

# OCPF Reports



## Special Edition: Campaign Finance Law Changes

The state's campaign finance law was not prepared for a new type of political committee known as Super PACs.

These PACs, called Independent Expenditure PACs and created after two 2010 federal court decisions, can raise unlimited amounts of money from almost any source.

However, state law did not require them to disclose the identity of their donors on a timely schedule. In fact, because of the way the law was written, Super PACs involved in the 2013 Boston mayoral race weren't required to disclose contributors until *after* the election.

The new law signed Aug. 1 by Gov. Patrick remedies those disclosure issues. Starting now, Super PACs are required to disclose their donors as they make independent expenditures to support or oppose candidates. The details are below.



The new law also contains changes that were needed to bring the campaign finance law into the 21st Century. For example, the depository system used by statewide candidates and others dates back to the 1970s. Technology and business practices have obviously changed since then, but the law didn't. The revisions address many of those issues.

The legislation also made changes that affect municipal candidates, traditional PACs, treasurers and other committees.

**Please consider this newsletter a summary of those changes.** Our office is in the process of updating our publications to reflect the revisions to the law, and drafts of proposed regulations have been posted to the front page for our website. As always, call us with any questions.

*Mike Sullivan, Director*

### IEPAC Reporting Period

**The reporting period** for a committee's first report starts on the day the committee was organized and is complete through the date of an independent expenditure (IE).

**The period** for the next report starts on the date following the ending date on the previous report and is complete through the date of the next IE.

**24-Hour Reports:** IEPACs also file reports within 24 hours after making an IE if it's made after the 10<sup>th</sup> day but more than 24 hours before the date of an election.

## New Independent Expenditure "Super" PAC law requires more timely disclosure

### IEPAC rules are effective immediately

A change to the campaign finance law has created a unique reporting schedule for Independent Expenditure PACs, also known as Super PACs. The change is effective immediately.

The reporting system requires IEPACs to disclose expenditures and receipts within seven business days of making an independent expenditure (IE).

Prior to the change, gaps in the campaign finance law allowed IEPACs to operate without

disclosing all of their activity on timely schedule.

The primary change concerns contributions to IEPACs.

Starting immediately, all contributions (monetary and in-kind) to Super PACs must be reported within seven business days of the committee making an IE.

The reporting period for the first report commences on the day the committee was organized and is complete through the date of the IE. Any subsequent report will

run from the date after the ending date of the previous report until the date of the next IE.

In addition, Super PACs will file year-end reports each Jan. 20, even if expenditures were not made during the previous year. The year-end reports will itemize **all** activity for the year—receipts, expenditures (independent and other expenditures), in-kind contributions, liabilities and sub-vendor reports.

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# Starting with 2015 municipal elections, all mayors must file electronically with OCPF

The campaign finance law has been changed to require **all mayoral candidates** in the state, regardless of the size of the city, to file campaign finance reports electronically with OCPF.

Prior to the change, only mayoral candidates in cities with populations of more than 40,000 filed with OCPF.

Because of the new legislation, which eliminated the threshold population requirement of 40,000, mayoral candidates in 16 additional cities with populations of less than 40,000 will organize and file with OCPF starting in 2015. These candidates previously filed paper reports with their local election officials. The additional cities of under 40,000 are identified to the right.

In total, there are 33 cities with populations of 75,000 or less that fall under the requirement for mayoral candidates to file electronically in the non-depository system, the same system used by legislative candidates.

The law was also changed to require all mayoral candidates in cities over 75,000 to file reports in the depository system. That change is explained on page 4.

## Cities with Populations Under 75,000

*All mayoral candidates in these cities will file campaign finance reports electronically with OCPF*

Haverhill	60,879
Waltham	60,632
Malden	59,450
Medford	56,173
Taunton	55,874
Chicopee	55,298
Weymouth	53,743
Revere	51,755
Peabody	51,251
Methuen	47,255
Pittsfield	44,737
Attleboro	43,593
Everett	41,667
Salem	41,340
Westfield	41,094
Leominster	40,759
Fitchburg	40,318

Holyoke	39,880
Beverly	39,502
Marlborough	38,499
Woburn	38,120
Braintree	35,744
Gloucester	28,789
Northampton	28,549
Agawam	28,438
W. Springfield	28,391
Melrose	26,983
Gardner	20,228
Greenfield	17,456
Newburyport	17,416
Amesbury	16,283
Easthampton	16,053
North Adams	13,798

*Source: 2010 U.S. Census*

### **FROM PAGE ONE:** *Independent expenditure “Super” PACs will file more frequently*

For more information, please see the IE-PAC statute, [M.G.L. Chapter 55](#), Section 18A.

Super PACs were created in 2010 after two court decisions.

In the Supreme Court’s Citizens United vs. FEC decision, the court ruled that independent expenditures by corporations that are made to influence candidate elections cannot be limited, because doing so would not be consistent with the First Amendment. The second court decision, SpeechNow.org vs. FEC, held that individuals can provide funds without limit to independent expenditure-only committees (IEPACs). This decision was made by the U.S. Court of Appeals in D.C.

### **From the Law: What’s an Independent Expenditure? ...**

*... 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 the candidate or an agent of the candidate and 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 the candidate or agent of the candidate.*

***Defined in MGL Chapter 55, Sect. 1***

## DEPOSITORY COMMITTEE ISSUES

### PACs and people's committees move into depository system

All political action committees and people's committees must enter the depository reporting system starting in 2015, according to a change to the campaign finance law.

The depository system requires a committee to designate a bank where all deposits and expenditures are made. A PAC's bank will file reports twice monthly with OCPF disclosing deposit amounts and more detailed information on expenditures, while the PAC will file reports disclosing all receipts.

PACs are currently in the non-depository system, which requires committees to file reports three times during a state election year and twice during a non-election year.

There are nearly 300 PACs and eight people's committees organized with OCPF. Independent expenditure PACs are in a different reporting system.

OCPF will provide detailed instructions on how and when PACs can move into the depository system. If a PAC does not want to enter the depository system, it must dissolve.

### The special depository check used since the 1970s has been radically simplified

The depository check, which has been in use to make expenditures for decades, has been simplified by changes to the campaign finance law. The major changes:

- The requirement for an endorsement statement by a vendor on the back of the check has been removed.
- The "purpose" check-box printed on the front of the check has been eliminated.

Instead of using a "purpose" box at the top of the check to disclose generic information about an expenditure, campaigns will enter a more specific purpose of an expenditure in the "memo" section of a normal check.

The depository bank will report the vendor, address, amount and purpose on regular bank reports filed with OCPF.

Committees can continue, if they choose, to use current depository checks until their supplies are exhausted.

This change takes effect Jan. 1, 2015.

## Depository reporting schedule changes to include twice monthly reports at all times

A change to the campaign finance law requires depository banks to file reports twice monthly, starting in 2015.

Prior to the change, bank reports were due monthly by the 5th of the month, and twice monthly on the 5th and 20th of each month during the last six months of an election year. Most banks were already reporting twice monthly.

Bank reports are now due by the 5th and 20th of each month.

Deposit reports filed by committees will also be due by the 5th and 20th of each month, but OCPF strongly recommends filing deposit reports electronically on the same day or shortly after a deposit is made.

At the start of 2015, depository candidates and committees will include statewide, county and Governor's Council candidates, as well as traditional PACs and people's committees. Also in the system are mayoral and city council candidates in Boston, Brockton, Cambridge, Fall River, Lawrence, Lowell, Lynn, New Bedford, Newton, Quincy, Somerville, Springfield and Worcester. State party committees are also in the depository system.

This change takes effect Jan. 1, 2015. Banks serving depository candidates and committees should contact OCPF with questions.

## DEPOSITORY COMMITTEE ISSUES

### Mayoral and city council candidates in cities with pop. of 75,000 to 100,000 will enter the state’s depository system

Mayoral, city council and aldermen candidates in eight cities with populations of 75,000 to 100,000 will enter the depository reporting system starting in 2015.

The cities include **New Bedford**, 95,072; **Brockton**, 93,810; **Quincy**, 92,271; **Lynn**, 90,329; **Fall River**, 88,857; **Newton**, 85,146; **Lawrence**, 76,377; and **Somerville**, 75,754.

Prior to the change, the only municipal candidates reporting in the depository system were mayoral, city council and aldermen candidates in Boston, Cambridge, Lowell, Springfield and Worcester. These cities have populations of greater than 100,000.

The depository system requires candidates to designate a bank to file regular campaign finance reports with OCPF. The bank discloses itemized expenditures and a summary of deposits for the period (starting Jan. 1, the period is twice monthly). Candidates file deposit reports to show receipts.

In previous years, candidates in New Bedford, Brockton, Quincy, Lynn, Fall River, Newton, Lawrence and Somerville

disclosed their campaign finance activity three or four times in a two-year election cycle, and the banks did not file reports.

OCPF will assist candidates in the eight cities to set up in the new system. More information about joining the depository system is available at OCPF’s “getting started” [page here](#).



**Brockton City Hall.**

Brockton is among eight cities that will enter the state’s depository system, starting in 2015.

All mayoral and city council candidates in the eight cities will now organize and file electronically with OCPF.

## Depository committees can use debit cards for expenditures

A change to the campaign finance law now allows depository committees to use debit cards to **make expenditures**.

The itemized expenditures will still be listed by the committee’s bank twice monthly. OCPF will issue regulations on how and when committees will append the bank’s reports to add “purpose” information for debit card expenditures.



The use of debit cards by depository committees **goes into effect Jan. 1, 2015**.

Restrictions on using debit cards to withdraw cash from ATM machines and other cash dispensaries remains in effect.

Under the previous system, depository committees could make expenditures by using special depository checks, committee credit cards or, in limited circumstances, wire transfers. Debit card use was prohibited.

# Subvendor reports required for candidates & committees on all levels

The subvendor report requirement also includes BQ expenditures by groups and businesses

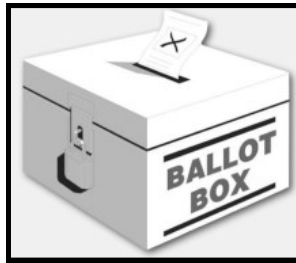
The requirement to file subvendor reports previously applied only to candidates and committees that filed with OCPF.

New legislation now makes it a requirement for all candidates and political committees in Massachusetts to file subvendor reports, **including municipal candidates and ballot question committees** in cities and towns who file campaign finance reports with their local election officials.

The subvendor reporting requirement has also been expanded to include individuals and groups that make direct expenditures to support or oppose ballot questions on the state, district and municipal levels.

These changes go into effect immediately.

Vendors that receive \$5,000 or more from any candidate or political committee must provide a detailed account of all subsequent expenditures made by vendors of \$500 or more, on behalf of the campaign, to subvendors.



## Examples

- A city council candidate makes a payment of \$6,000 to a political consultant. The political consultant then pays \$1,000 for a mailing and \$500 on an internet advertisement. The political consultant would provide details of the subvendor expenditures to the candidate and the candidate would disclose the information on a campaign finance report. If the councilor is in a city with a population of 75,000 or less, he would file the subvendor report with the local election official with his regular periodic report. If greater than 75,000, the report is filed with OCPF.
- Corporation XYZ decides to support a state ballot question and pays \$100,000 to a political consultant. The consultant uses the money to run advertisements on four radio stations — \$20,000 each. The consultant would provide the corporation with an itemized account of the subvendor payments to radio stations, and the corporation would file the subvendor report with OCPF.

## Limits for all candidates will increase to \$1,000 per calendar year starting Jan. 1

Individual contribution limits for all candidates, from a school committee member in a small town to governor, will increase to \$1,000 starting Jan. 1, 2015.

All other individual limits remain the same, including the \$500 limit to PACs per calendar year and \$200 from lobbyists.

The last time the limits changed was in 1994, when the amount was reduced from \$1,000 to \$500.

## New Limits

## Public employees can't be committee treasurers

A change to Section 13 of the law codifies OCPF's long-term policy, which prohibits public employees from being committee treasurers.

State law prohibits public employees from soliciting or receiving campaign contributions directly or indirectly. The law now expressly prohibits public employees from being treasurers.

The fundraising restrictions are in place at all times and in all places, even when public employees are off-the-clock. For example, a teacher at a public school would be prohibited from serving as the treasurer for his brother's city council campaign, even if the race was in another city.



# Law codifies Supreme Court's aggregate limits decision

In April of this year, when the Supreme Court decided in *McCutcheon vs. FEC* that aggregate contribution limits were unconstitutional, OCPF issued a statement that the \$12,500 aggregate limit on the amount an individual can contribute to all candidates would no longer be enforced.

The new law removes the \$12,500 limit.

Prior to the court's decision, a person could make \$500 contributions to 25 candidates, but he or she was prohibited from making a \$500 contribution to a 26th candidate, and beyond.

That 26th contribution is now permitted. (Note: the annual limit is \$1,000 starting Jan. 1, 2015).

The new legislation also struck the \$1,500 aggregate limit on candidate committee contributions to other candidate committees.



However, the Supreme Court's decision and the new legislation will not affect the state's \$5,000 aggregate limit that an individual may contribute to political party committees during a calendar year.

Regarding the \$5,000 aggregate limit that an individual may contribute to political party committees during a calendar year, OCPF has determined that, because the federal statutory provisions that were analyzed in the *McCutcheon* decision differ substantially from the law in Massachusetts, this office will continue to enforce the \$5,000 aggregate limit.

The April 2 court decision determined that the federal aggregate caps on contributions to candidates, parties and political action committees by an individual are unconstitutional.

## *These changes take effect Jan. 1 ...*

### **Depository Committees**

- Statewide candidates can make \$100 contributions to other candidates, unless the statewide candidate receives public financing, in which case contributions are prohibited during the state election year.
- Allows use of a debit card by depository committees.
- Simplified depository checks (an endorsement stamp and "purpose" box are no longer required).
- The requirement for PACs and People's Committees to enter the depository system.
- Bank and depository committee requirement to file twice monthly.
- The cap on reimbursements by depository committees to candidates and others increased from \$50 to \$100.

### **Municipal Committees**

- Electronic filing with OCPF by mayoral candidates in all

cities, regardless of size.

- The requirement for mayoral and city council candidates in cities with populations of 75,000 to 100,000 to enter the depository system.

### **Limits**

- Money order caps lifted from \$50 a year to \$100 a year.
- Individual contribution limit to candidates increases from \$500 to \$1,000.

### **Education**

- Training requirement for committee treasurers.

Contact OCPF at 617-979-8300 or  
by e-mail at [OCPF@cpf.state.ma.us](mailto:OCPF@cpf.state.ma.us)

# Summary of the Law Changes

## An Act Relative to Campaign Finance Disclosure and Transparency

**Electioneering Communications:** Amends the definition of “electioneering communication” in Section 1 of Chapter 55 to include the requirement to disclose expenditures for internet advertising. (Effective now)

**Corporate Expenditures:** Changes the definition of “independent expenditure” in Section 1 of the statute to include independent expenditures made by corporations. (Effective now)

**People’s Committee:** Adds a definition of “people’s committee” to Section 1 to codify OCPF’s regulations and interpretations. (Effective Jan. 1)

**Joint Contributions:** Adds a definition and allows candidates and committees to attribute funds from individuals on a joint checking account. (Effective now)

**Money Transfer Regulations:** Gives OCPF the authority to issue regulations regarding transfers made for electioneering communications and independent expenditures. (Effective now)

**Treasurer Training:** Requires treasurers of political committees to complete on-line training within 30 days after becoming treasurer and every two years afterward. (Effective Jan. 1)

**Committee-to-Committee Contributions:** A change in the law now allows a statewide candidate committee to contribute up to \$100 to another candidate committee in a calendar year (which is the same standard that applies

to other candidates), unless the statewide candidate receives public financing, in which case contributions to other committees are prohibited during the calendar year in which public funds are received. (Effective Jan. 1)

**Vendor Affidavit:** This change removes a part of the law, which currently requires depository committees to obtain an affidavit from vendors stating that they provided the goods or services. (Effective Jan. 1)

**Local Party Committees:** The e-filing threshold was reduced to \$5,000 in activity per election cycle from \$10,000. (Effective now)

**Reimbursement:** The reimbursement ceiling for depository committees increased to \$100 from \$50. (Effective Jan. 1)

**Contribution Limit:** Increases the individual contribution limit to candidates from \$500 to \$1,000. (Effective Jan. 1)

**Aggregate Limit:** Strikes out aggregate contribution limit language rejected by the *McCutcheon v. FEC* Supreme Court Decision (the \$12,500 aggregate limit on the amount an individual could contribute to all candidates). (Effective now)

**Corporate Contribution:** This change to Section 8 of the statute means that a corporation violating not only section 8 (regarding contributions) but also any other section would be subject to the penalties of Section 8 in Chapter 55. (Effective now)

**Debit Cards:** Makes it possible for depository committees to also use debit cards for expenditures to vendors. (Effective Jan. 1)

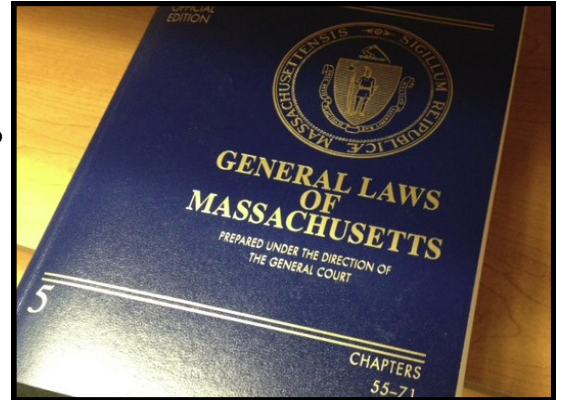
**Public Employees:** This change to Sec. 13 expressly prohibits public employees from being committee treasurers. (Effective now)

**Mayoral Reporting:** A change to section 18 of the statute requires all candidates for mayor to file with OCPF regardless of population. (Effective Jan. 1)

**Municipal Reporting:** All mayoral and city council candidates in cities with populations of 75,000 to 100,000 will enter the depository system. (Effective Jan. 1)

**IEPAC Disclosure:** Amends Section 18A (independent expenditures) to state that Independent Expenditure “Super” PACs must disclose expenditures and contributions received in a timely manner. (Effective now)

**Subvendor Reporting on the Municipal Level:** Previously, only political committees that filed with OCPF were required to file subvendor reports to disclose expenditures of \$500 or more made by vendors receiving \$5,000 or more from a committee. The change expands the requirement to include expenditures made by an individual or group of \$5,000 or more to influence a ballot



question, and would also require disclosure by political committees that file locally. (Effective now)

**Advertisement Attribution:** Amends Section 18G (disclaimers on independent expenditures and electioneering communications) to require the listing of top contributors of more than \$5,000. (Effective now)

**PAC Disclosure:** The statute was amended to include traditional PACs in the depository system. (Effective Jan. 1)

**Bank Disclosure:** Depository banks are required to file reports twice a month. Previously, reports were required monthly, and were only filed twice monthly during the last six months of an election year for candidates on the ballot. (Effective Jan. 1)

**Money Orders:** The limit for contributions for money orders is now \$100, an increase from \$50. The cash limit is still \$50. (Effective Jan. 1)

**State Party Committees:** Allows state party committees

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# Law now requires “Top Contributors” to be identified on some advertisements

**Rule affects independent expenditures, electioneering communications and ballot question spending**

An entity that makes independent expenditures (IE) or electioneering communications (EC) through TV, internet and print ads is now required to identify their top contributors in the ad.

The written statement must say “Top Contributors,” and identify the five entities or individuals who made the largest contributions, if a contribution exceeds \$5,000 for the year.

The statement is only required on internet and print ads if they are larger than 15 square inches.

The statute also requires **ballot question committees** and any businesses or entities making ballot question expenditures to list the top five contributors on their ads.

TV, internet and print ads must also include a statement directing viewers to the OCPF website for further information.

The new statements required above are in addition to existing attribution requirements, which can be found in M.G.L. Chapter 55, Section 18G. Revised regulations concerning Sec. 18G are available by clicking [here](#) or by visiting the OCPF website.

## Text of the Top Contributors Statute

**An independent expenditure or electioneering communication which is transmitted through paid television, internet advertising or print advertising appearing larger than 15 square inches shall include a written statement at the bottom of the advertisement that contains the words “Top Contributors” and a written statement that lists the 5 persons or entities or, if fewer than 5 persons or entities, all such persons or entities, that made the largest contributions to that entity; provided, however, that only contributions in excess of \$5,000 reportable under this chapter during the 12-month period before the date of the advertisement or communication shall be listed. If no such contribution is received by the entity making an independent expenditure or electioneering communication, the advertisement or communication may exclude the statement. The advertisement or communication shall also include a written statement, as specified by the director, at the bottom of the advertisement that directs viewers to the official web address of the office of campaign and political finance. This paragraph shall also apply to advertisements purchased to influence or affect the vote on any question submitted to the voters. (M.G.L. Chapter 55, Section 18G)**

## From Page 7: Summary of Law Changes

to form legal defense funds. (Effective now)

**Providing Forms:** The director of OCPF must make a summary of the law and forms available to town clerks for distribution of the materials to candidates. This section was changed to implement our recommendation that clerks collect e-mail address for all local candidates and forward a summary of the law and the forms electronically. (Effective now)

**Task Force:** Creation of a campaign finance task force to study issues concerning the use of e-mail communications using a paid e-mail service provider, disclosure requirements

for internet advertisements of limited size, and the feasibility, merits and administrative requirements of applying limits on contributions for each special election primary and general election rather than per calendar year. The task force must submit its report and recommendations with the clerks of the House and Senate on or before Jan. 1, 2015.



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