

CAMPAIGN FINANCE GUIDE

Independent Expenditure PACs



Office of Campaign and Political Finance
Commonwealth of Massachusetts

This guide is designed to introduce individuals interested in organizing and operating an Independent Expenditure PAC (IEPAC) to the provisions of the campaign finance law. 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 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. It is the responsibility of all those participating in political campaign financing in Massachusetts to become knowledgeable 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.

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 are discussed later in this brochure.

The campaign finance law is a comprehensive statute concerning the financing of political campaigns in the Commonwealth. OCPF has promulgated regulations (970 CMR) on contributions and expenditures, which should be consulted for more specific guidelines on the requirements described in the statute.

The Independent Expenditure PAC

A group that receives contributions *for the purpose* of making independent expenditures to support or oppose a candidate or candidates is an independent expenditure political action committee (IEPAC). **An independent expenditure** is an expenditure made to expressly advocate for the election or defeat of a candidate, without coordinating with any candidate or candidate's committee. Please see OCPF's interpretative bulletin, [IB-10-03](#), for additional information regarding the organization and disclosure requirements for IEPACs.

Unlike other PACs, IEPACs may receive contributions from individuals without limit, and from corporations and other entities that are otherwise prohibited from contributing to PACs.

An IEPAC may not directly or indirectly coordinate its campaign activity with any Massachusetts candidate or

political committee, other than another IEPAC, and cannot make contributions directly to candidates. Coordination issues are addressed in OCPF interpretive bulletin, [IB-06-01](#).

Establishing an IEPAC

IEPACs organize by filing a [CPF 101 IEPC](#) form with OCPF, or with a local election official if the committee is formed to support or oppose candidates who file campaign finance reports locally.

Complete and accurate reports disclosing all campaign finance activity must be filed in a timely manner by the **treasurer** of an IEPAC.

Treasurers should familiarize themselves with the provisions of the campaign finance law as they are subject personally to monetary penalties for failure to file timely reports. The statute requires OCPF to assess a civil penalty of \$25 per day for any report required to be filed with OCPF that is filed later than the prescribed date.

Treasurers of IEPACs that file with OCPF are required to complete on-line OCPF training within 30 days of filing an organizational form with OCPF. OCPF will inform all treasurers when training is required.

Committee Name: The 101 IEPC form contains the name of the newly organized IEPAC, which must include the full words represented by any abbreviations, initials or acronyms, as well as the words “independent expenditure political action committee.”

In addition, the name of the 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, identifies 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 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.

Committee Purpose: An IEPAC must also include on its 101 IEPC form a statement of purpose for which the committee is organized.

Officers: By law, an IEPAC must name a chairman and a treasurer. Political committees are prohibited from receiving or expending funds without a qualified treasurer. No candidate or individual holding elected public office - on the state, county or municipal level - may establish, finance, maintain, control or serve as a principal officer of an IEPAC. A non-elected public employee may not serve as treasurer of the committee.

Any change in information previously submitted should be reported to OCPF within 10 days of such change. Any change in treasurer must be submitted by completing Form CPF T101 and filing it immediately with OCPF.

When to organize an IEPAC?

Example: An organization is already established to advocate for more sidewalks in Massachusetts and decides that it also wants to **raise money** to send an independent mailing to voters to support a state candidate, who also advocates for more sidewalks. Prior to **raising money** to make the independent expenditure, the organization must organize an IEPAC with OCPF and then disclose its contributions and expenditures on campaign finance reports.

Records of all receipts and expenditures must be maintained by the committee for all activities, regardless of amount. 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.

Independent Expenditure PACs: Reporting

IEPACs file independent expenditure reports with OCPF on-line at www.ocpf.us, if the expenditures are made to promote the election or defeat of any **candidate who files with OCPF**.

On the municipal level, reports are filed with the local election official if the expenditures are made to promote the election or defeat of any candidate seeking public office at a city or town election who does not file with OCPF.

IEPACs file campaign finance reports according to M.G.L. Chapter 55, Section 18A, and 970 CMR 2.17.

IEPAC Reporting Schedule

- **Seven-Day Reports**: An IEPAC must file a campaign finance report **within seven business days** after the goods or services from independent expenditures are utilized.
- **The reporting period** for the **first report** filed by an IEPAC commences on the day the committee was organized and is complete through the date the first expenditure was utilized (for example, the date a TV ad airs).

The first report discloses all monetary or in-kind contributions received by the IEPAC during the reporting period, as well as all independent expenditures.

- **The reporting period** for the **next report** commences on the date following the last date included in the previous report and is complete through the date the next expenditure is utilized.

The report discloses all monetary or in-kind contributions received by the IEPAC during the reporting period, as well as all independent expenditures.

- **24-Hour Reports**: All IEPACs must also file reports within 24 hours after making an independent expenditure if the expenditure exceeds \$250 and is made after the 10th day but more than 24 hours before the date of an election. These reports are included as part of the filing schedule described above.
- IEPACs also file a **year-end report** on or before Jan. 20 each year. The reporting period for the year-end report is an entire calendar year (Jan. 1 to Dec. 31). The year-end report discloses the aggregate amount of all previously reported expenditures, receipts, in-kind contributions and liabilities for the calendar year. Additionally, all other financial activity that was not disclosed on previous reports is itemized on the year-end report.

Examples

1. An IEPAC organizes with OCPF March 1 and receives a \$1 million contribution in April from a national trade organization's general fund. In June, the IEPAC spends \$500,000 for a TV ad supporting a candidate for

governor. The ad was initially broadcast on June 3. Within seven business days of the ad being initially broadcast, a seven-day IE Report must be filed with OCPF disclosing the \$500,000 expenditure to the TV station and the \$1 million contribution from the trade organization. The reporting period will be from March 1 until the date the expenditure was utilized, June 3.

2. The IEPAC above makes an additional expenditure of \$50,000 for a direct mailing on Oct. 28, within 10 days of an election. The 24-hour report is due within 24 hours of the mailing being sent, on Oct. 29. The reporting period would be June 4 until Oct. 28.
3. The election is over and it is January of the following year. The IEPAC above will file a year-end report disclosing to disclose an unitemized, aggregate total of all previously reported receipts, expenditures, in-kind contributions and liabilities. The report will also itemize all activity not previously disclosed, including subvendor information. The year-end report period is from Jan. 1 to Dec. 31, and is due Jan. 20.

Subvendor Reports

An IEPAC that makes a payment to or incurs a liability to a vendor for \$5,000 or more in a calendar year must disclose the full name and address of each **subvendor** receiving payments of more than \$500 in total during a calendar year from the 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 to candidate committees any subsequent expenditures by the vendor of \$500 or more that are made to sub-vendors.

Subvendor reports are disclosed on an IEPAC's year-end report. For more information, see the subvendor statute, M.G.L. Chapter 55, Section 18D, and OCPF's interpretive bulletin, [IB-10-04](#).

Reporting Contributions and Expenditures

Contributions

Unlike other PACs, IEPACs may receive contributions from individuals without limit, and from corporations and other entities that are otherwise prohibited from contributing to PACs.

Some of the requirements for disclosing contributions are outlined below:

- Contributions for more than \$50 are itemized on the **seven-day** and **24-hour** campaign finance reports filed by IEPACs. Contributions of \$50 or less are disclosed as a lump sum.
- Unlike traditional PACs, IEPACs may receive contributions from corporations, LLCs, LLPs and business partnerships.
- Unlike traditional PACs, IEPACs may receive contributions from out-of-state and federal political committees.
- Each individual contributor must furnish the committee with his/her true name and address at the time the contribution is made.

- The IEPAC must ask once at the time of solicitation and in one written follow-up request for the occupation and employer of any individual contributor who has given \$200 or more in a calendar year.
- Contributions from the same person or entity which in the aggregate in a calendar year exceed \$100 must be made by a check drawn on an account for which the contributor is liable, or by debit card or credit card. Contributions by cash are prohibited in any amounts greater than \$50 in the aggregate per contributor per calendar year.
- **In-Kind Contributions**: Any contributor, corporation, etc. that provides anything of value, other than volunteered, uncompensated personal services, to establish, administer or operate an IEPAC without reimbursement has made an in-kind contribution to that political committee. **In-kind contributions are disclosed on regular seven-day and 24-hour IEPAC campaign finance reports.**

Examples of in-kind contributions include, but are not limited to, office equipment, staff time, printing and postage, advertisements, etc.

Expenditures

- An IEPAC must include an **itemization** of **independent expenditures** made during a reporting period on seven-day reports and 24-hour reports. The itemization includes the date of the expenditure, the amount paid, the vendor and a description of the expenditure, such as “TV Ad” or “Mailing.”
- **Complete Disclosure**: An IEPAC making an independent expenditure must disclose, in the campaign

finance report disclosing the expenditure, the name of the candidate promoted or opposed by the expenditure, and whether the expenditure supported or opposed the candidate.

- If an IEPAC makes an independent expenditure for a mailing that supports or opposes more than one candidate, the IEPAC must disclose the proportionate amounts attributable to each candidate referenced ([see M-14-03](#)).
- If an IEPAC makes a contribution to another IEPAC, and the second IEPAC then makes an independent expenditure using funds provided by the first IEPAC, both IEPACs must file reports.
- The seven business day and 24-hour reports do not include non-IE expenditures, since these are included in the year-end report filed by the IEPAC. The year-end report also itemizes receipts, in-kind contributions and liabilities not previously reported. The year-end report reflects the aggregate amount of independent expenditures previously itemized in seven business day and 24-hour reports. In addition, it itemizes all financial activity not previously disclosed on independent expenditure reports, such as administrative expenses and contributions received since the filing of the last independent expenditure report and payments for office supplies or consultants.

Top Contributors & Disclaimers

Independent expenditures which 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).

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 received by the entity 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.

Disclaimer

The campaign finance law also requires a disclaimer statement on paid TV, radio and Internet ad independent expenditures. If the radio or television advertisement is paid for by an IEPAC, the statement is made by the chairman or other principal officer of the committee.

The statement:

'I am _____ (name) the _____ (office held) of _____ (name of IEPAC) and _____ (name of IEPAC) approves and paid for this message.'

Statements in television advertisements must be conveyed by an unobscured, full-screen view of the person making the statement.

If the independent expenditure is made through internet advertising, the statement must appear in a clearly readable manner with a reasonable degree of color contrast between the background and the printed statement.

The top five contributors must be listed regardless of the purpose for which the funds were given to the IEPAC.

Dissolution of a Committee

If an IEPAC wishes to dissolve it may do so as long as it has no cash balance or outstanding liabilities. Otherwise, all committees that do not dissolve must continue to file reports on a regular basis.

At dissolution, M.G.L. Chapter 55, Section 18, requires that all residual funds from committee accounts 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 political committees are required by law to preserve detailed accounts, vouchers and receipts for six years from the date of the relevant election.

Public Employees & Buildings

OCPF administers Sections 13-17 of M.G.L. Chapter 55, which concern political activity involving public employees, buildings 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.

The following is a summary of the limitations on the political finance activities of public employees and the use of public buildings in campaigns:

- 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.
- 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.

- Soliciting or receiving campaign contributions by anyone in a building occupied for any state, county or municipal purpose is prohibited.
- No person in the public service or in private employment may be compelled to make a political contribution or to render any political service.
- 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.
- 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.

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 or 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 617-979-8300.

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: If I want to make a contribution to a Massachusetts candidate, may I do so from my existing IEPAC?

A: No. IEPACs are prohibited from making contributions to candidates.

Q: Must I open an account at a Massachusetts bank for my IEPAC?

A: No. A Massachusetts bank account is not a requirement, but you must open a separate, segregated bank account.

Q: Must the chairman and treasurer of the IEPAC be Massachusetts residents?

A: No. Massachusetts residency is not a requirement.

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

A: The treasurer of the committee may authorize an individual to act on his/her behalf, but that person must abide by all the requirements of Chapter 55 and must give the treasurer a detailed account of all actions taken on his/her behalf, on demand or in any event, within three business days. No person who is authorized to make expenditures for the committee can sign a committee check payable to himself or herself.

Q: May a business or professional corporation provide goods or services to help administer an IEPAC?

A: Yes.

Q: I am a candidate for school committee in my hometown. May I serve as the chairman or treasurer of an IEPAC?

A: No. Candidates and elected officials on the state, county and municipal levels are prohibited from serving as the principal officers of an IEPAC or from financing, maintaining or controlling an IEPAC.

Q: Our national organization already has a federal PAC. We want to raise money to support a Massachusetts candidate. Can we do that?

A: Yes, but the law requires that an out-of-state organization establish a new committee and bank account for its Massachusetts fundraising. The organization would maintain separate records and raise its funds according to Massachusetts law.

Q: If a non-profit organization makes a monetary contribution to an IEPAC, would the non-profit be required to file a report with OCPF to disclose its contributors?

A: Generally, a non-profit organization does not need to file any report with OCPF to disclose its contributors if it makes a contribution to an IEPAC. However, if a non-profit raises money for the purpose of supporting or opposing Massachusetts candidates, it must organize a political committee and disclose its contributors (*see 970 CMR 1.22*).

Q: Our IEPAC itemized all contributions and all expenditures on our regular seven-day and 24-hour independent expenditure reports. Do we need to itemize those same contributions and expenditures on the year-end report due Jan. 20?

A: No, but the amounts that were previously reported will be disclosed as unitemized totals on the year-end report.

Campaign Finance Guides available from OCPF:

“Depository” Candidates and Committees
General Court (Legislative) Candidates
Municipal Candidates (Non-Depository)
State Ballot Question Committees
Municipal Ballot Question Committees
Independent Expenditure PACs
Ward, Town and City Political Party Committees
Public Employees, Public Resources and Political Activity

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