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OFFICE OF CAMPAIGN & POLITICAL FINANCE

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**MEMORANDUM**

To: Interested Persons  
From: OCPF  
Subject: Guidelines for Remote Hearings and Interviews

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This memorandum establishes guidelines for OCPF's conduct of remote hearings and interviews.

I. Introduction and Purpose

On March 10, 2020, Governor Baker issued Executive Order No. 591, Declaration of a State of Emergency to Respond to COVID-19. With the current State of Emergency, and the physical closure of OCPF's office at One Ashburton Place, OCPF staff are working remotely. Interviews and hearings conducted by OCPF staff are conducted using available telecommunications technologies. This presents challenges to conducting a range of meetings, events, and hearings which are essential to the services provided by OCPF.

This Memorandum provides guidance relating to the use of video teleconferencing to conduct: (1) informal interviews in a variety of circumstances, including interviews with witnesses in enforcement matters; (2) hearings conducted in the context of enforcement matters, including hearings pursuant to summons or held prior to referral to the Office of the Attorney General, and hearings appealing penalty waiver decisions on late filing of campaign finance reports; and (3) public hearings prior to the issuance of regulations.<sup>1</sup> All hearings and interviews will be conducted by Zoom or other platform as determined by OCPF.

II. Guidelines for Informal Interviews Conducted by OCPF

1. Prior to the interview, OCPF staff will contact the participant to confirm that the participant consents to conducting the interview via Zoom or other similar teleconferencing platform and to discuss the general procedures to be expected during the interview. If the participant is unwilling or unable to

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<sup>1</sup> OCPF also provides weekly educational seminars via Zoom at this time, but because the seminars are informal, OCPF has determined that the formal procedures set forth within this Memorandum need not apply in those circumstances.

participate in a virtual interview, OCPF staff will determine whether a telephonic interview will suffice, or if an in-person/video meeting is required. Said determination depends, at least in part, upon the purpose and subject matter of the interview, and whether the participant is the subject of the review or a witness.

2. OCPF will schedule the interview, using Zoom or other similar teleconference platform, and provide the participants and/or their attorneys with a link via email at least three (3) business days in advance of the interview, if possible.
3. OCPF may arrange to have an OCPF staff person participate, for the sole purpose of providing technical support during the hearing, or one of the OCPF interviewers may serve in that role.
4. It is the responsibility of each participant to ensure that they have appropriate technology to participate. If a participant anticipates not having the capacity to participate, the participant must contact OCPF as soon as possible, but at least two (2) business days prior to the interview when practicable.
5. Generally, informal interviews will not be recorded. Participants are not permitted to create a recording without advance notice and the express written permission of OCPF staff.
6. Persons being interviewed should visually appear in the interview unless extenuating circumstances prevent such appearance, and only if such presence is excused by OCPF staff prior to the interview (when possible).
7. During the course of the interview, participants (or their attorneys) may ask to stop the interview or for an opportunity to confer "off the record." In the event the participant asks for an opportunity to confer off the record, OCPF staff will acknowledge the request and the participants should mute their microphones during their conversation. When the participants have returned to the hearing, OCPF staff will notify everyone that the interview will resume at that time. If the participant asks to stop the interview, OCPF staff will halt any substantive discussions.
8. Supporting or requested documentation may be submitted by email prior to, during, or after the interview.
9. If additional follow-up interviews or conversations are necessary, OCPF staff may determine that such interviews or conversations may be conducted by phone, or they may choose to request an additional video interview.

III. Guidelines for Hearings Pursuant to Summons, Hearings Prior to Referral to the Office of the Attorney General, or Hearings Appealing Penalty Waiver Decisions for Late Filing of Campaign Finance Reports

1. Prior to the interview, OCPF staff will contact the participant to confirm that the participant consents to conducting the interview via Zoom or other similar

teleconferencing platform and to discuss the general procedures to be expected during the hearing.

2. Prior to or during the hearing, all parties will be asked to provide, via email, their written or recorded consent to their participation in a remote hearing.
3. OCPF will schedule the hearing, using Zoom or other similar teleconference platform, and provide the participants and/or their attorneys with a link via email at least three (3) business days in advance of the hearing.
4. OCPF will arrange to have an OCPF staff person participate, for the sole purpose of providing technical support during the hearing, including admitting witnesses to the hearing at the appointed time.
5. It is the responsibility of each participant to ensure that they have appropriate technology to participate. If a participant anticipates not having the capacity to participate, the participant must contact OCPF as soon as possible, but no less than seven (7) calendar days in advance of the hearing.
6. Participants in a hearing will provide OCPF with a witness list and order of appearance at least three (3) business days in advance of the hearing.
7. All hearings will be recorded. The recording created by OCPF will be the only official recording and participants are not permitted to create separate recordings.
8. Witnesses and persons testifying must visually appear in the hearing unless extenuating circumstances prevent such appearance, and only if such presence is excused by the director of OCPF after receiving a written request prior to the hearing.
9. During the course of the hearing, participants (or their attorneys) may ask for an opportunity to pause the proceedings or to go “off the record.” At that time, OCPF staff will pause the recording and the participants should mute their microphones during their conversation. When the participants have returned to the hearing, OCPF staff will notify everyone that they are going back on the record, at which time the recording will resume.
10. Exhibits may be submitted by email prior to, or during, the hearing.
11. Participants in a hearing may request a copy of the recording, or copies of exhibits, and such items will be provided by OCPF using DropBox, email, or other electronic means.

#### IV. Guidelines for Regulatory Hearings

1. When a hearing is required in the process of promulgating new regulations, OCPF will provide written notice in a daily newspaper of general distribution, at least twenty-one (21) days in advance of the hearing, as required by M.G.L. c. 30A. OCPF shall also cause to be published on its website a similar notice. Both notices shall include the time and date of the regulatory hearing.

2. If the hearing will be conducted virtually, the notices shall also include OCPF's contact information, and state that interested parties must contact OCPF for the Zoom link or credentials to attend the hearing. At this time, OCPF anticipates conducting regulatory hearings virtually until further notice.
3. OCPF will arrange to have an OCPF staff person participate, for the sole purpose of providing technical support during the hearing.
4. Participants should make every effort to attend the hearing with video. However, in extenuating circumstances and upon approval by OCPF staff, an attendee may attend and provide verbal comment at the hearing telephonically, without appearing on video.
5. Participants who are unable to attend the hearing virtually should contact OCPF for guidance in those circumstances.
6. Interested parties may submit written comment regarding proposed regulations. Comments may be submitted via email before, during, or for a period of at least seven (7) calendar days after the hearing concludes.
7. All hearings will be recorded by OCPF. The recording created by OCPF will be the only official recording.
8. Individuals or entities may request a copy of the recording, or copies of submitted comments, and such items will be provided by OCPF using DropBox, email, or other electronic means.

For further information and guidance with respect to OCPF remote hearings and interviews, please contact OCPF at (617) 979-8300.