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**INTERPRETIVE BULLETIN**

**Independent Expenditure Political Action Committees**

The Office of Campaign and Political Finance (OCPF) periodically issues interpretive bulletins regarding various aspects of M.G.L. c. 55, the Massachusetts campaign finance law. This bulletin is issued to provide guidance and direction to groups that raise funds solely to make independent expenditures.<sup>1</sup>

The campaign finance law defines disclosure requirements for independent expenditure PACs (referred to as "IE PACs").<sup>2</sup> See M.G.L. c. 55, § 18A(d) and 970 CMR 2.17. This bulletin is issued to explain the organizational and disclosure requirements that apply to IE PACs under the statute and regulations and to provide guidance in response to frequently asked questions.

**1. Organization of IE PACs**

Independent expenditure PACs, like all other political committees, must organize (by filing a Statement of Organization. IE PACs file Form CPF 101 IE PAC: "Statement of Organization, Independent Expenditure Political Action Committee") with OCPF if the IE PAC is formed to support or oppose candidates who file with OCPF.<sup>3</sup> The form is available online at OCPF's website, [www.ocpf.us](http://www.ocpf.us).

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<sup>1</sup>Section 1 of the campaign finance law defines an independent expenditure as "an expenditure made, or liability incurred, by an individual, group, association, corporation, labor union, political committee or other entity as payment for goods or services to expressly advocate the election or defeat of a clearly identified candidate; provided, however, that the expenditure is made or incurred without cooperation or consultation with any candidate or a nonelected political committee organized on behalf of a candidate and which is not made or incurred in concert with, or at the request or suggestion of the candidate, a nonelected political committee organized on behalf of a candidate or agent of the candidate." See M.G.L. c. 55, § 1. IE PACs are created for the sole purpose of making independent expenditures. This means, e.g., that unlike traditional PACs, IE PACs may not make lobbying expenditures, even if the expenditures might be seen as generally consistent with the purposes of the IE PAC.

<sup>2</sup> IE PACs are similar to what are commonly referred to at the federal level as "Super PACs."

<sup>3</sup> IE PACs formed to support or oppose candidates who file with a local election official should contact OCPF for guidance.



IE PACs must ensure that they do not make coordinated expenditures, i.e., expenditures made “in concert with, or at the request or suggestion of, any candidate, or any nonelected political committee organized on behalf of a candidate or agent of such candidate.” See M.G.L. c. 55, §§ 1 and 18A. If an IE PAC makes an expenditure in concert with a candidate, or at the request or suggestion of a candidate, the expenditure would then be considered a contribution to the candidate. As a contribution, it is subject to contribution limits, and would also convert the IE PAC into a traditional PAC.<sup>4</sup>

## 2. Disclosure required by IE PACs

Once the Statement of Organization is filed, a CPF ID number and password are assigned by OCPF. The CPF ID number and password are needed to e-file reports. IE PACs registered with OCPF must file IE reports electronically. If you need assistance in filing an IE report, please call OCPF.

### (a) Reporting Schedule

IE PACs must disclose all funds received and all expenditures made according to the disclosure schedule specified in the statute. The schedule that applies for IE PACs differs from the schedule used by traditional PACs. Unlike traditional PACs, which are “depository committees” and report twice monthly through their banks, IE PACs must file campaign finance reports **within seven business days** after independent expenditures exceed \$250 or more in the aggregate during a calendar year. If, however, independent expenditures exceeding \$250 are made “after the tenth day, but more than 24 hours before the date of any election”<sup>5</sup>, then a report is due **within 24 hours**.<sup>6</sup> Additional 24-hour reports are required when additional expenditures exceeding \$250 are made within the ten-day period before the date of an election (with the exception of an expenditure made during the day before the election).

The reporting period for the **first** report begins on the day the committee was organized and ends on the date of the first independent expenditure (the date the goods or services are utilized), which when added to any previous independent expenditures made to promote or defeat a candidate, exceeds \$250. The reporting period for the **next** report starts on the date following

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<sup>4</sup>OCPF has issued regulations defining when expenditures are considered to have been made in concert with, or at the request or suggestion of, a candidate, i.e., “coordinated” with a candidate. See 970 CMR 2.21. If an IE PAC coordinates with a candidate and therefore becomes a traditional PAC, it would then be subject to the same contribution limits and disclosure requirements that apply to such PACs. As a traditional PAC, it could not receive contributions from corporations or other entities prohibited from contributing under Section 8, and contributions from any individual would be limited to \$500 during a calendar year.

<sup>5</sup> For purposes of calculating when a 24-hour report is required, “after the tenth day, but more than 24 hours before the date of any election” (the language in Section 18A(b)), means anytime on the 9<sup>th</sup> day before the election through anytime on the 2<sup>nd</sup> day before the election. For example, if an election takes place on November 5, the 24-hour reporting period starts on October 27 and ends on November 3.

<sup>6</sup> For purposes of electronically filing a Form 18A, and whether the report must be filed within 24 hours or 7 business days of the expenditure, the “expenditure” is considered to take place when the goods or services for which the independent expenditure was made are utilized. For example, an “expenditure” for a TV advertisement takes place on the date the advertisement is initially broadcast. The IE PAC report would be due no later than seven business days after the date of the initial broadcast (or within 24 hours of the broadcast if the broadcast takes place after the tenth day, but more than 24 hours before the election). The expenditure for a mailing is considered to take place on the date items are deposited at the post office.

the end of the prior reporting period and discloses activity through the date of the next independent expenditure. (See examples, below).

In addition to seven business day and 24-hour reports, IE PACs also file a year-end report on or before the twentieth day of January for each year the committee remains in existence.

### **(b) Content of reports: disclosure of expenditures and contributions**

#### **(1) Seven business day and 24-hour reports**

Seven business day and 24-hour IE PAC reports must include an itemization of independent expenditures made during the reporting period.<sup>7</sup> They should include the date of the expenditure, the amount paid, the date the goods or services are utilized, the vendor, and a description of the expenditure, e.g., "TV ad" or "mailing." The reports must also identify the name of the candidate(s) referenced in the communication, and whether the expenditure is made to support or oppose the candidate(s).

If an IE PAC makes an independent expenditure for a mailing or ad that supports or opposes more than one candidate, the IE PAC must disclose the proportionate amounts attributable to each candidate referenced in the mailing or ad. The amount of the expenditure attributable to each candidate would be equal if a mailing is distributed equally to the voting districts of each named candidate. In contrast, if the mailing is not distributed equally, the IE PAC's report should apportion the expenditure.

Seven business day and 24-hour IE PAC reports also disclose all monetary or in-kind contributions received, or liabilities incurred, by the IE PAC during the reporting period. These reports itemize the names and addresses of persons making contributions of more than \$50 to the IE PAC, and the occupation and employer of each contributor who makes contributions of \$200 or more to the committee during the calendar year. Contributions of \$50 or less may be reported as a lump sum in the seven business day and 24-hour reports.

IE PACs may file seven business day or 24-hour reports prior to the due date. Similarly, an IE PAC may disclose receipts in a report filed earlier than required, i.e., not in the report that discloses the expenditures that were made using funds that were previously received. Regardless of whether independent expenditures are disclosed early or on the relevant due date, these expenses must also be aggregated and summarized in the year-end report, notwithstanding the itemized disclosure of such expenditures in seven business day or 24-hour reports.

#### **(2) Year-end reports**

The reporting period for the year-end report is cumulative for the calendar year, commencing on January 1 and ending on December 31 of each year.

The year-end report itemizes receipts, in-kind contributions, and liabilities not previously reported (and subvendor expenditures made from January 1 to December 31). It reflects the

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<sup>7</sup> 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 IE PAC.

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. 970 CMR 2.17(5).

### (c) IE PAC to IE PAC contributions

If an IE PAC makes a monetary contribution to another IE PAC (consistent with the principle for which the contributing IE PAC was organized), and the recipient IE PAC then makes an independent expenditure using funds provided by the first IE PAC, both IE PACs must file reports.<sup>8</sup> The IE PAC making the contribution to a second IE PAC must file its seven business day and 24-hour reports based on the date of its contribution to the recipient IE PAC. In addition, the recipient IE PAC must file reports based on the date of when it makes its independent expenditure (the date the goods or services are utilized). 970 CMR 2.17(5)(f). See Example (6).

### Examples<sup>9</sup>

(1) An IE PAC organizes with OCPF on March 1, 2022 and receives a \$1 million contribution the same day. On June 1, the IE PAC broadcasts \$500,000 in TV ads supporting a candidate for governor. Within seven business days of the June 1 IE, a report must be filed disclosing both the \$500,000 expenditure and the \$1 million contribution from the organization. The reporting period will cover March 1 to June 1.

(2) The same IE PAC makes an additional expenditure of \$50,000 for a direct mailing on August 10. The report is due on August 19, i.e., within seven business days of the mailing. The reporting period will cover June 2 to August 10. The report will disclose the \$50,000 expenditure. No contributions will be listed since none were received during that period by the IE PAC.

(3) The IE PAC then makes an additional expenditure of \$50,000 for a direct mailing on October 31, within 10 days of the November 8, 2022 election. The report is due November 1, within 24 hours of the expenditure. The reporting period will cover August 11 to October 31. The report discloses the expenditure, and also a \$100,000 contribution received on October 30 (the only contribution received during the period August 11 to October 31).

(4) The election is over and it is January 2023. The IE PAC will file a year-end report, which, will summarize previously reported contributions, previously reported expenditures and previously reported liabilities that were disclosed in seven business day and 24-hour reports. The year-end report will also itemize all receipts, expenditures, in-kind contributions, and liabilities *not previously reported*, and all subvendor expenditures from January 1 to December 31. The report is due January 20, 2023.

<sup>8</sup> If an IE PAC makes an *in-kind* contribution to another IE PAC, the recipient IE PAC must disclose the receipt of the contribution in the first IE PAC report that it files which covers the period during which the goods or services it receives are utilized.

<sup>9</sup> Calendar-based illustrations of the first four examples, which visually illustrate the reporting schedule and required contents for each type of IE PAC report, are attached to this bulletin.

(5) If an IE PAC spends \$30,000 to print and distribute a mailing that names three candidates for state representative from three different districts and the mailing is sent to voters in the three candidates' districts (with each district receiving the same number of mailings), the apportionment reported in the IE PAC's report would be \$10,000 for each of the three candidates. In contrast, if 50% of the mailing is sent to the district of candidate A, but 25% of the mailing is sent to each of the districts of candidates B and C, then \$15,000 of the expenditure is attributable to candidate A, but only \$7,500 each is attributable to candidate B and candidate C.

(6) An IE PAC (IE PAC A) makes a contribution to another IE PAC (IE PAC B), so that IE PAC B can pay for an independent expenditure advertisement. Both IE PACs must file reports. IE PAC A must file IE reports based on the date it makes the contribution to IE PAC B.<sup>10</sup> For example, if IE PAC A makes a contribution to IE PAC B on October 15 (i.e., not within the 10 day period before the election), IE PAC A must file an IE report within seven business days of October 15 to disclose the funds it received during the reporting period and the contribution it made to IE PAC B. If the recipient IE PAC (IE PAC B) pays for an advertisement that is published on October 28, and the election is within 10 days, e.g., on November 4, then IE PAC B must file a 24-hour report by October 29. In its 24-hour report, IE PAC B will disclose funds received during the reporting period, including the receipt from IE PAC A as well as IE PAC B's independent expenditures.

(7) An IE PAC spends \$9,000 to support two state candidates and one federal candidate. The portion of the total expenditure relating to the federal candidate would not be reported to OCPF but instead would be regulated by the Federal Election Commission (FEC). The portion of the expenditure relating to the support of state, county or municipal candidates who file with OCPF, however, would be disclosed in an independent expenditure report filed with OCPF. If the IE PAC is mailing 6,000 pieces at a cost of \$9,000, and the mailing treats each candidate equally (i.e., each gets 1/3 of the mailing), and is distributed equally to people who might vote for the candidates (i.e., 2,000 pieces are sent to each candidate's district), then 1/3 of the total value (or \$3,000) would be attributed to each candidate. The \$3,000 expenditure for each state candidate - for a total of \$6,000 (not \$9,000) - would be itemized in the IE PAC's report filed 7 business days or 24 hours after the expenditure, and the \$3,000 spent for the support of the federal candidate would be reported to the FEC, if that is required by federal law.<sup>11</sup>

(8) If the IE PAC referred to in Example (7) distributes a 2-sided mailing referencing the federal candidate on one side, and on the other side, is split equally between the two state candidates, then 1/2 of the value of the total cost would be attributed to the federal candidate, and the two state candidates would split the remaining 1/2 of the value at 1/4 each (assuming that the mailings are equally distributed in the state candidates' respective districts). So, in this example, for a mailing that costs \$9,000, but is distributed evenly between districts for each of the candidates, \$4,500 (or 1/2) would be attributed to the

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<sup>10</sup> The contribution by IE PAC A is reported as an expenditure by IE PAC A and a receipt by IE PAC B.

<sup>11</sup> In addition, prior to making the expenditure, the IE PAC should contact the FEC to determine whether the anticipated federal election activity would trigger a requirement under federal law for the IE PAC to register as a federal political committee.

federal candidate. The remaining \$4,500 in value would be attributed to the state candidates in an independent expenditure report filed with OCPF, disclosing a total of \$2,250 for each of the two state candidates.

### 3. Other obligations that apply to IE PACs

The following requirements, which generally apply to traditional PACs, also apply to IE PACs:

(a) Committee name: full name must be used.

Section 5 of chapter 55 requires a PAC to include in its Statement of Organization “the full words represented by any abbreviations, initials or acronyms in [the committee's] name. In addition, an IE PAC must include the words “independent expenditure political action committee” in its name. See 970 CMR 2.17(4).

(b) Committee name: disclosure of economic or special interests of contributors.

Section 5B of c. 55 requires an IE PAC to use a name which clearly identifies “the economic or other special interest . . . of a majority of its contributors.” If a majority of contributors share a common employer, the name must identify the employer. If the contributors’ special interest or employer is not identifiable, the name must identify the economic or special interest of the organizers; if a majority of organizers share a common employer, the name must identify the employer. If the committee is organized, financed, controlled or maintained by an individual, the committee's name must include the name of the individual. In addition, it should be noted that a candidate or elected officer may not serve as treasurer for the IE PAC. M.G.L. c. 55, § 5A.

(c) Disclosure of issues in which an IE PAC takes an interest.

Section 5 of c. 55 requires an IE PAC to include, in its Statement of Organization, the “specific issues in which the committee takes an interest, and a list of specific interests, including but not limited to business, charitable, educational, or other interests represented by the committee, or by a significant proportion of its officers, members or donors.”

(d) Use of multiple names prohibited.

In addition, section 5B of c. 55 prohibits IE PACs from using any name other than the name included in the committee's Statement of Organization.

(e) Disclosing the employer and occupation of contributors.

Section 18 of c. 55 and 970 CMR 1.08 specify that IE PACs must exercise their best efforts to obtain and disclose the occupation and name of employer or employers for each person whose contribution or contributions in the aggregate equal or exceed \$200 in any calendar year.


(f) Disclosure of subvendor information.

Reports of subvendor expenditures must also be filed with a committee's year-end reports. For more information regarding subvendor reporting, *see* IB-10-04, M.G.L. c. 55, § 18D and 970 CMR 2.18.

(g) Penalties for late filing of reports.

Section 3 of c. 55 mandates that OCPF assess a civil penalty for any report, statement, or affidavit that is filed late. The amount of the penalty is set at \$25 per day, up to a maximum of \$5,000 for any late filed report, statement, or affidavit. In the case of an IE PAC, the penalty is assessed against the committee treasurer who is personally responsible for payment. *See* 970 CMR 2.14 for more information.

If you have questions regarding this interpretative bulletin or any other campaign finance matter please do not hesitate to contact OCPF at 1-800-462-OCPF or 617-979-8300.

  
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Director

7/24/19

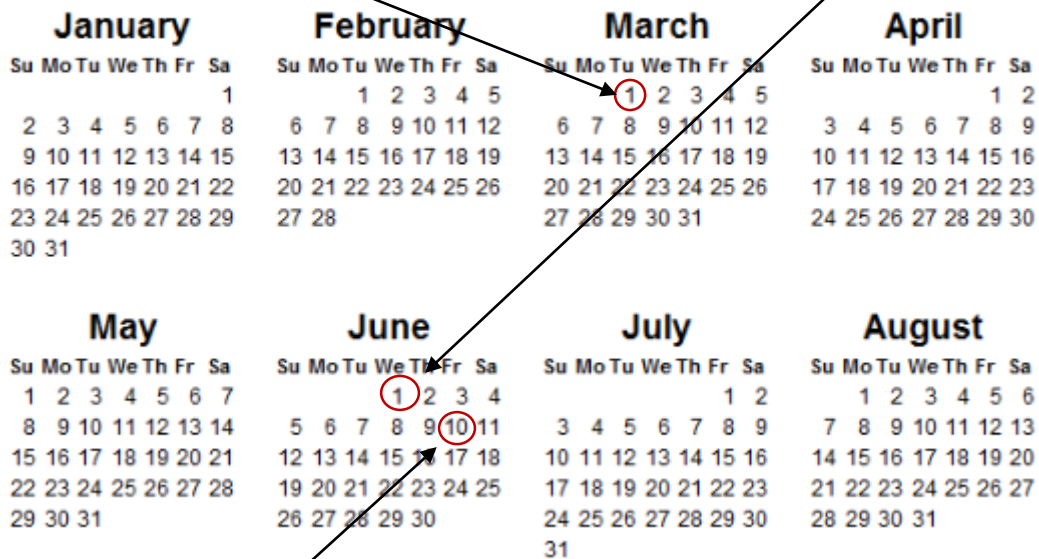
## Independent Expenditure PAC Reporting Schedule Example 1

**First Expenditure:** An IEPAC organizes with OCPF on March 1 and receives a \$1 million contribution the same day. On June 1, the IEPAC broadcasts \$500,000 in TV adds supporting a candidate for governor. Within seven business days of the broadcasts, a report must be filed disclosing the \$500,000 expenditure and the \$1 million contribution. The reporting period will cover March 1 to June 1.

(1)  
 The IEPAC organized March 1 and received a \$1 million contribution the same day. No report is due.

(2)  
 The IEPAC broadcasts \$500,000 in TV ads supporting a candidate for governor on June 1.

2022



(3)  
 A report disclosing the \$1 million contribution received in March, and the \$500,000 expenditure, is due no later than June 10, within seven business days of when the goods or services obtained through an expenditure were utilized.  
 The reporting period is March 1 to June 1.  
 This is the first report filed by the new IEPAC.



## Independent Expenditure PAC Reporting Schedule Example 2

**Subsequent Expenditures:** The same IEPAC in Example 1 makes an additional expenditure of \$50,000 for a direct mailing on Aug. 10. The report is due Aug. 19, within seven business days of the mailing. The reporting period will cover June 2 to Aug. 10. The report will only disclose the \$50,000 expenditure, since no additional contributions were received by the IEPAC.

### 2022

<b>January</b>							<b>February</b>							<b>March</b>							<b>April</b>						
Su	Mo	Tu	We	Th	Fr	Sa	Su	Mo	Tu	We	Th	Fr	Sa	Su	Mo	Tu	We	Th	Fr	Sa	Su	Mo	Tu	We	Th	Fr	Sa
						1		1	2	3	4	5		1	2	3	4	5							1	2	
2	3	4	5	6	7	8	6	7	8	9	10	11	12	6	7	8	9	10	11	12	3	4	5	6	7	8	9
9	10	11	12	13	14	15	13	14	15	16	17	18	19	13	14	15	16	17	18	19	10	11	12	13	14	15	16
16	17	18	19	20	21	22	20	21	22	23	24	25	26	20	21	22	23	24	25	26	17	18	19	20	21	22	23
23	24	25	26	27	28	29	27	28	27	28	29	30	31	24	25	26	27	28	29	30							
30	31																										

<b>May</b>							<b>June</b>							<b>July</b>							<b>August</b>						
Su	Mo	Tu	We	Th	Fr	Sa	Su	Mo	Tu	We	Th	Fr	Sa	Su	Mo	Tu	We	Th	Fr	Sa	Su	Mo	Tu	We	Th	Fr	Sa
1	2	3	4	5	6	7	1	2	3	4					1	2	1	2	3	4	5	6					
8	9	10	11	12	13	14	5	6	7	8	9	10	11	3	4	5	6	7	8	9	7	8	9	10	11	12	13
15	16	17	18	19	20	21	12	13	14	15	16	17	18	10	11	12	13	14	15	16	14	15	16	17	18	19	20
22	23	24	25	26	27	28	19	20	21	22	23	24	25	17	18	19	20	21	22	23	21	22	23	24	25	26	27
29	30	31	26	27	28	29	30	24	25	26	27	28	29	30	28	29	30	31									

(1)

The last independent expenditure was made on June 1, so the reporting period for the next expenditure begins June 2.

(2)

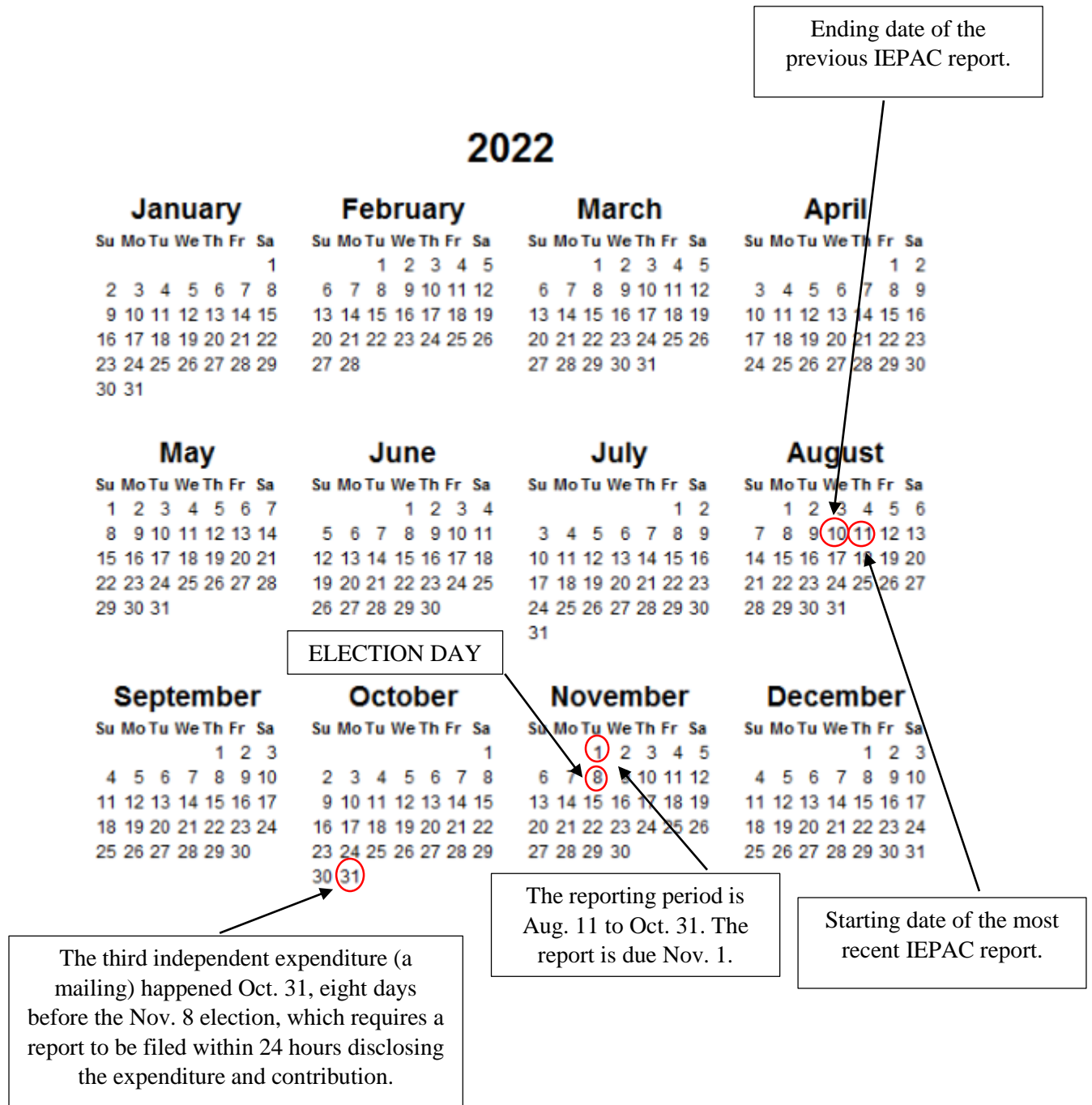
The second independent expenditure (a mailing) happened Aug. 10. The reporting period is June 2 to Aug. 10. The report is due within seven business days after Aug. 10, no later than Aug. 19

Independent Expenditure PAC reports continue on this schedule, one report after another, with no date gaps or overlaps, until they dissolve. In addition to the regular reports, IEPACs also file year-end reports, due each Jan. 20.

Direct mailing

## Independent Expenditure PAC Reporting Schedule Example 3

**24-Hour Reporting:** If an independent expenditure is made after the tenth day before an election or primary, the report is due within 24 hours. For a Nov. 8 election, the 24-hour reporting period starts on Oct. 30 and ends on Nov. 6. In the example described below, the independent expenditure (a mailing) was made on Oct. 31, within 10 days of the Nov. 8 election. Because the expenditure was made within 10 days of the election, the report is due within 24 hours, Nov. 1. The IEPAC also received a \$100,000 contribution on Oct. 30, which will be disclosed on the report. *Note:* If the expenditure is made the day before the election, no 24-hour report is due. Instead, a 7-business day report will be filed after the election.



## Independent Expenditure PAC Reporting Schedule Example 4

**Year-End Reporting:** IEPACs file year-end reports covering the entire calendar year. *The year-end report itemizes all activity not previously disclosed in the regular IEPAC reports, such as expenditures for administrative costs, supplies and consulting fees that were not independent expenditures. The year-end report also itemizes receipts that were not previously reported. (Reminder: regular IEPAC reports only itemize receipts and independent expenditures).*

The year-end report also provides an aggregate total of all independent expenditures and receipts reported on previous 7-day and 24-hour reports.

***Year-End Reporting Period: Jan. 1 to Dec. 31.***

