



OCPF Reports

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From the Director

Local parties set up

Voters at the March 2 presidential primary did not just choose a candidate from each party to nominate for President. They also elected individuals from their communities to their local political party committees. These committee members will meet in the near future to organize and select officers.

As you're reading this, you may be asking: Why does OCPF care about this part of the political process? The answer is: Because the person who is selected as the secretary of these ward, town, and city political party committees is responsible for filing an organization form with four entities: OCPF, the Secretary of the Commonwealth's Division of Public Records, the local election official (such as the city or town clerk or election commission), and the state committee of the political party which the committee represents.

Why do they have to file with OCPF? As always, it's all about disclosure. Over the next four years, this office will be in contact with the treasurer of each local committee to inform them of the committee's campaign finance disclosure responsibilities. If the committee doesn't organize with us and then conducts campaign activity, they usually don't file the statutorily mandated disclosure report, thus depriving the public of its right to review the activity of the committee. With the 2004 elections right around the corner, I expect that there will be a large amount of local party committee ac-

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Party committees get extra time to meet, file

A recently passed law slightly extends the time period for newly elected local party committees to organize and report their new membership.

Chapter 51 of the Acts of 2004, signed by Gov. Romney on March 26, allows the party committees chosen at the March 2 presidential primary 10 extra days to meet, avoiding conflict with upcoming religious holidays.

Party committees at the local level are elected at each presidential primary. M.G.L. Chapter 52 requires these committees to meet between 31 and 40 days after the primary to elect officers and add any new members. Each committee then files a report to four entities, including OCPF.

Under the ordinary timetable, the period during which the party committees would meet would be April 2-11. How-

ever, the period this year includes Passover, Good Friday and Easter.

The new law allows ward, town and city party committees to meet as late as Wednesday, April 21. The change is for this year only.

Within 10 days of meeting, the secretary of each local party committee must file a statement reflecting the new officers and membership with four offices: the Secretary of the Commonwealth's Public Records Division; the

appropriate city or town clerk; the state committee of the relevant party; and OCPF. (Ward committees also file a copy with their city committees.)

The form used by a committee for this purpose may be downloaded from the "Reporting Forms" section of OCPF Online, www.mass.gov/ocpf.

Online committee database is expanded Page 4

Statewide financing program is subject of regulations hearing

The termination of the Clean Elections program last year also meant the return of its predecessor, a system of public financing of candidates for statewide office.

OCPF is considering new regulations concerning the program that provides public funds to statewide candidates, which will get its next application in the 2006 election.

The office will hold a public hearing on the proposed regulations on Tuesday, April 13, at 10 a.m. on the 21st floor of the

McCormack state office building, One Ashburton Place, Boston.

The proposed public financing regulations are largely the same as those that were in place during the last application of the program in 1998.

The public financing system, M.G.L. Chapter 55C, provides limited public funds to candidates for the six statewide offices. The program had been in operation through the 1998 state election, when voters replaced it with the Clean Elections

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Bundling, people's committee limits are adjusted for inflation

Two contribution limits, covering donations to people's committees and the maximum amount of any contribution that may be compiled or "bundled" by certain persons, have been raised by OCPF.

Under M.G.L. Chapter 55, Sections 1 and 10A, two figures must be adjusted for inflation every two years: the maximum an individual may contribute to a people's committee during a calendar year and the maximum amount of any contribution that may be collected, or bundled, by a regulated intermediary or conduit before certain statutory disclosure requirements or limitations are triggered.

Using the Consumer Price Index (CPI) calculated for the Greater Boston area, OCPF increased the two figures from \$123 to \$132, effective Jan. 1, 2004.

For calendar years 2004 and 2005, therefore, a people's committee may accept

up to \$132 annually from individuals. People's committees, which start as PACs, may accept contributions from individuals only.

"Regulated intermediaries"—political action committees or their agents, lobbyists or any person delivering contributions from employees of a corporation who collect contributions and deliver them to a candidate or committee—may gather contributions of up to \$132 each without triggering additional reporting requirements. Contributions of more than that amount are also counted against an intermediary's personal limit.

For more information, see OCPF's Memorandum M-97-05. The document is available online at www.mass.gov/ocpf. Click on the "Legal Guidance" tab at the top of the screen, then on "Memoranda" for any memorandum issued by OCPF.

Regulations: Upcoming hearing

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program, which offered broader financing to statewide as well as legislative and Governor's Council candidates.

The Clean Elections Law was repealed last year and replaced with the public financing system that had preceded it.

Unlike Clean Elections, which was funded primarily through an appropriation of funds, the limited public financing system receives funds from a voluntary checkoff on state income tax forms. The tax checkoff produces about \$400,000 annually.

The program distributed a total of almost \$1.8 million to 11 candidates in 1998.

OCPF will inform statewide candidates of the procedures for both participants and nonparticipants in the public financing

system in advance of the start of the program.

Other topics to be covered in the proposed regulations include:

- the use of debit cards by certain candidates and political committees;
- the receipt of credit card contributions by candidates and committees;
- electronic filing of campaign finance reports;
- transfers of candidate committee accounts between the state and municipal levels;
- the definition of "liabilities" for purposes of the campaign finance law; and
- the administrative disposition of cases by OCPF.

The text of the proposed regulations may be found on OCPF's website at www.mass.gov/ocpf.

In addition to attending the hearing, interested parties may also submit comments in writing to OCPF, One Ashburton Place, Room 411, Boston, MA 02108.

From the Director

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tivity that will require disclosure with this office.

The bottom line for the committees? Please hold your organizational meetings in the time frame required by law, and then send the appropriate paperwork to the four entities mentioned above. If you have any questions about the process, please feel free to call this office or your state party committee. I thank you in advance.

* * *

You may recall that we recently switched to "paperless" filing by the candidates and committees that are required to file their reports electronically. For the last two years, e-filers were required to file paper copies as a backup as the e-file system got up to speed. We dropped the paper requirement as of this past January, asking for only electronic reports from e-filers.

I'm happy to say this switch has come off with great success. E-filing of year-end reports went off without a hitch once again, and many were pleased to learn they didn't have to worry about a hard copy report reaching us in time.

This year the roster of required e-filers expands to include state party committees and PACs. The state party committees' monthly reports are now online, as well as those of the 49 PACs that voluntarily e-filed their year-end reports. Reports for the remaining PACs are still on paper only; the first required e-filing date for PACs is Sept. 7, when the pre-primary report is due.

* * *

In staff news, Mary Beasley has joined our audit staff, following the departure of Hugh Huleatt. Mary comes to us with a background in both accounting and computer software. I am sure she will be a tremendous asset to our office.

**Mike Sullivan
Director**



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 any 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.

OCPF does not comment on any matter under review, nor does the office confirm or deny that it has received a specific complaint. The identity of any complainant is kept confidential. Public resolution letters and disposition agreements are matters of public record once cases are concluded.

Public Resolution Letters

•03-55: Coalition of Concerned Citizens of Waltham. No Further Action (disclosure of ballot question activity); 1/30/04. The pre-election report filed by a local ballot question committee comprised of several unions was filed late and was missing some contributor information. In addition, the unions that made contributions to the committee or independent ballot question expenditures should have filed separate disclosure reports in accordance with M.G.L. c. 55, s. 22.

•04-01: West Main Street Building Committee, Dudley. No Further Action (use of public resources for a political purpose); 2/24/04. Members of a municipal building committee were instructed to use private funds to pay for an advertisement it placed in a local newspaper because the ad contained information for voters in a pending debt exclusion election. The campaign finance law prohibits the use of public resources, including public funds, to influence voters concerning a ballot question.

•03-54: North Reading Taxpayers Association. No Further Action (disclosure of ballot question activity); 3/4/04. After being contacted by OCPF, a local taxpayers group fixed a reporting error and dissolved the PAC that it mistakenly formed instead of a ballot question committee.

•04-02: Robert V. Finneran, Newbury. Did Not Comply (failure to report activity); 3/8/03. A candidate for state representative failed to disclose an in-kind contribution for web hosting services.

Advisory Opinions

OCPF issues written advisory opinions on prospective activities. Each opinion summarized below also notes the OCPF file number and the requesting party. Copies of all advisory opinions are available from OCPF and online at www.mass.gov/ocpf.

AO-03-08: A printing and engraving corporation may give a discount for goods and services to a candidate for invitations to a political fundraising event where the candidate is employed by the corporation, if the discount is a *bona fide* fringe benefit of employment consistent with discounts given to other employees. The candidate's political committee would need to report the receipt of an in-kind contribution from the candidate in the amount of the discount. (Guyer).

AO-03-09: A candidate committee and two government entities may co-sponsor a municipal conference to educate and provide a networking opportunity for local officials, since it would not involve the use of public resources for a political purpose, or constitute a campaign contribution from the government entities to the candidate committee. (Guerin).

AO-04-01: A local candidate committee may host a fundraising dinner to raise money for a fund to offset the medical expenses of a leukemia patient where the event will enhance the candidate's political future and neither the candidate nor the treasurer has a personal relationship with the patient. (Johnson).

AO-04-02: Generally speaking, where an override election precedes the relevant

Town Meeting, OCPF advises that public resources not be used to distribute information to voters until after the election. However, due to the requirement that a budget warrant article be mailed to voters sufficiently in advance of Town Meeting, a finance committee may distribute its report prior the election as long as the material does not reference the pending election and is limited to the content of the official warrant. (Ross). **AO-04-03:** An attorney who is appointed as an uncompensated special assistant attorney general is an independent contractor. The attorney, therefore, is not "employed for compensation" by the commonwealth and is not subject to M.G.L. c. 55, s. 13. (Kenney).

Reminder: Upcoming reporting dates for non-depository filers

(Legislative candidates and committees, political action committees, people's committees, local party committees)

Because this is a state election year, three reports are due.

- Pre-Primary report due Tuesday, Sept. 7 (the regular due date of Monday, Sept. 6 is Labor Day).
- Pre-Election report due Monday, Oct. 25.
- Year-end report due Thursday, Jan. 20, 2005.

Non-depository filers submit their reports online to OCPF's Electronic Filing System.

Candidates on the ballot, PACs and people's committees must file all three reports.

Local party committees must file only if their receipts, expenditures or other financial activity exceeds \$100 in a reporting period.

Up to date candidate and committee lists are now available on OCPF's online database

A new feature to OCPF's website allows visitors to look up all registered candidates and committees, using an up to the minute database.

The website, www.mass.gov/ocpf, now includes a listing of all registered committees, including basic information such as each candidate's party affiliation and office sought, as well as addresses and treasurers for all committees.

Previously, the only candidate and committee lists that were available online were images of the regularly published committee lists: candidates, political action committees and state ballot question committees. These lists were updated every few months, but the organization of each new committee with OCPF made them quickly out of date.

The printed lists will still be available on the site, but the online database will be a more useful resource. Any new candidate or committee will be online the same day it is organized with OCPF.

To visit the committee database, simply click on the top left tab at the top of OCPF's home page ("Candidates & Committees"). The next page will present a few options: viewing all candidates and committees in the interactive database, checking the last 10, 50 or 100 newly organized committees in each category, or downloading a printed list in "pdf" format.

Candidates are listed in the database according to the last office they sought.

The new chronological listing of newly organized committees includes candidates, PACs and ballot question committees. This list is up to date, showing a committee the same day it is organized with OCPF.

Online visitors should be aware, however, that simply organizing a committee with OCPF is not tantamount to "taking out papers" to run for an office. Candidates must still obtain nomination papers from the Secretary of the Commonwealth to run. Some candidates open committees in advance of circulating nomination

papers, while some may wait until after returning their papers to organize. In addition, it is conceivable that a candidate may open a committee and decide not to run.

Another recent addition is an electronic log of reports submitted to OCPF's Electronic Filing System, arranged chronologically. Now an online visitor can check for a recent report in a more streamlined fashion, rather than having to review all reports filed by a candidate or committee.

The report log may also be accessed from OCPF's home page. Click on the tab entitled "Newly Filed Reports."

The different types of reports -- candidates, PACs, ballot question committees and party committees -- are color coded for easy viewing.

Ask OCPF

Ask OCPF is an occasional feature in which we answer frequently asked questions. Contact OCPF if you would like to suggest a question for a future edition of this newsletter.

Q. I have decided not to seek elected office in the future. How do I do close down my campaign committee?

A. Candidates who do not hold elected office may dissolve their committee or campaign funds. In order to shut down, a candidate must dispose of all liabilities (such as unpaid bills and outstanding loans) and any remaining funds. Past loans from the candidate may be repaid in full or partially, as long as they had been recorded as loans in campaign finance reports for the relevant periods. Any funds remaining after bills and loans are paid must be disposed of according to the residual funds clause of M.G.L. c.55, s. 18, which specifies

that such funds must be donated to any of the following: 1) the Local Aid Fund of the Commonwealth; 2) the general fund of a city or town (not a specific department or account); 3) a charity; 4) a religious organization; or 5) a scholarship fund. (Donations may be restricted depending on the involvement of the candidate or the candidate's family in the recipient organization.) No formal notice of intent to dissolve is necessary. Dissolution occurs when a candidate files a final campaign finance report showing the final disposition of funds and liabilities and with "dissolution" checked off.

Q. I'm organizing a committee for my candidacy for local office. May I serve as my committee treasurer or chairman?

A. The campaign finance law prohibits a candidate from serving as treasurer of his or her own committee. There is no legal barrier to prevent you from serving as chairman of your own committee, though most candidates prefer to have someone else be chairman. A candidate may serve as the treasurer of *another* candidate's committee, provided they are not otherwise prevented from doing so.



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