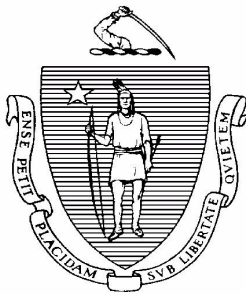


CAMPAIGN FINANCE GUIDE

Candidates for Municipal Office



Office of Campaign and Political Finance
Commonwealth of Massachusetts

This brochure is designed to introduce candidates for elected municipal office and the treasurers of their political committees to the provisions of the campaign finance law. The Office of Campaign and Political Finance (OCPF) is responsible for administering Massachusetts General Laws Chapter 55, the campaign finance law. The office is available to assist individuals in understanding and complying with the statute and encourages treasurers, committee members and interested persons to familiarize themselves with these laws and regulations.

This publication is meant only to be an introductory guide to the campaign finance law, not a substitute for it. It is the responsibility of all those participating in political campaign financing in Massachusetts to become knowledgeable with the provisions of the law and regulations. Violations of the law carry serious penalties of fines, imprisonment or both. For additional information please contact:

Office of Campaign and Political Finance

One Ashburton Place

Room 411

Boston, MA 02108

(617) 979-8300 / (800) 462-OCPF

Fax: (617) 727-6549

Web site: www.mass.gov/ocpf

E-Mail: ocpf@cpf.state.ma.us

This publication and all other OCPF campaign finance guides are also available online.

Office of Campaign and Political Finance

Chapter 1173 of the Acts of 1973 strengthened the state campaign finance law and established the Office of Campaign and Political Finance. While the 1970s saw a push for reforms in campaign finance disclosure laws all across the country, portions of the campaign finance law were on the books in Massachusetts as early as 1884. Some of those original laws provide for restrictions on and protections for public employees and will be discussed later in this brochure. Significant changes to the law were made in 1994 and 2009. Many of these changes affect municipal candidates and are addressed in detail in this brochure.

The Campaign Finance Law

Chapter 55 of the Massachusetts General Laws is a comprehensive statute governing the financing of political campaigns in the Commonwealth. The statute requires, for example, that candidates and political committees disclose all contributions received and expenditures made. The campaign finance law also provides for limitations, and in some cases absolute prohibitions, on certain sources of campaign contributions. Additionally, the way in which campaign funds may be spent is regulated by the statute as well as by regulations and guidelines established by OCPF. Finally, Chapter 55 regulates certain conduct in connection with the raising and spending of campaign funds, such as the activities of public employees, and prohibits the use of governmental resources for political purposes. OCPF has promulgated regulations (970 CMR) on contributions and expenditures,

which should be consulted for more specific guidelines on these requirements.

The Municipal Candidate

If you are thinking about running for elective office, you should contact your local election official (city or town clerk or election commission) or OCPF before undertaking any activity. The statute has a very broad definition of “candidate.” The law may consider you a candidate well before any formal announcement of candidacy is made.

This brochure is designed to address issues concerning candidates for elected municipal office (not for members of a representative town meeting, who are exempted from the reporting and disclosure provisions of the campaign finance law). Activities of the treasurer of a political committee organized on behalf of a municipal candidate are also covered in this brochure. **This brochure does not apply to candidates seeking the office of mayor or city council in the cities of Boston, Cambridge, Lowell, Springfield and Worcester,** who are required to designate a depository bank and file periodic bank reports with OCPF. Those candidates should contact OCPF or their local election officials for further information. Candidates for School Committee in these five cities file reports with their local election officials according to the system detailed in this guide.

Organization and Disclosure Forms

The following is a summary of the appropriate forms required for municipal candidates and their purpose. Contact OCPF or your local election official for further details concerning these forms and the procedures for filing them.

Unless otherwise noted, all forms are available from, and are to be filed with, the local election official in your community.

**Form CPF M 101: Statement Of Organization of a
Candidate Committee
Municipal Form**

Although the law does not require a candidate to have a political committee organized on his or her behalf, most candidates have one. A public employee who runs for elective office and wishes to raise funds must have a committee organized on his or her behalf to handle all fundraising since public employees are prohibited by law from political fundraising, even for their own campaigns.

Form CPF M101 should be filed with the local election official as soon as the committee is organized. Candidates for mayor in cities with populations between 40,000 to 100,000 should also file a copy of the M101 with OCPF. A political committee may not accept any contributions, make any expenditures or incur any liabilities until the treasurer qualifies for the office of treasurer by completing, signing and filing Form CPF M101.

This form contains the names and address of the committee chairman and treasurer and the name of the candidate for whom the committee is organized. Any change in information submitted should be reported to the local election official within 10 days of such change. Political committees are prohibited from receiving or expending funds without an appointed treasurer. Any change in treasurer should therefore be submitted by completing Form CPF M T 101 and filing it immediately with the local election official.

A candidate may have only one committee organized on his or her behalf, even if the candidate holds more than one

elective office. If a candidate plans to seek state or county office and later wishes to seek a municipal office, or vice versa, such candidate must transfer his committee from the state to the municipality or vice versa. OCPF can assist you in accomplishing these transfers.

By law, a committee must name a chairman and a treasurer. The chairman and the treasurer may be the same person, unless that person is a public employee. A public employee may not serve as the treasurer of any political committee since such a position would involve the solicitation and/or receipt of funds for a political purpose, which is prohibited by law. (See section on public employee restrictions starting on Page 14.) A candidate may not be the treasurer of his or her own committee.

Form CPF M 102: Campaign Finance Report Municipal Form

Every city or town candidate and his or her political committee, if any, is required to file Form CPF M102 with the local election official on or before each reporting date as discussed in the next section (candidates for mayor in cities with populations between 40,000 to 100,000 file electronically with OCPF). This report must be signed by the candidate and treasurer, if any, under the penalties of perjury. Candidates and treasurers are responsible for the legality, validity, completeness and accuracy of each of their reports. The following information should be filed with or on Form CPF M102:

- o Schedule A - Receipts: An alphabetical listing of all contributions in excess of \$50 received in a reporting period, including the date the contribution was received and the residential address of the contributor. This information must also be reported for receipts of \$50 or less if the total contributions from the individual have exceeded \$50 in the calendar year. Otherwise, receipts of \$50 and under may be

added together on one line and included in total receipts. However, complete information, including date, name, residential address and amount, must be kept by the candidate or committee regardless of the amount of the contribution. If the contribution is \$200 or more, the occupation and employer of the contributor must also be disclosed.

- o Schedule B - Expenditures: An alphabetical listing of all disbursements in excess of \$50 with the amount and date of payment, the name and address of the payee and the purpose of the expenditure. Those expenditures of \$50 or less may be added together on one line and included in the total expenditures. However, complete information concerning all expenditures, including date, payee, address, amount and purpose, must be kept by the candidate or committee regardless of the amount.
- o Schedule C - In-Kind Contributions: An alphabetical listing of all in-kind contributions of anything of value other than money with a value in excess of \$50 in a calendar year. This listing includes the date, the name and residential address of each contributor and a description of the contribution. The occupation and employer of any contributor of \$200 or more in in-kind goods or services, or a combination of money and in-kind contributions, is also required. For those contributions valued at \$50 and under, a one-line total is included in the aggregate of all in-kind contributions for the period. In-kind contributions do not include volunteers' personal services or the exercise of ordinary hospitality.
- o Schedule D - Liabilities: An alphabetical listing of all outstanding, unpaid obligations as of the last day of the reporting period, regardless of when the liability was incurred. Included is the amount, the date the liability was incurred, the name and address to whom it is due and the purpose of the liability. Liabilities are carried over from

each report to the successive report until such time as they are satisfied.

Totals from all of the above categories are summarized in a schedule on the front page of Form CPF M102. Detailed instructions for completing Form CPF M102 are available from your local election official or from OCPF.

Form CPF M102-0: Campaign Finance Report (Affidavit) Municipal Form

The M102-0 statement may be filed in lieu of the Form CPF M102 only by candidates who do not have a political committee organized on their behalf, and have not received any contributions, spent any money or incurred any debts. A candidate without a committee and without any campaign finance activity may instead file a Form CPF M102 with zeros for summary totals, but either Form CPF M102 or Form CPF M102-0 must be filed by every candidate on the ballot. These forms are available from your local election official.

Records of all receipts and expenditures must be maintained by a candidate and committee for all activities, regardless of amount. Candidates and treasurers of all political committees organized in Massachusetts are required by law to preserve detailed accounts, vouchers and receipts for six years from the date of the relevant election.

Filing Deadlines

Candidates and their committees, if any, are required by statute to file periodic campaign finance reports and are also responsible for the legality, validity, completeness and accuracy of their reports. The following is a schedule for filing reports. **These reports must be filed whether or not money has been raised or expended during the reporting period and**

whether or not the candidate is nominated or elected. Reports are due to the local election official by the close of business on the day the report is due. **The candidate is personally liable for a \$25 per day late fine assessed by OCPF for each day a report is late.**

In general, candidates in town elections file two campaign finance reports for an election, while city candidates file three reports. The following is the schedule for filing municipal reports:

- o Pre-Primary/Preliminary Report (Cities and some Towns): Due on or before the 8th day preceding the city or town preliminary or primary election, complete from the day following the ending date of the last report filed through 10 days before the due date. If this is an initial report, the activity period is from the day following the date of the last election for the office sought through 10 days before the due date. *A candidate will file a pre-preliminary report only if his or her name appears on a preliminary ballot.*
- o Pre-Election Report (Cities and Towns): Due on or before the 8th day preceding the city or town general election, complete from the day following the ending date of the last report filed through 10 days before the due date.
- o Post-Election Report (Spring elections): Due on or before the 30th day following the general election complete from the day following the ending date of the last report filed through 10 days before the due date. This report may be considered a final report if the candidate/committee has no cash balance, assets or outstanding liabilities. Most spring elections occur in towns.
- o Year-End Report (Cities and Towns): Due on or before January 20 in the year following, complete from the day

following the ending date of the last report filed through December 31. This is the third and final report for candidates in regularly scheduled (November) city elections. **This year-end report must also be filed every year so long as a committee is in existence, or a candidate maintains a campaign fund, has outstanding debts, or is an incumbent elected official.**

- o Special Elections (Cities and Towns): In general, candidates and treasurers in special municipal elections file reports eight days before a preliminary election (if any), eight days before a final election and 30 days after the final election. The post-election report may also be considered a final report if the candidate/committee has no cash balance, assets or outstanding liabilities. Candidates and committee treasurers should contact their local election official for specific dates in the event of a special election.
- o Mayoral candidates: In cities with total populations of 40,000 to 100,000 according to the most recent federal census, candidates for mayor will file their reports with OCPF electronically. Reporting software is available for downloading on OCPF's Web site, www.mass.gov/ocpf. Candidates may also elect to electronically file through OCPF's Web site using "Web Reporter," a Web-based reporting option.
- o Late contributions: Mayoral candidates who are required to file electronically with OCPF must also report contributions of \$500 or more within 72 hours, if the contributions are received and deposited after the 18th day, but more than 72 hours, before a special, preliminary or general election.

All campaign finance reports required to be filed with the city or town **shall be made available for viewing on the municipal Web site** within 30 days after the filing deadline if the report discloses that a candidate or committee has received

contributions or made expenditures in excess of \$1,000 during a reporting period or incurred liabilities or acquired or disposed of assets in excess of \$1,000 during a reporting period.

Receipts

All campaign funds received must be placed in a separate fund apart from any and all other funds. The following is a summary of limitations placed on contributions made to a candidate or candidate's committee:

- o An *individual* may contribute up to an aggregate of \$500 (monetary or in-kind contributions, or a combination of both) to a candidate and that candidate's committee in a calendar year. Individuals are limited to \$12,500 per year in aggregate contributions to all candidates and candidate committees. An individual under age 18 is limited to a total of \$25 per year in political contributions to all candidates and political committees.
- o A *political action committee (PAC)* or a *people's committee* may contribute up to an aggregate of \$500 per year to a candidate and that candidate's committee.
- o Registered *lobbyists* may only contribute up to an aggregate of \$200 per year to a candidate and that candidate's committee.
- o A ward, town or city *political party committee* may contribute up to an aggregate of \$1,000 per year to a candidate and that candidate's committee. There is no limit on in-kind contributions from a local party committee.
- o A candidate or candidate's committee may not accept any contribution, including an in-kind contribution of goods, services, equipment, personnel, facilities or the like, from

business or professional corporations, partnerships or limited liability companies, or from any association or organization comprised in whole or in part of business or professional corporations. However, an individual may use his or her *sole proprietorship* to make a contribution to the campaign fund of a candidate, as long as the name of the individual contributor is also disclosed.

The 2010 Supreme Court decision, **Citizens United v. FEC**, allows these business entities to make *independent expenditures* to support or oppose candidates. Such activity must comply with the definition of “independent expenditure” in section 1 of Chapter 55 and must be disclosed as required by Section 18A of Chapter 55.

The reporting of all contributions received by a candidate or a candidate’s committee is required under M.G.L. Chapter 55. Some of the requirements for such disclosure are outlined below.

- o Each contributor must furnish the candidate or committee with his/her true name and address at the time the contribution is made.
- o A candidate or committee must disclose the name and address of each contributor of more than \$50 in a calendar year. If an individual gives \$200 or more in a calendar year, the committee must also ask once at the time of solicitation and, if necessary, in one written follow-up request for the contributor’s occupation and employer. A copy of the written request must be kept as part of the committee’s records. If a contributor still does not provide the information after the two requests, the committee has complied with the law and may keep the contribution. The committee should also disclose on the campaign finance report that it has complied with the law by noting “letter sent” in the occupation and employer field.

- o Contributions received and disclosed from a union, association, trust or foundation must include the names and residential addresses of its principal officer(s).
- o Contributions from the same person that in the aggregate in a calendar year exceed \$50 must be made by a personal check or a check drawn on an account for which the contributor is personally liable. Contributions by cash, money order, cashier's check, bank check, wire transfer, payroll deduction etc. are prohibited in amounts greater than \$50 in the aggregate per contributor per calendar year. For contributions made by credit card, candidates and committees should contact OCPF for its regulations concerning the process.
- o Contributions of anything of value other than cash or checks are "in-kind" contributions, are reportable on Schedule C and are subject to the same contribution limits previously mentioned. Examples of in-kind contributions include, but are not limited to, rental space for headquarters, furniture, office equipment, printing, postage and advertisements.
- o Loans are defined as contributions and are subject to the same contribution limits previously mentioned.

Expenditures

The following is a summary of limitations placed on expenditures by candidates and candidate committees:

- o Expenditures by a candidate or a candidate committee may be made for the enhancement of the political future of the candidate so long as such expenditure is not primarily for the candidate's or any person's personal use.

- o A candidate for city or town office may make expenditures from his or her personal funds without limitation for the purposes of his or her own campaign, including making contributions to his or her committee. All such expenditures and contributions must be fully disclosed on Form CPF M102.
- o If a candidate makes expenditures only from his or her own personal funds without raising any money, the candidate must report all funds that he or she expended as a contribution to the campaign on Schedule A and as an expenditure by the campaign on Schedule B.
- o A business or professional corporation, partnership, limited liability partnership or limited liability company may not provide goods, services, equipment, personnel or facilities, unless it is paid fair market value for such items by the candidate or committee. Sole proprietorships, however, may make in-kind contributions, as long as the contributions are attributed to an individual making them and do not exceed statutory limits.
- o Any expenditure for an amount exceeding \$50 must be made by check.
- o The committee of a candidate for local elected office may not give in the aggregate in a calendar year more than \$100 to another candidate or candidate committee. The aggregate of all such contributions in a calendar year may not exceed \$1,500.
- o Surplus money may be placed in an interest bearing savings account or money market account. No other type of investment is permitted by law.

- o No person authorized to make an expenditure from a political committee may sign a committee check payable to himself or herself. The restriction applies to any candidate who has a committee organized on his or her behalf. For example, if a candidate for city council uses his personal credit card to buy paper supplies for the campaign and wants to be reimbursed, he is prohibited from writing a committee check to himself for the reimbursement. Another individual authorized to write checks on the committee account would sign the reimbursement check.
- o A mayoral candidate committee that is required to file with OCPF that makes a payment to or incurs a liability to a vendor for \$5,000 or more in a calendar year must disclose the full name and address of each subvendor receiving payments of more than \$500 in total during a calendar year from the vendor. A vendor is any person, including a consultant, who provides goods or services to a political committee and either receives or is promised \$5,000 or more during a calendar year by the committee for goods or services. Vendors are required to report to candidate committees any subsequent expenditures by the vendor of \$500 or more that are made to sub-vendors. Candidates are then required to report that expenditure information to OCPF.

Dissolution of a Committee

Committees that have no cash balance, assets or outstanding liabilities and wish to dissolve may do so. Candidates and committees that do not dissolve must continue to report on a regular basis.

All residual funds from committee or candidate accounts must be donated to one or more of the following: (1) the Commonwealth of Massachusetts General Fund; (2) the

general fund of a city or town; (3) a scholarship fund; or (4) a charitable or religious organization. Donations to scholarship funds and charities are subject to certain restrictions. Contact OCPF for more information.

Treasurers of committees are required by law to preserve detailed accounts, vouchers and receipts for six years from the date of the relevant election. This statutory provision applies to all political committees organized in Massachusetts.

Public Employees, Buildings and Resources

OCPF administers Sections 13-17 of M.G.L. Chapter 55, which concern political activity involving public employees, buildings and other resources that are publicly funded. These laws were designed to: protect public employees from being coerced into providing political contributions or services as a condition of their employment; protect individuals doing business with the public sector from being coerced into providing political contributions or services; and separate governmental activity from political campaign activity.

OCPF has published *Campaign Finance Guide: Public Employees, Public Resources and Political Activity*, which is available upon request. The following is a summary of the limitations on the political finance activities of public employees and the use of public buildings and resources in campaigns:

- o No state, county, city or town employee employed for compensation, other than an elected official, may directly or indirectly solicit or receive any contribution or anything of value for *any* political purpose.
- o If a person is both a public employee and an elected official, the prohibitions against soliciting or receiving political contributions would still apply to him or her.

- o No person may solicit or receive campaign contributions in a building occupied for any state, county or municipal purpose.
- o No person in the public service may be compelled to make a political contribution or to render any political service, and no public official or employee may be prejudiced in his or her employment for failure to make a political contribution or be rewarded for making a political contribution.
- o A political committee may not solicit or receive a contribution on behalf of a candidate who is public employee if the contributor has an interest in any particular matter in which the employee participates or which is the subject of his official responsibility.
- o No public resource may be expended or utilized in order to promote or oppose the nomination or election of any candidate to public office or to promote or oppose any ballot question placed before the voters. Examples of public resources include: paid staff time of public employees, office equipment, vehicles, buildings and supplies.

In some cases, agency policy or the conflict-of-interest law, M.G.L. Chapter 268A, may establish additional standards for political activity by public employees. Public employees should consult the State Ethics Commission as well as their supervisors or agency heads.

Seeking Guidance from OCPF

OCPF welcomes inquiries regarding campaign finance activities. The office issues written advice, including advisory opinions and guidance letters, to individuals based on written

requests describing specific facts and circumstances. OCPF can issue opinions only on prospective activities. If you have any questions concerning advisory opinions, please contact the office. You may also obtain informal, oral advice by calling the office at the numbers listed in the front of this brochure.

In addition to issuing specific written advice, OCPF occasionally issues interpretive bulletins and memoranda setting guidelines on a variety of subjects. These documents are available from OCPF and may be helpful in helping candidates, committees and other organizations comply with the campaign finance law.

Filing a Complaint

Individuals with information concerning possible violations of the campaign finance laws may call or write OCPF. If you have reason to believe that a violation has occurred, you may file a complaint. The office reviews all matters brought to its attention, regardless of the source of the complaint. The identity of complainants is kept confidential.

OCPF cannot comment on any matter that is under review or investigation. Consequently, an individual making a complaint will not receive periodic information on the status of the complaint. The complainant will receive notice, however, of any public disposition of a case.

Frequently Asked Questions

- Q. *Am I required to organize a committee for my campaign for municipal office?***
- A.** Most candidates organize committees, but the campaign finance law does always require it. If a candidate is a public employee and plans to raise money from other individuals for his or her campaign, they must form a

committee because public employees may not solicit or receive campaign contributions. OCPF recommends that candidates form committees to receive and disburse funds and handle recordkeeping.

Q: *May a candidate be the treasurer or chairman of his or her own political committee?*

A: A candidate may not be treasurer of his or her own committee, but may serve as its chair.

Q: *May the treasurer and chairman of the committee be the same person?*

A: Yes, unless that person is a public employee. A public employee may not be treasurer of any political committee.

Q: *May a business make a contribution to a candidate?*

A: A business or professional corporation, partnership or limited liability company may not make contributions to candidates or their political committees. However, an individual may use his or her sole proprietorship to make a contribution to the campaign fund of a candidate. In such cases, the contribution from the business should be reported as coming from the individual owner who is D/B/A (doing business as) the unincorporated business.

Q: *What number should I give the bank for the committee tax identification number?*

A: Political committees should consult the Internal Revenue Service for information on how to obtain a federal tax identification number. In addition, you should contact the Massachusetts Department of Revenue for information on any state tax requirements that may be applicable.

Q: *How much may I contribute to my own campaign?*

A: While individual contributions, including contributions from spouses and other family members, are limited to \$500 in a calendar year, a candidate may contribute

without limit from his/her personal funds to his/her own campaign. If your contribution is in the form of a loan to your committee, it must be reported not only as a contribution on Schedule A, but also as a liability on Schedule D. Only if loans are properly reported may a candidate be repaid from campaign funds for contributions he or she has made.

Q: *When are my campaign finance reports due, and how do I figure out the beginning and ending dates of the reporting period?*

A: See Page 8 for details on due dates of reports. The reporting period is the period for which the candidate and his/her committee must report all campaign finance activity. This includes all activity from the day following the date of the last report filed through 10 days before the due date.

For example: A local election is held on Tuesday, May 23. The pre-election report is due to the local election official on or before Monday, May 15 (eight days before the election). This report covers the period from the day after the ending date of the last report filed through 10 days before its due date. Therefore, if the candidate or committee's last report filed was a year-end report in January, complete through Dec. 31, the pre-election period will begin on Jan.1 and end 10 days before the report is due, i.e. Friday, May 5.

For first-time filers, the beginning date of this initial report is the day following the date of the last election for the office the candidate is seeking. The ending date is the same described above, 10 days before the due date.

Q: *How can I change some information on my Form CPF M101 (Statement of Organization)?*

A: Any changes to Form CPF M101 must be reported to the local election official within 10 days of the actual change. For most changes, a letter of amendment clearly stating the

change to Form CPF M101 may be filed. The only exception is a change of treasurer, for which the candidate and the new treasurer must file Form CPF MT101 (Change of Treasurer). No money may be raised or spent by the committee until the new treasurer is appointed and Form MT101 is filed.

Q: *I am an appointed public employee. May I ask a friend or relative to purchase a ticket to a fundraiser for a candidate?*

A: No. Section 13 prohibits this activity at any time.

Q: *I am an appointed public employee. May I run for public office?*

A: Yes. While M.G.L. Chapter 55 does not prevent a public employee from running for office, it does prohibit fundraising by a public employee for any candidate. If you run for office, you must organize a political committee and have that committee handle all fundraising activity. You should also check with your agency, the State Ethics Commission and/or your city or town for further guidance.

Q: *May a candidate or his or her committee use the city or town hall as an address to send a contribution to a candidate's political committee?*

A: No. Such action is prohibited by Section 14.

Q: *I am a public school teacher as well as a candidate for municipal office. May I use the school printing machine to prepare a flyer or letter about my candidacy, or may I distribute information about my candidacy to students in my classroom?*

A: No. The campaign finance law prohibits any person from using a public resource such as office space or equipment for political purposes. The law also prohibits an appointed public employee from engaging in campaign activities

while being paid by a municipality or other public agency during work hours.

Q: *I am a elected official in my town. May I serve as an officer of a PAC on the state or local level?*

A: No. Candidates and elected officials on the state, county and municipal levels are prohibited from serving as the principal officers of, or organizing, maintaining, financing or controlling PACs.

Q. *I lost the election or have recently left elected office. What are my future reporting obligations?*

A. If you do not plan to seek office again, you should dissolve your committee after eliminating any unpaid liabilities and remaining funds. Funds must be disposed of through the Residual Funds clause (*see page 14*). Candidates are not required to shut down after losing or leaving office. If a candidate continues to operate a committee for future political activity, however, the candidate and committee must continue to file disclosure reports with the local election official at least once a year (mayoral candidates in cities with populations of 40,000 to 100,000 file with OCPF). If a candidate again seeks election, he or she would report on the filing schedule for that office. Contact your local election official if you decide to seek local office and OCPF if you decide to seek state or county office.