaper for an advertisement. If the ad costs \$500 or more, the group must disclose the sub-vendor expenditure. All such reports are filed on OCPF's website, www.ocpf.us.

Disclaimers on Advertisements

Ballot question advertisements that are transmitted through paid television, internet advertising, print advertising appearing larger than 15 square inches, billboards and direct mail must include a written statement at the bottom of the advertisement regarding top five contributors and referring viewers to OCPF's website. (MGL Chapter 55, Section 18G and 970 CMR 2.20).

The required disclaimer must be of a size and contrasting color that will be legible to the average viewer.

The "Top Contributors" to be listed in the advertisement must include the following:

- The five persons or entities making the largest contributions in excess of \$5,000 given to the entity for any purpose during the 12-month period before the date of the advertisement must be listed.
- If no person or entity has contributed more than \$5,000 to the entity during the 12-months prior to the date of the advertisement, no top contributors must be listed. If fewer than five persons made contributions of more than \$5,000 during the 12-months prior to the date of the advertisement, only those persons contributing more than \$5,000 must be listed.
- If more than five persons or entities contribute the same amount, only the last five to give that amount must be

listed. (For example, if seven persons give \$10,000 each, with two giving in February but the other five giving in July, only the five who gave in July need to be listed).

- The contributors may be listed in any order, and do not have to be listed in ascending or descending order based upon the amount contributed.
- Contributions from multiple affiliated organizations are not aggregated. For example, if a union local gives \$2,000 and another local, affiliated with the same international union, gives \$4,000, the union is not required to be listed, since the local, not the international union, is the contributor.
- The top five contributors must be listed regardless of the purpose for which the funds were given to the ballot question committee or to the entity that makes the expenditure.

Dissolution of a Committee

Ballot question committees must dissolve once a final determination regarding the adoption or rejection of the question has been made by the voters. Committees must show no cash balance, liabilities or assets in order to be able to dissolve. Consult OCPF prior to preparing your request for dissolution.

All residual funds from committee 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 all political campaigns, including those concerning ballot questions:

- o No 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 No public employee may be treasurer of a ballot question committee.

- 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 No public resources 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 time of public employees; office equipment; vehicles; buildings; and supplies.

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 guide.

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. *What is a state ballot question committee? How does it differ from a local ballot question committee?*

A. A state ballot question committee is organized to support or oppose a question appearing on the ballot that is put before all voters in the Commonwealth in November of each even-numbered year. In some cases however, the state ballot may include questions put to voters in a smaller area, such as a county or a legislative district. Committees organized

concerning any such questions report their activity to OCPF. If a question concerns only one community, whether it is on the state ballot or during a local election, (e.g., a Proposition 2½ override question), ballot question committees organize with and report to the local election official (the city or town clerk or election commission).

Q: *How much may a person contribute to a ballot question committee?*

A: An individual may contribute without limitation to a ballot question committee.

Q: *How would I change some information on the previously filed Form CPF 101 BQ (Statement of Organization)?*

A: Any changes to the originally filed Form CPF 101 BQ must be made 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 BQ may be filed with OCPF. The only exception to this is in the case of a change of treasurer, for which the treasurer must file a Form CPF T 101 (Change of Treasurer) with OCPF. No monies may be raised or spent by the committee until the new treasurer has accepted the office and Form CPF T 101 has been filed.

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

A: Yes, unless such person is a public employee. A public employee cannot be a treasurer of any political committee.

Q: *Where does my committee obtain a tax identification number to give to the bank when opening an account?*

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: *May a corporation make a contribution to a ballot question committee?*

A: Yes, and it may do so without limitation. The contribution is disclosed by the ballot question committee.

Q: *Who may be authorized to sign checks on the account?*

A: The treasurer of the committee may authorize an individual to act on the treasurer's behalf. However, that person must abide by all requirements of M.G.L. c.55 and must give the treasurer a detailed account of all actions taken on his or her behalf on demand or, in any event, within three business days. Any person authorized to sign checks for the committee is prohibited from signing checks to himself or herself.

Q: *I am an appointed, paid public employee. May I ask a friend or family member to contribute to a ballot question committee?*

A: No. Section 13 prohibits this activity at all times.

Q: *What are the restrictions on the use of public resources to support or oppose a ballot question?*

A: The Massachusetts Supreme Judicial Court ruled in *Anderson v. City of Boston* (1978) that the campaign finance law prohibits cities, towns and other governmental units from using their resources or facilities to influence the vote on a ballot question. However, certain policy-making officials may, within limitations, act or speak in their official capacities on ballot questions. Contact OCPF for more information.

Q: *May an organization other than a political committee (such as a labor union, association or other group) make a contribution or expend money to influence a question appearing on a state ballot?*

A: Yes. Such contributions and expenditures are allowed without limitation. If a direct expenditure is made, separate from a ballot question committee, the organization would electronically file a Form CPF 22 (Report of Ballot Question Expenditures by Corporation, Organization or Individual) disclosing expenditures it has made to influence the question. Such expenditures must come out of the organization's general revenues: if a corporation or organization raises funds specifically for the purpose of spending the money on a ballot question, it is acting as a ballot question committee and therefore must register as such with OCPF. Contact OCPF for complete information regarding the filing of this report.

Q: *What is the difference between a ballot question committee and a political action committee?*

A: While they are frequently confused with each other, ballot question committees and PACs differ in several ways. A ballot question committee is organized to favor or oppose a specific question submitted to voters at an election. A PAC is organized to influence the nomination or election of candidates, not the adoption of a ballot question. A ballot question committee must dissolve after the final resolution of the question, while a PAC may continue in existence indefinitely. Finally, a ballot question committee may not contribute to a PAC, but a PAC may contribute to a ballot question committee.

Q: *We are organizing a ballot question committee to promote an advisory question that will ask voters of a legislative district to instruct their senator or representative to vote a certain way. Where do we register the committee? Where do corporations and organizations report any expenditures concerning the question?*

A. All activity concerning such a question is reported to OCPF, not local election officials, on a schedule that is

different from that followed by local committees and organizations. Contact OCPF for more information.

Q. *We are organizing a ballot question committee to promote a Proposition 2½ debt exclusion in a three-town regional school district. The question will be on the ballot at each of the three annual town elections. Where do we file our campaign finance reports?*

A. Each of the elections is treated as a separate election, held by each town and often on different dates. Separate reports would therefore need to be filed in each town. Reports are filed with the election official of that town, not OCPF. For more information, see OCPF's *Campaign Finance Guide: Municipal Ballot Question Committees*.

Q. *We are organizing a ballot question committee to promote a question such as a Proposition 2½ override in a single community. Where do we file our campaign finance reports?*

A. If a question is on the ballot in a single city or town, all campaign finance documents are filed with the local election official (city or town clerk or election commission). For more information, see OCPF's *Campaign Finance Guide: Municipal Ballot Question Committees*.

Q: **I spent \$500 of my own money to make brochures and mail them to neighbors, asking them to support a ballot question. Do I have a reporting requirement?**

A: Yes. An individual who spends money or incurs a liability of \$250 or more to directly support or oppose a ballot question is required to electronically file a CPF 22 report with OCPF disclosing the activity.

Q: **A corporation that supports a state ballot question paid \$100,000 to a political consultant. The consultant used the money to run advertisements on four radio stations,**

spending \$20,000 for each. Is the corporation required to file a sub-vendor report to disclose the payments to the radio stations?

A: Yes. Individuals, groups and other entities that make expenditures to support or oppose a ballot question are required to e-file sub-vendor reports. Reports are filed at www.ocpf.us.

Campaign Finance Guides available from OCPF:

“Depository” Candidates and Committees

Candidates for the General Court
Candidates for Municipal Office (Non-Depository)
State Ballot Question Committees
Municipal Ballot Question Committees
Independent Expenditure PACs
Local Political Party Committees
Public Employees, Public Resources and Political Activity
Local Election Officials
Committee Treasurers

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

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