

CAMPAIGN FINANCE GUIDE

Committee Treasurer



Office of Campaign and Political Finance
Commonwealth of Massachusetts

This brochure is designed to introduce treasurers of 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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To receive our quarterly newsletter, send a request to the e-mail address above.

This publication and all other campaign finance guides are available online at www.ocpf.us.

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.

Significant changes to the law were also made in 1994, 2009 and 2014. Many of these changes affect treasurers and are addressed in this brochure.

The Campaign Finance Law

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.

The Committee Treasurer

Political committees on all levels – state, county and municipal – have treasurers for the purposes of filing campaign finance reports with OCPF or local election officials. Treasurers also maintain committee records.

By law, *a committee* must name a chairman and a treasurer.

- The chairman and the treasurer may be the same person.
- An appointed public employee who receives any compensation may not serve as the treasurer of any political committee.
- A candidate may not be the treasurer of his or her own committee, but may be chairman.
- 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.
- All committee treasurers who file with OCPF must complete on-line training.

Qualifying as Treasurer

To qualify as treasurer, an original and signed CPF 101 form should be filed as soon as the committee is organized.

File the CPF 101 form with OCPF for the following committees:

- Statewide candidates
- Legislative candidates
- County candidates
- Governor's Council
- Mayoral and city council candidates in Boston, Brockton, Cambridge, Fall River, Lawrence, Lowell,

Lynn, New Bedford, Newton, Quincy, Somerville, Springfield and Worcester

- Mayoral candidates in cities with populations of less than 75,000
- State-level Political Action Committees, including Independent Expenditure PACs and People's Committees (CPF 101PC)
- State and regional Ballot Question Committees (CPF 101 BQ)
- Local Party Committees (CPF 101 WTC)

File the CPF M101 with a city or town election official for the following committees:

- Municipal candidates (except those above)
- Municipal PACs, including Independent Expenditure PACs and People's Committees (CPF M101 PC)
- Municipal Ballot Question Committees (CPF M101 BQ)

Any change in information previously submitted should be reported in writing to OCPF (or locally if the committee files locally) within 10 days of such change.

The CPF 101 form contains the names and addresses of the committee chairman and treasurer, as well as other committee officers, if any.

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, or with a local election official for committees that file at the local level.

PACs: Generally speaking, a candidate cannot be a principal officer of a PAC, including treasurer.

Candidate Committees: 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 or her committee from the state to the municipality, or vice versa. OCPF can assist committees with accomplishing these transfers.

Local Party Committees: M.G.L. Chapter 52 regulates the process by which ward, town and city political party committees are organized. Ward and town committee members of each party are elected at the presidential primary. The members of the various ward committees of a political party in a city constitute the city committee.

After completing and signing the local party committee organizational form, it is filed in four locations:

- OCPF
- City or town election official
- Relevant state party
- State Elections Division

Ward and town committee treasurers hold office for a term of four years, ending on the 30th day following the date of the next presidential primary.

M.G.L. Chapter 52 contains additional information concerning the election, membership and duties of local party committees. Those needing further information should contact the relevant state party committee or the Elections Division of the Secretary of the Commonwealth at 617-727-2828.

Individuals Prohibited from being Treasurers

Certain individuals are prohibited from being treasurers of political committees:

- Compensated public employee, full or part-time, at the state, county or municipal levels.
- Secretary of the Commonwealth.
- City or town clerks who administer elections.
- Member of a board of registrars of voters or election commissioner.
- Lobbyists are not expressly prohibited by the campaign finance law from being treasurers, but are effectively prohibited from being treasurers of candidate committees by the bundling provisions of M.G.L. Chapter 55, Section 10A.

Naming a Non-Candidate Committee

Political Action Committees and Ballot Question Committees name their committees when filing the organizational form with OCPF or a local election official.

The name must:

- Clearly identify the economic or other special interest, if identifiable, of a majority of its contributors
- Identify the employer if a majority of the committee's contributors share a common employer
- Identify an individual if the committee is organized, financed, controlled or maintained by an individual

Recordkeeping

Important: Committee treasurers are required to maintain all records for a political committee, including:

- Name, address and amount for each donor, regardless of amount contributed
- Invoices or receipts for all expenditures
- Documentation to support reimbursements

Records must be kept for six years from the date of the relevant election.

OCPF TIP

Make copies of all contribution checks received by the committee. This practice is especially important for statewide candidate committees for three reasons – the OCPF auditing process, to keep complete records and potential participation in the public financing system for statewide candidates.

Reporting Requirements

All political committees file campaign finance reports to disclose financial activity – how and where to file depends on the type of candidate or committee.

Committees that file with OCPF use the web-based reporting system, called ***Reporter***. It is available on the agency website, www.ocpf.us.

Committees that file with local election officials can also use ***Reporter*** to prepare, print, sign and file campaign finance reports. To use the ***Reporter*** system, local candidates and committees may contact OCPF to register for an ID number and password.

The following information is a basic summary on reporting requirements. Further information is available within the campaign finance guides for specific committee classes. All guides are available at OCPF's website.

Depository Candidates and Committees

Depository candidates and committees include statewide candidates, county candidates, state party committees, political action committees, People's Committees, Governor's Council candidates and mayoral and city council candidates in Boston,

Brockton, Cambridge, Fall River, Lawrence, Lowell, Lynn, New Bedford, Newton, Quincy, Somerville, Springfield and Worcester.

- All depository committees file with OCPF
- The treasurer e-files deposit reports disclosing contributions. The reports are due by the 5th and 20th of each month. However, **OCPF strongly recommends filing deposit reports within three days of making a deposit.**

***NOTE:** Contributions should be deposited within seven days of receipt.*

- The bank for each depository committee files reports twice monthly, disclosing expenditures on the same schedule as deposit reports. The bank report discloses the beginning and ending balances in the account during the reporting period, the total deposits made to the account, and all committee expenditures made through the account for the reporting period.
- A debit card attached to a committee's depository account may be used to make an expenditure if the committee amends the relevant bank report to show the purpose of the expenditure.
- The committee files a year-end report each Jan. 20 summarizing the previous year's activity. This is the only report where in-kind contributions, liabilities and savings account information is reported.

Legislative Candidates

Legislative candidates e-file five reports in a two year cycle.

- In an **election year**, a pre-primary report is filed eight days before a primary, a pre-election report is filed eight

days before a general election, and a year-end report is filed by Jan. 20 of the next year.

- In a **non-election year**, a mid-year report is filed by July 20 and a year-end report is filed by Jan. 20 of the next year (reporting periods: Jan. 1 to June 30 and July 1 to Dec. 31).

OCPF sends filing notices to candidates and treasurers shortly before a report is due.

Mayoral Candidates in Cities with Populations less than 75,000

- All campaign finance disclosure reports are filed electronically with OCPF.
- Reports are due eight days before a preliminary election, eight days before a general election, and at year-end. The year-end report is due each Jan. 20, or the next business day after Jan. 20 if it falls on a weekend or holiday.
- Pre-preliminary reports are not required if there is no mayoral preliminary election.

Ward, Town and City Party Committees

Reports are required for all committees that exceed \$100 in activity (receipts, expenditures or liabilities) during a reporting period. Reports are filed on the same schedule as legislative candidates, except mid-year reports are not required in odd-numbered years.

Other Municipal Committees

Reports for municipal committees that don't file with OCPF are filed on paper with local election officials.

- The pre-preliminary report is due eight days before a preliminary election. Pre-preliminary reports are not required if the candidate does not appear on a preliminary election ballot.
- The pre-election report is due eight days before a general election.
- In towns with spring elections, reports are due 30 days after the general election.
- A year-end report is due each year from all incumbents. Reports are also due for all non-incumbents with a campaign account balance or liabilities.

***NOTE:** Local election officials, such as city or town clerks, post all campaign finance reports with \$1,000 or more in activity to their respective municipal websites.*

Contributions

Treasurers should familiarize themselves with the following rules concerning receipts:

- o All campaign funds received must be placed in a separate fund apart from any and all other funds.
- o Each contributor must furnish the candidate or committee with his/her true name and residential address at the time the contribution is made. **Committees must keep records (name and address) for all contributions, even receipts of \$50 or less.**
- o Contributions from the same person which in the aggregate in a calendar year exceed \$50 must be made by a personal check or a check drawn on an account for which the contributor is personally liable.
- o The candidate or committee must ask once at the time of solicitation and, if necessary, in one written follow-up re-

quest 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 committee's records.** If a contributor still does not provide the information after two requests, the candidate or committee may keep the contribution.

- o An individual may contribute up to \$1,000 per calendar year to a candidate.
- o Cash is prohibited in any amount greater than \$50 in the aggregate per contributor per calendar year.
- o Money orders, traveler's checks, cashier's checks and bank checks are limited to \$100 per contributor per calendar year.
- o Contributions may be made by credit or debit card.
- o Committees are not permitted to hold raffles.
- o Individuals may use their *unincorporated sole proprietorship* businesses to make individual campaign contributions. A contribution must be attributable to the individual proprietor of that business and is applied to his or her annual contribution limit.
- o A committee, other than a ballot question committee or independent expenditure PAC, 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.

OCPF TIP: 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 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 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 (\$500 annually per individual). If a loan is made, it should be designated as such on the campaign finance report.
- o 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. Loan limits for other offices are available by contacting OCPF.

NOTE: *Candidates can contribute unlimited amounts of money to their own campaigns. The limits above refer only to loans to their committees.*

- o Contributions of anything of value other than cash or checks are “in-kind” contributions and are subject to the same contribution limits previously mentioned. Monetary

and in-kind contributions are counted in combination toward an individual's contribution limit. Examples of in-kind contributions include, but are not limited to, rental space, furniture, office equipment, printing, postage and advertisements.

- o A traditional *political action committee (PAC)* or a *people's committee* may contribute up to an aggregate of \$500 per year to a candidate's committee. Some candidates are subject to an aggregate limit on what they may accept from all PACs in a calendar year. It is the responsibility of the candidate to know when he or she has exceeded his or her aggregate annual PAC limit (see below). There are no aggregate limits, however, on how much candidates may accept from people's committees.

PAC Limits: Limits on PAC contributions should be carefully tracked. Annual PAC limits by office:

Governor: \$150,000 (including contributions jointly to gubernatorial and lieutenant governor candidates)

Lieutenant Governor: \$31,250

Attorney General: \$62,500

State Secretary, Treasurer, and Auditor: \$37,500

Senator, Governor's Councilor, County Candidates: \$18,750

State Representative: \$7,500

- 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 *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.

Expenditures

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

- o Expenditures by a **candidate's committee** 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.
- o Expenditures in amounts exceeding \$50 must be made by check or credit card, including debit cards.
- o An expenditure's purpose should be clearly stated.

OCPF TIP: The campaign finance law does not require "paid for by" attribution on campaign literature, including lawn signs.

- o 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 R1 (reimbursement form) must also be completed. The reimbursement form is filed electronically for committees that file with OCPF. (**Important:** Depository committees are not permitted to make reimbursements for a single expenditure of more than \$100).
- 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 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. The subvendor requirement applies to all candidates and committees (state, county and municipal). In addition, the subvendor requirement applies to ballot question expenditures made by individuals, groups or businesses.
- o A political committee can apply for and receive a **credit card** for the purpose of making campaign expenditures. A candidate may also personally apply for a credit card to be dedicated solely for the committee's use. Committee credit card activity is disclosed on campaign finance reports.
- o **Political party committees** may make expenditures for the enhancement of the principle for which the committee was organized, such as the advancement of a particular party and its candidates.
- o **Ballot question committees** and **political action committees** may make expenditures for the enhancement of the principle for which the committee was organized.
- o Surplus campaign money may be placed in an interest bearing money market or savings account, or a certificate of deposit. No other type of investment is allowed by law.

Late Contribution Reports

Late Contribution Reports – filed separately from the regular campaign finance reports – are required for all candidate committees that file with OCPF.

A Late Contribution Report (LCR) is required if a candidate's committee ***receives and deposits*** a single contribution of \$500 or more after the 18th day, but more than 72 hours before, an election.

Candidate committees in the depository system are not required to file an LCR if a contribution of \$500 or more is disclosed on a deposit report within three days of deposit.

A LCR is required for in-kind contributions of \$500 or more during the LCR period.

A LCR is required for out-of-pocket expenditures of \$500 or more made personally by legislative candidates and mayoral candidates in cities with populations of less than 75,000 during the LCR period.

A candidate in the depository system cannot make out-of-pocket expenditures for more than \$100. If a personal deposit into a committee account from a depository candidate is \$500 or more during the late contribution reporting period, a deposit report must be filed within three days of deposit.

More information on LCRs is available by reading OCPF's Interpretive Bulletin, IB-10-02. The bulletin is available on the agency's website.

Frequent Audit Issues

All campaign finance reports filed with OCPF are reviewed by an agency auditor. If an issue is found, the committee treas-

urer will be asked to clarify and/or amend the report. These are some of the common issues that arise:

Negative Balances: Campaigns should not report a negative balance, unless the account is overdrawn. If a report is filed with OCPF and it has a negative ending balance, a committee will be asked to correct the errors and file an amended report. A common reason for having a negative balance is that a candidate's loan or contribution to the committee is not reported as a receipt.

Self-Employed: If an individual contributor is self-employed, his or her "employer" information should be the name of the company they own.

Joint Account: Contributions from a joint checking account with both names preprinted on the check may be divided by the candidate or committee and the amount attributed to the individuals printed on the face of the check. Contributions from a joint account that are split are itemized on campaign finance reports as two separate contributions.

Filing Deposit Reports: For depository candidates and committees, the best practice is to file a deposit report within three days of making a deposit.

Expenditure Purpose: The purpose information for an expenditure should be clearly disclosed. For example, if a committee buys 100 campaign t-shirts, the report should say, "100 campaign t-shirts" instead of only "t-shirts."

Subvendor Reports: Vendors that receive \$5,000 or more from a political committee are required to provide the committee with a detailed account of all subsequent expenditures of \$500 or more that the vendors, on behalf of the political committee, make to subvendors who provide goods or services. A committee must file subvendor reports based on information provided to the committee by vendors.

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.

Committees with a cash balance may also dissolve. 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.

Public Employees, Buildings and Resources

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; protect individuals doing business with the public sector from being coerced into providing political contributions or services; and separate governmental activity from political campaign activity.

OCPF has published *Campaign Finance Guide: 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 state, county, city or town employee employed for compensation, other than an elected official, may directly or indirectly solicit or receive any contribution or anything of value for *any* political purpose.
- 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 A public employee may not be treasurer of any committee.
- o No person may solicit or receive campaign contributions in a building occupied for any state, county or municipal purpose.
- o No person in the public service may be compelled to make a political contribution or to render any political service, and 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 public employee if the contributor has an interest in any particular matter in which the employee participates or which is 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 and supplies.

In some cases, agency policy or the conflict-of-interest law, M.G.L. Chapter 268A, may establish additional standards for political activity by public employees. Public em-

ployees should consult the State Ethics Commission as well as their supervisors or agency heads.

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.

Campaign Finance Guides available from OCPF:

Statewide, County and Other “Depository” Candidates
General Court (Legislative) Candidates
Municipal Candidates
State Ballot Question Committees
Municipal Ballot Question Committees
Political Action Committees and People’s Committees
Ward, Town and City Political Party Committees
Public Employees, Public Resources and Political Activity
Committee Treasurers

All OCPF guides are available online.

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01/2015