

CAMPAIGN FINANCE GUIDE

Local Election Officials



Office of Campaign and Political Finance
Commonwealth of Massachusetts

This brochure is designed to introduce city and town clerks and local election officials 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 local election officials in understanding and complying with the statute and regulations.

This publication is meant only to be a guide to the campaign finance law to assist local election officials with their responsibilities. For additional information please contact:

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

Office of Campaign and Political Finance

The Office of Campaign and Political Finance was established in 1973, though portions of the campaign finance law were on the books in Massachusetts as early as 1884.

The campaign finance law (MGL Chapter 55) is a comprehensive statute governing the financing of political campaigns in the Commonwealth at the state, county, district and municipal levels. The Federal Election Commission administers campaign finance issues as they apply to federal candidates.

Significant changes to the state campaign finance law were made in 1994, 2009 and 2014. Many of these changes affect municipal clerks and candidates and are addressed in detail in this brochure.

Campaign Finance Responsibilities for Clerks and Local Election Officials

City and town clerks, or local election commissions, administer the campaign finance law for candidates and committees that file on the municipal level.

This guide focuses on assisting local election officials in all cities and towns with non-depository candidates and committees. All municipal candidates and committees are non-depository, except for mayoral, city council and alderman candidates in cities with populations of more than 75,000.

Local election officials have several campaign finance duties:

- Providing materials and notifying candidates and committees of their filing responsibilities. (Page 7)

- Filing dates and disclosure. (Page 8)
- Accepting and preserving miscellaneous campaign finance forms, such as independent expenditure reports and ballot question reports. (Page 10)
- Displaying reports on a municipal website. (Page 11)
- Inspecting campaign finance reports, notifying delinquent filers, and referring non-filers to OCPF. (Page 12)
- Accepting dissolution reports from committees. (Page 13)
- Assisting OCPF with organizing mayoral candidates on the state level. (Page 14)
- Public employees, buildings and resources. (Page 15)

Organization and Disclosure

Candidates who file locally, municipal ballot question committees, local party committees and locally-based political action committees file organizational forms on the local level. Local party committees also file organizational forms with OCPF, the Secretary of State and their respective state party.

The law does not, under most circumstances, require a candidate to have a political committee organized on his or her behalf, but 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 (page 13).

Form CPF M101 should be filed with the local election official as soon as the committee is organized. **Candidates for mayor file their M101 statements with OCPF.**

Organizational Forms:

Form <u>CPF M 101</u> :	Statement of Organization of a Candidate Committee Municipal Form
Form <u>CPF M 101 BQ</u> :	Statement of Organization of a Ballot Question Committee Municipal Form
Form <u>CPF M 101 PC</u> :	Statement of Organization of a Political Action Committee Municipal Form
Form <u>CPF M 101 SFA</u> :	Statement of Organization for a Candidate's Segregated Fund Account Form (See page 10)
Form <u>CPF 101 WTC</u> :	Statement of Organization Elected City, Ward and Town Political Party Committee Report

The organizational form contains the names and addresses of the committee officers. **Any change** in information submitted should be reported to the local election official within 10 days of such change. Any change in treasurer should be submitted by completing Form CPF M T 101 and filing it with the local election official.

TIP: Residents sometimes want to organize political action committees to support or oppose ballot questions. Those groups are not PACs and should organize as ballot question committees.

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.

A candidate may not be the treasurer of his or her own committee.

Campaign Finance Reporting Forms:

Form CPF M 102: Campaign Finance Report Municipal Form

City or town candidates and political committees are required to file Form CPF M102 with the local election officials on or before each reporting date (candidates for mayor file electronically with OCPF). Candidates and treasurers are responsible for the legality, validity, completeness and accuracy of each of their reports.

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

The M102-0 statement may only be filed in lieu of the Form CPF M102 by candidates who file locally, do not have a political committee organized on their behalf, and have not received any contributions, spent any money, maintained a balance 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.

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.

Providing Materials and Notification

Section 27 of the state campaign finance law addresses how local election officials should assist candidates and committees prior to an election by providing forms and guides.

Forms: Municipal clerks and local election officials are required to provide campaign finance reporting forms to all committees required to file with the town or city. Local election officials can e-mail all forms to their candidates or committees, or print them from the OCPF website.

TIP: Suggest to candidates that they use OCPF's reporting software, *Reporter*, which is available on the OCPF website. *Reporter* helps create accurate, easily-read paper reports. To use Reporter, candidates and committees should contact OCPF for an identification number and password.

Filing Notices: OCPF strongly recommends that local election officials send notices to all candidates and committees to inform them of their filing responsibilities. The notices should explain reporting periods and due dates, and remind committees of the potential for fines.

Guides: The campaign finance law requires OCPF to make available a summary of the campaign finance law to local election officials. The guides for municipal candidates, municipal PACs and municipal ballot question committees are available on the OCPF website. To comply with the law, local election officials can e-mail all guides to their candidates or committees, or print them from the OCPF website.

TIP: Collect e-mail addresses from candidates and committees and send the forms, notices and guides electronically.

Filing Dates & Disclosure

Candidates and committees 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 for each day a report is late.**

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

Pre-Preliminary Report (Cities and some Towns): Due on or before the 8th day preceding the city or town preliminary election, complete from the day following the ending date of the last report filed through 10 days before the due date. **Where there is a preliminary election in a city, only those candidates on the preliminary ballot are required to file pre-preliminary reports.**

- 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, and if the candidate is not an incumbent. 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 after 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. **The year-end report must be filed each 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*.** If January 20 falls on a Saturday, Sunday or holiday, the report would be due on the next business day.
- 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, and the candidate is not an incumbent.
- o Ballot Question Committees: Committees formed to support or oppose ballot questions on the **fall ballot** generally file two reports – a pre-election report due eight days prior to the general election, and a year-end report that is due Jan. 20 of the following year. In **spring elections**, reports are due eight days prior to the election and 30 days afterward.

- o Mayoral candidates: In cities with populations of less than 75,000 according to the most recent federal census, candidates for mayor will file their reports with OCPF electronically, using OCPF's web-based Reporter system. Mayoral (as well as city council and alderman) candidates in cities of more than 75,000 also file with OCPF through the depository system.

Other Reports

- o Ballot question reports: Individuals, organizations and businesses that make direct expenditures of \$250 or more to support or oppose a local ballot question must file M22 reports with local election officials on the same schedule as ballot question committees.
- o Independent expenditures: Individuals or organizations that make independent expenditures supporting or opposing a candidate in an election are required to file disclosure reports (CPF M18A forms) within seven business days with local election officials, if the aggregate amount exceeds \$250.
- o Independent Expenditure PACs: IEPACs are committees that raise money for the purpose of making independent expenditures to support or oppose candidates who file locally. Such IEPACs must organize with the local election official.

IEPAC reports are filed within seven business days after an independent expenditure is made. If, however, an independent expenditure is made within 10 days before an election, a report is due within 24 hours. IEPAC reports disclose contributions and expenditures. For more information about the filing schedule for municipal IEPACs, please contact OCPF.

- o Segregated fund reports: A candidate or committee that wishes to raise money to pay costs associated with a legal defense, recount or an inaugural event will organize a segregated fund committee with their local election official. Disclosure reports (Form M 18E) are filed monthly, if donations are received.

Displaying and Preserving Reports

Paper reports must be made available for convenient public inspection and copying at the office of the city or town clerk during normal business hours as soon as the reports are filed. Paper reports must be preserved until Dec. 31 of the sixth year following the relevant election.

All campaign finance reports filed with the city or town must be posted to the **municipal website** 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. **OCPF recommends posting all reports to the municipal website, even those with less than \$1,000 in activity.** Reports should remain on the municipal website until at least Dec. 31 of the sixth year following the relevant election.

The law does not address how campaign finance reports should be displayed on a municipal website. OCPF recommends posting documents on the city or town clerk's page, or the elections page, in a way that makes it convenient for the public to view.

Failure to File, Inspecting Reports

The campaign finance law requires the OCPF director, after referral by a local election official, to assess a civil penalty for any late filed report. The penalty is assessed against the candidate personally in the case of a late filed candidate report, and against the treasurer personally in the case of a late filed report by any other political committee, such as a ballot question committee.

- o **Inspection:** Local election officials must inspect campaign finance reports within 30 days of the reporting date.
- o **Notification:** If a candidate's report is not filed when due, or if the report does not conform to law, written notification must be sent by the local election official to the candidate. The notice must indicate that the candidate or, in the case of a ballot question committee or PAC, the treasurer, has **10 calendar days** to file the required report or the candidate or treasurer will be referred to OCPF and will be subject to civil penalties. If the candidate or treasurer files a report within the 10-day period, the matter should not be referred to OCPF.
- o **Referral to OCPF:** If the candidate or treasurer does not file within 10 days of receipt of the notification, the local election official may then forward to OCPF copies of:
 1. The pre-filing letter (if any).
 2. The 10-day notification letter.
 3. The certified mail receipt (if any).
 4. The portion of the ballot containing the candidate's name or the ballot question.
 5. The statement of organization of the political committee (if any).

- o **Penalty:** Fines are assessed at \$25 a day up to \$5,000. It is very important for the local election official to inform OCPF once a candidate or political committee referred to OCPF has filed its report, in order to stop fines from accruing.

The above referral process is addressed in OCPF's municipal non-filers guide, **M-94-07**, which is available under the "Legal" tab on the agency website, www.ocpf.us.

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, as do incumbents with or without a committee.

In order to dissolve, 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.

To dissolve, candidates or committees file the M102 form and check off the "Dissolution" box near the top of the summary page.

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

Mayoral Candidates

Mayoral (as well as city council and alderman) candidates in cities of more than 75,000 organize and file with OCPF in the depository system. Other candidates in these cities, such as school committee candidates, file locally with their local election officials.

A mayoral candidate in a city with a population of less than 75,000 will file campaign finance reports electronically with OCPF.

- A political committee organized on behalf of a mayoral candidate must file a statement of organization with OCPF, and a copy of the statement must be filed with the local election official.
- *All such candidates must file campaign finance reports electronically with OCPF.* Paper reports are not filed with local election officials or with OCPF.

Cities with Populations of less than 75,000 as of the 2010 Federal Census

Agawam	Amesbury	Attleboro
Beverly	Braintree	Chicopee
Easthampton	Everett	Fitchburg
Gardner	Gloucester	Greenfield
Haverhill	Holyoke	Leominster
Malden	Marlborough	Medford
Melrose	Methuen	Newburyport
North Adams	Northampton	Peabody
Pittsfield	Revere	Salem
Taunton	W. Springfield	Waltham
Westfield	Weymouth	Woburn

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 or her 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

Local election officials and other 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

Public Resources and Ballot Questions

Q: The school superintendent created a document that analyzes the proposed school budget, which he distributes at *town meeting*. In the document he asks town meeting voters to support the spending plan. Is this OK?

A: Yes. The campaign finance law (Anderson) prohibits the use of public resources for elections, not town meeting. The superintendent should also contact the state Ethics Commission for further guidance.

Q: Several town residents are working to pass a Proposition 2 ½ override to build a new school. They write e-mails, attend public meetings and hold homemade signs on the town common. Are they a ballot question committee?

A: No. If they are raising or spending money or pooling resources as a group to support the ballot question they should organize as a ballot question committee.

Q: The “Vote Yes for the Override” committee wants to distribute campaign literature in the school parking lot as parents pick up their children. Is this OK?

A: Yes, if equal access is granted to other ballot question committees, including the “Vote No” group.

Q: The town manager created an analysis concerning the upcoming override. It describes the negative effects on town services if the ballot question fails. Can this analysis be posted on the municipal Web site?

A: Yes, because it is not being distributed to voters. Public officials can post override information on municipal Web sites so long as the information does not fall into the category of campaigning, such as a blinking billboard that says: “Vote Yes on the Override.”

Q: Can candidates collect nomination signatures in common areas of town hall?

A: Yes, if equal access is granted to all candidates. You may also want to contact the state’s Elections Division for additional guidance.

Q: A candidate is having a meet and greet event at the public library and will give a campaign speech. Is that OK?

A: Yes, so long as equal access is granted to all candidates and no one at the event solicits or receives campaign contributions.

Q: Can an elected municipal official also be chairman of a local ballot question committee?

A: Yes. Elected officials cannot be officers of a PAC, however.

Reporting Requirements

Q: A candidate for local office did not spend or raise any money. Does he have to file a campaign finance report?

A: All candidates on the ballot must file. If the candidate did not raise or spend any money, and they don't have a committee or a balance, he can file a M102-0 form.

Q: What are the reporting dates for the 30-day-after report?

A: The day following the reporting date of the pre-election report up to and including the 20th day after an election, giving the candidate 10 days to prepare the report and file it.

Q: Do candidates who lose in the preliminary election still need to file pre-election reports, even though they are not on the ballot in the final election?

A: Yes.

Q: Voters from all five towns in our regional school district will vote on a tax override concerning the school budget.

Where does the “Vote Yes” Ballot Question Committee organize? Where are campaign finance reports filed?

A: The ballot question committee will organize by filing a CPF M 101 BQ form with the clerk in the town where the school resides. Campaign finance reports are filed with the clerks in all five towns.

Expenditures

Q: A candidate in town is using her personal credit card to pay for her campaign lawn signs and mailings. Is this OK, and does she have to disclose those expenditures?

A: Yes, candidates can make out-of-pocket expenditures and they must report those expenditures on campaign finance forms. If a candidate uses her personal credit card to buy \$500 worth of lawn signs, the transaction would be reported as a \$500 contribution to the campaign from the candidate. The expenditure would also be reported on Schedule B as a \$500 expenditure to the lawn sign company. If the candidate wants the campaign to pay her back at some point, a \$500 liability would also be entered.

Q: A candidate in town has mailed glossy post cards to residents asking for their vote, but the card does not say “Paid for By” the candidate’s committee. Is this required?

A: The campaign finance law does not require “Paid for By” attribution on mailings and fliers.

Receipts

Q: Can a business corporation owned by a candidate donate money directly to the candidate’s campaign?

A: Corporations, LLCs, LLPs and other business partnerships *cannot* make contributions (monetary or in-kind), even if the business is owned by the candidate. A candidate can contribute unlimited amounts of money to his own campaign from his personal funds.

**Q: Can a municipal candidate hold a raffle to raise money?
How about “passing the hat” to collect cash contributions?**

A: Political committees are not permitted to hold raffles. Also, anonymous cash contributions are prohibited.

Q: Can an elected town clerk raise money for his or her own campaign?

A: Yes. Elected officials are permitted to solicit and receive campaign contributions.

Q: What is the annual contribution limit from an individual to a municipal candidate?

A: \$1,000

Campaign Finance Guides available from OCPF:

Statewide, County and Other “Depository” Candidates
General Court (Legislative) Candidates
Municipal Candidates
State Ballot Question Committees
Municipal Ballot Question Committees
Political Action Committees and People’s Committees
Ward, Town and City Political Party Committees
Public Employees, Public Resources and Political Activity
Local Election Officials

All OCPF guides are available online.

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