

OCPF Reports



From the Director

The election's over, now what does OCPF do???

I get asked this question all the time. I wish there was an easy, one word quip I could respond with. Typically, I let folks know that before the election we were answering a lot of questions from candidates and committees to help people understand and comply with the statute. Considering the amount of changes made to the law in the last year, I think Massachusetts candidates and political committees did a great job in adapting to the new rules.

Then I remind them that it's time to review all the disclosure reports that were filed with the office. From chasing down reports that weren't filed to requesting clarification about items that were disclosed to investigating complaints about activity that occurred, we stay pretty busy. So, in terms of a quick reply, one might say that we go from dispensing advice before the election to conducting audits after the election. For example, all statewide candidates will soon be asked to provide us with copies of their records so we can begin a thorough analysis of their activity.

And there's still more to do with the new law. Later this month, we will begin the process of welcoming mayoral candidates in cities with population between

Continued on Page 2

Candidates receive \$1.4 million in state election campaign funds

Seven statewide candidates received a total of \$1.4 million from the State Election Campaign Fund for the primary and general elections.

The state's system of public financing offers public funds to statewide candidates if they agree to spending limits, which vary according to the office sought. For instance, the statutory spending limit for governor is \$1.5 million for the primary and the same amount for the general election.

The public financing account, which is funded by taxpayers who agree to direct \$1 to the fund from their annual state income tax liability, contained \$1.5 million at the start of the primary election period.

State law calls for participating candidates for governor to be funded first, with any remaining funds to be distributed to candidates for the other statewide offices. Gov. Deval Patrick and Republican challenger Charles Baker did not agree to spending limits and were not eligible to receive public funds. Unenrolled gubernatorial candidate Timothy Cahill, however, agreed to limit spending

and received funds based on a dollar for dollar match on contributions of \$250 or less from individuals. Another unenrolled candidate, Jill Stein, agreed to limit spending but did not qualify for public funds.

State Election Campaign Fund

Disbursements to candidates

Timothy Cahill, Governor:	\$661,532
Suzanne Bump, Auditor:	\$215,809
Mary Connaughton, Auditor:	\$197,191
Stephen Murphy, Treasurer:	\$160,018
Mike Lake, Auditor:	\$84,217
Martha Coakley, Attorney General:	\$72,169
William Campbell, Secretary:	\$28,916

Total Disbursement: \$1,419,852

Mayors to e-file in select cities

2010 year-end reports are due by Jan. 20, 2011

A change to the state campaign finance law now requires mayoral candidates in cities with populations between 40,000 and 100,000 to file electronically with OCPF rather than with local election officials.

Starting with the year-end report due on Jan. 20, 2011, mayoral

candidates are required to file with OCPF if they expect to raise or spend \$5,000 or more during an election cycle. The \$5,000 threshold will include most candidates in competitive races — median expenditures for successful mayoral candidates in 2009 was \$44,424.

The populations of 23 cities fall between 40,000 and 100,000 based on the most recent federal decennial census, the largest of which are Brockton, New Bedford, Fall River, Lynn and Quincy.

Continued on Page 2

Continued: From the Director

Continued from Page 1

40,000 and 100,000. Mayoral candidates in those cities will start electronically filing their disclosure reports directly with OCPF, beginning with the 2010 year-end report, due Jan. 20, 2011. There will certainly be a learning curve for both our staff and the candidates as we implement this change. We'll also be reviewing late contribution and sub-vendor reports filed this fall for accuracy.

Many people ask me who paid for all those ads leading up to Election Day. Here's how to find out: Go to our web site,

www.mass.gov/ocpf and click on

the first link you see, Electronic Filing System. Using the left hand menu, click on the type of report that interests you – candidate, PAC, Party, Ballot Questions, Electioneering Communications, Independent Expenditures, etc. You can work within each type of report to see who contributed, how much was spent, who spent it, etc. The EFS is a great vehicle for transparency in the financial end of the political process. Once you start to use it, I'm sure you'll continue to return to it on a regular basis.

Election Day is finally over. Congratulations to all who were involved in the process. We at OCPF look forward to working with you as we finish up the state-wide cycle and move forward to the municipal elections in 2011. As always, if you have a campaign finance question, please give us a call or drop us an e-mail.

Mike Sullivan

Revised OCPF regs are in effect

The new regulations are available on the agency website

The Office of Campaign and Political Finance has issued a revised set of regulations to conform to changes made to the campaign finance law.

The revised regulations can be read in full under the "What's New" section on the front page of the OCPF website — www.mass.gov/ocpf.

The regulation changes went into effect in July, and most of the changes have already been incorporated into OCPF literature and educational seminars.

The following is a sample of some of the changes:

Late contributions: Defines when campaigns need to file 72-hour late contribution reports to disclose contributions of \$500 or more that are deposited shortly before an election, which include in-kind contributions, contributions or loans made by a candidate, and credit card contributions.

Reimbursements: Candidates should keep all receipts and invoices when making reimbursements. Any reimbursement that is not documented

with records creates a presumption that the expenditure was made for the personal use of the person receiving the money.

Posting municipal reports: A campaign finance report posted on a municipal website must remain on the site until Dec. 31 of the sixth year following the date that the statement or report was filed.

Employees exempted from subvendor reports: When political campaigns and committees pay vendors \$5,000 or more for services in a year, the campaign or committee must disclose expenditures of \$500 or more that were made to subvendors by the vendors. The regulations *exempt* vendors from reporting payments to these employees.

Ballot question contributions: Organizations, unions and businesses that make direct contributions to ballot question committees are no longer required to file the CPF 22 form with OCPF disclosing the contribution. The ballot question committee discloses the contribution on its regular campaign finance report.

Mayoral Reporting Continued

Continued from Page 1

Like House and Senate candidates, campaign finance reports for mayoral candidates will be posted automatically to the OCPF Electronic Filing System database for public viewing. Prior to the change in the law, mayoral candidates in these cities filed their reports on paper with local election officials.

During an election year, mayoral candidates will file three reports with OCPF—pre-primary, pre-election and year end. In non-election years, they will file only a year-end report.

Changes to the law have expanded municipal campaign finance disclosure at every level.

In addition to the new mayoral disclosure requirement, the changes also require Internet disclosure for all municipal candidates who raise or spend \$1,000 or more during a reporting period. These paper reports are posted to municipal websites by local election officials and will include city council, selectmen and school committee candidates, and local ballot question committees.

Mayoral and city council candidates in Boston, Cambridge, Lowell, Springfield and Worcester already file electronically with OCPF.

Cities where mayors will report with OCPF

City	Population: 2000 Census
Brockton	94,430
New Bedford	93,869
Fall River	92,097
Lynn	89,190
Quincy	88,232
Newton	83,924
Somerville	77,632
Lawrence	72,131
Waltham	59,278
Haverhill	59,123
Malden	56,386
Taunton	56,093
Medford	55,649
Chicopee	54,674
Weymouth	54,020
Peabody	48,325
Revere	47,726
Pittsfield	45,702
Methuen	43,918
Attleboro	42,211
Leominster	41,398
Salem	40,566
Westfield	40,116

Recent Cases and Rulings

OCPF audits all campaign finance reports and reviews all complaints alleging violations of the campaign finance law. These audits and reviews may result in enforcement actions or rulings such as public resolution letters, disposition agreements or referral to the Office of the Attorney General for further action.

A public resolution letter may be issued in instances where the office found "no reason to believe" a violation occurred: where "no further action" or investigation is warranted: or where a subject "did not comply" with the law but, in OCPF's view, the case is able to be settled in an informal fashion with an educational letter or a requirement that some corrective action be taken. A public resolution letter does not necessarily imply a wrongdoing on the part of a subject and does not require agreement by a subject.

A disposition agreement is a voluntary written agreement entered into between the subject of a review and OCPF, in which the subject agrees to take certain specific actions.

Disposition Agreements

Christy Mihos, Yarmouth, 08/12/2010: Former gubernatorial candidate Christy Mihos agreed to make a \$70,000 payment to the state's general fund. An OCPF review found that Mihos made more than \$112,000 in campaign expenditures using funds from his personal and business accounts, as well as utilizing a personal credit card.

These expenditures were not disclosed as required on campaign finance reports in 2009 and 2010. A candidate for governor must use a campaign committee checking account to make expenditures, which are then publicly disclosed by the committee's bank on OCPF's website. The OCPF review also found that the Mihos Committee received excess contributions from individuals, accepted and deposited approximately \$2,600 in prohibited corporate contributions, disclosed the corporate contributions as being received from individuals, and did not keep detailed accounts of all expenditures.

Patrick Blanchette, Lawrence, 09/22/2010: Former Lawrence city councilor and mayoral candidate Patrick Blanchette agreed to make a \$20,000 payment to the state's general fund for campaign finance law issues, including the personal use of campaign funds and failing to disclose receipts and expenditures.

Public Resolution Letters

CPF-10-40: Rep. Cleon Turner, Yarmouth Port. No further action (solicitation in building used for governmental purposes); 6/14/2010. Visitors to Turner's campaign website were directed to make contributions to the representative's State House address, but no contributions were re-

ceived. Campaign finance law prohibits the receipt or solicitation of campaign contributions in buildings used for governmental purposes.

CPF-10-02: Kenneth Reeves, Cambridge. Did not comply (excess contributions); 6/14/2010. Reeves' City Council campaign committee accepted excess contributions from six individuals totaling \$1,550 in 2009. The committee refunded the excess contributions in 2010. Contributions from an individual cannot exceed \$500 in a calendar year.

CPF-10-02: Marjorie Decker, Cambridge. Did not comply (excess contribution); 6/14/2010. Decker's City Council campaign committee accepted a \$250 excess contribution from a PAC in 2009. The excess amount was refunded on March 5, 2010.

CPF-10-59: Rep. Karyn Polito, Shrewsbury. No further action (solicitation in a government building); 7/1/2010. The candidate's committee sent a fundraising e-mail to public employee addresses, an issue recently addressed in OCPF memorandum M-10-01. State law prohibits the solicitation of campaign contributions in buildings used for governmental purposes.

CPF-10-32: Massachusetts Democratic Party. No further action (solicitation in a government building); 7/1/2010. The party committee sent a fundraising e-mail to public employee addresses to raise money for candidates, an issue recently addressed in OCPF memorandum M-10-01. State law prohibits the solicitation of campaign contributions in buildings used for governmental purposes.

CPF-10-13: Slow Growth Initiative, Chelmsford. No reason to believe (ballot question contributions); 7/2/2010. The

Recently Organized PACs

Several Political Action Committees have formed since June. A PAC, which is required to register and file disclosure reports with OCPF, is an organization or other group of people that raises or spends money for the *primary purpose* of influencing the election of candidates who file with OCPF.

Empower Mass. PAC, Shrewsbury, 7/2/2010.

Greater Boston Young Democrats PAC, Dorchester, 7/15/2010.

I.A.T.S.E. Local #11 PAC, Boston, 7/16/2010.

National Electrical Contractors Association of Greater Boston PAC, Boston, 9/21.

Mass. Youth PAC, Mattapan, 10/19.

Greater Waltham Tea Party PAC, Waltham, 11/5.

Upcoming Municipal Seminars

OCPF is holding seminars for **all municipal candidates**, with a special focus on new reporting requirements for mayoral candidates.

Dec. 13: **Stonehill College,** Brocktonian Room, 16 Belmont St., Easton, 6 p.m.

Dec. 14: **Peabody West Branch Library,** 603 Lowell St., 7:30 p.m.

Dec. 15: **Westfield City Hall,** 59 Court St., 6:30 p.m.

Dec. 16: **Medford City Hall,** 85 George P. Hassett Drive, 6 p.m.

Public Access to Legal Resources

OCPF legal documents are available on the OCPF website

www.mass.gov/ocpf

The disposition agreement documents and public resolutions letters referenced in this newsletter are available by clicking on the "Agency Actions" tab among the options listed along the left side of the website.

The interpretative bulletins and memos addressed in this newsletter are available under the "Legal Resources" tab.

Continued: Recent cases and rulings

Continued from Page 3

group promotes preserving undeveloped land and receives contributions, but not for the purpose of influencing a ballot question and, therefore, is not required to organize a ballot question committee.

CPF-10-11: John Lysak, Springfield. Did not comply (receipt of excess contribution of office space); 7/12/2010. A property owner provided office space for the candidate's campaign, an in-kind contribution that was not disclosed on campaign finance reports. The value of the contribution was estimated at \$1,000, \$500 over the annual contribution limit. The campaign committee reimbursed the property owner \$500 and amended the candidate's campaign finance reports.

CPF-10-34: James Forster, Foxborough. Did not comply (independent expenditure disclosure); 7/19/2010. Independent of any campaign, Forster paid \$1,250 for a newspaper advertisement supporting two municipal candidates and did not file the required independent expenditure disclosure form with the town clerk. Forster filed the report when he was contacted by OCPF.

CPF-10-39: Dr. Peter Smulowitz, Needham. No further action (disclosure of late contributions); 7/28/2010. Changes to the campaign finance law that went into effect on Jan. 1, 2010, require campaigns to disclose within 72 hours all contributions of \$500 or more that are received and deposited shortly before an election. That requirement includes credit card contributions and contributions to the committee by the candidate, according to OCPF regulations that went into effect on July 16. The Smulowitz campaign, involved in a special Senate primary election in April, received \$500 credit card contributions during the relevant 72-hour reporting period, and the candidate personally loaned money to the campaign during the reporting period. Because the regulations were not in effect at the time of the special primary election, further action is not warranted.

CPF-10-66: Paul Brodeur, Melrose. No reason to believe (solicitation by public employee); 7/29/2010. Brodeur, a state representative candidate, held a fundraiser at his home after he resigned his position as a state employee, and therefore was not in violation of state law that prohibits public employees from soliciting campaign contributions. Additionally, his wife, who is a public employee, did not attend the fundraiser.

CPF-10-35: Groton-Dunstable Regional School Committee. Did not comply (public resources); 8/19/2010. The School Committee used public resources to distribute a newsletter that supported a local ballot question. Campaign finance law prohibits the use of public resources for campaign purposes. School Committee Chairman James E. Frey personally reimbursed the school district \$150 for the costs to print, collate and distribute the newsletter.

Interpretive Bulletins

IB-10-01; Disclaimers on Independent Expenditures and Electioneering Communications. Provides guidance and direction regarding the interpretation and implementation of M.G.L. Chapter 55, Section 18G, concerning disclaimers on independent expenditures and electioneering communications.

IB-10-02; Filing of Late Contribution Reports. Provides guidance to political committees and individuals regarding the interpretation and implementation of the campaign finance law as it applies to the filing of late contribution reports.

IB-10-03; Independent Expenditure PACs. Provides guidance to groups that raise funds solely to make independent expenditures.

IB-10-04; Subvendor Reports. Provides guidance to political committees regarding the implementation of the new subvendor reporting statute, which requires disclosure of how vendors make expenditures on behalf of candidates.

E-mail blasts and government buildings

How to avoid solicitations in government buildings

The increased use of e-mail communications by campaigns has created a surge of complaints concerning the statute that prohibits the solicitation of campaign contributions in government buildings. OCPF has consistently said that a fundraising e-mail sent to a government employee at his or her government e-mail address is inconsistent with campaign finance law because, presumably, the e-mail is opened in a government building.

Candidates and committees should take the following steps to minimize the possibility that fundraising e-mails will be sent to public employees or elected officials at work:

- Scrub campaign e-mail lists of government e-mail addresses.
- Include a disclaimer notice in outgoing campaign e-mails, which states that the committee does not intend the solicitation to be opened in buildings used for governmental purposes.



- In the event that a solicitation is sent to a public employee or elected official at their work addresses, the committee should send a follow-up e-mail asking the public employee to disregard the solicitation.
- Committees should train supporters to ensure that they don't send fundraising solicitations using government e-mail addresses.
- Committees should periodically review their e-mail lists to ensure compliance.
- In instances where fundraising e-mails are inadvertently sent to public employees or elected officials at governmental e-mail addresses, any contributions received in response should be returned.

The OCPF memo on this issue, M-10-01, is available under the "Legal Resources" tab at www.mass.gov/ocpf.