

970 CMR 1.00: CAMPAIGN FINANCE ACTIVITY

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1.01: Scope and Purpose

M.G.L. c. 55 regulates all campaign finance activity for state, county, city and town elections and regional school and other district elections in the Commonwealth. 970 CMR 1.00 provides for the regulation of activity which is often engaged in by political committees. It establishes specific guidelines for transactions such as debt settlements, the acceptance and reporting of campaign contributions and loans from candidates to their political committees.

1.02: General Provisions

- (1) Amendments. 970 CMR 1.00 may be amended at any time, and such amendments shall take effect in accordance with M.G.L. c. 30A, § 6.
- (2) The term political committee as used in 970 CMR shall, unless the context otherwise requires, also apply to a candidate's account, as provided for in M.G.L. c. 55, § 2, and shall apply to all transactions and activities of said account. Candidates who do not create a political committee are required to file an organizational statement with OCPF or the city or town clerk, as applicable, prior to raising or spending money. The organizational statement shall include the full name of the candidate, the candidate's address, a statement identifying the office sought by the candidate, and the party affiliation of the candidate, if applicable.
- (3) The term candidate as used in 970 CMR shall, unless the context otherwise requires, also apply to the candidate committee organized on behalf a candidate in accordance with M.G.L. c. 55.
- (4) In any town having elections in November, candidates and committees required to file reports relating to such elections shall file reports in accordance with the schedule established in M.G.L. c. 55, § 18(a)(1) for cities.
- (5) Date and Time Reports Due.
 - (a) Except for the reports listed in 970 CMR 1.02(5)(b), reports filed electronically with the Director are due by 11:59 P.M. on the dates specified in the campaign finance law, unless the due date falls on a Saturday, Sunday or a legal holiday as defined in M.G.L. c. 4, § 7. In such cases, the report will be due by 11:59 P.M. on the next business day.

1.02: continued

(b) Independent Expenditure and Electioneering Communication Reports required to be filed with the Director by M.G.L. c. 55, §§ 18A and 18F shall be filed electronically no later than 11:59 P.M. on the date specified in M.G.L. c. 55, notwithstanding that the date may fall on a Saturday, Sunday or legal holiday.

(c) Reports filed with a local election official are due no later than the close of the workday of the date specified in the campaign finance law. If the due date for a municipal report falls on a day when the election office is closed (a Saturday, Sunday or legal holiday, or closing due to local schedule or inclement weather) the report is due no later than the close of business on the next business day.

1.03: Debts

(1) Corporate Debts. Debts owed to business corporations or other entities subject to M.G.L. c. 55, § 8 for goods and services may not be settled by candidates or political committees other than ballot question committees or independent expenditure PACs for less than the amount owed unless both the business corporation or other entity subject to M.G.L. c. 55, § 8 and the political committee treat the debt in a commercially reasonable manner. A corporation which settles a debt for less than the amount owed has made an in-kind contribution to the ballot question committee or independent expenditure PAC, and the ballot question committee or PAC must disclose the receipt of the in-kind contribution on its campaign finance reports. 970 CMR 1.03 shall not apply to a debt which is the subject of a dispute between a political committee and a creditor involving questions of satisfactory delivery of goods or services, or the amount owed. In order for a settlement of such a debt to occur all of the following requirements must be met:

- (a) Credit was extended in the ordinary course of business similar to terms granted to other political and non-political debtors.
- (b) The committee has made commercially reasonable efforts to satisfy the debt.
- (c) The creditor has pursued remedies to seek payment in the same manner it normally takes against debtors in a financial condition similar to the committee.
- (d) The settlement is similar to others the creditor has made with other debtors, and similar to settlements the committee has proposed to its other creditors.
- (e) The length of time prior to settlement is consistent with normal business and trade practice.
- (f) A political committee or candidate must file with this office a Statement of Settlement, which is subject to review, within 30 days of any such settlement. All Statements of Settlement must be signed by the Treasurer and Candidate of the political committee, and a duly authorized agent of the corporation.

(2) Noncorporate Debts. Debts to individuals or unincorporated proprietors not subject to M.G.L. c. 55, § 8 may be settled for less than the amount owed in the same manner as provided in 970 CMR 1.03(1), or by meeting each of the following requirements:

- (a) The amount forgiven is set forth in a letter of forgiveness and when considered together with amounts contributed from the same individual, is no more than the amount said individual may contribute in accordance with M.G.L. c. 55 or 970 CMR.
- (b) The political committee must report any debt which is forgiven as an in-kind contribution.

(3) Definition of "Liability". For purposes of M.G.L. c. 55, a "liability" is an obligation to make an expenditure which arises when a candidate or political committee, or person acting on behalf of a candidate or political committee, receives the proceeds of a loan or a good or service for the purpose of influencing the nomination or election of a candidate or for the purpose of promoting or opposing a question submitted to the voters, or is otherwise legally obligated to make a payment.

(4) Where a debt has been reported as a liability by a candidate or political committee for at least six years, and the candidate or committee does not have funds to make a payment and does not expect to have such funds available, or the creditor is no longer in business or cannot be located, an affidavit may be submitted to OCPF by the candidate or treasurer, to indicate that the liability is no longer in effect. In order for a debt to no longer be in effect after six years, the following requirements must be met:

1.03: continued

- (a) At the time the liability was incurred, the candidate and committee treasurer intended that the amount due would be paid in full;
- (b) Credit was extended in the ordinary course of business similar to terms granted to other political and nonpolitical debtors;
- (c) The committee has made commercially reasonable efforts to satisfy the debt;
- (d) To the best of the candidate or treasurer's knowledge, the creditor has pursued remedies to seek payment in the same manner it normally takes against debtors in a financial condition similar to the committee;
- (e) To the best of the candidate or treasurer's knowledge, the goods or services provided by the creditor were not intended by the creditor as an in-kind contribution to the candidate or committee; and
- (f) Payment on the full amount owed has not been made because the candidate or committee has no funds to make such payment and has no reasonable expectation of being able to make such payment in the future, or because the creditor is no longer in business or cannot be located.

1.04: Contributions

(1) Joint Contributions. A contribution which is made by a check which reflects a joint checking account of more than one individual is presumed to be from the individual whose signature appears on the check. The candidate or committee receiving the check may, however, at the recipient's discretion, attribute the contribution equally between each individual named on the check, unless such attribution would result in a contribution exceeding the limits in M.G.L. c. 55, § 7A. For example, if a \$2,000 check is received and neither contributor has contributed in the calendar year in which the maximum allowed for each contributor is \$1,000, the committee may attribute the contribution equally between the two contributors.

(a) If attribution among each named contributor would result in an excess contribution, the contribution may be attributed in a manner that avoids such excess contribution. For example, if one of two persons named on a joint check in the amount of \$1,000 has already contributed \$750 (of the maximum allowed starting in 2015 of \$1,000), but the other named contributor has not yet contributed, the recipient committee may attribute \$250 of the contribution to the contributor who has already contributed, and \$750 to the other contributor.

(b) Contributors making a joint contribution may submit a written request to the candidate or committee to have the contribution be attributed in a manner other than equally. Such request shall be controlling, unless it would result in the making of a contribution exceeding the limits in M.G.L. c. 55.

(c) If a recipient attributes a portion of a contribution made by joint check to one of the persons named on the check who did not sign the check, and the attribution is other than an equal division between the two persons named on the joint check, the recipient must, within 30 days of receiving the check, provide written notification to each contributor describing the amounts attributed to each contributor. The notification must advise the contributors that they may request reattribution in amounts different from the amounts initially determined by the candidate or committee, and that the contributors may alternatively request a refund of any portion of a joint contribution. If requested to do so by a contributor, the candidate or committee must reattribute a joint contribution in accordance with a request received from a contributor, unless the reattribution would result in the making of a contribution exceeding the limits in M.G.L. c. 55.

(d) Candidates and committees shall maintain records relating to all joint contributions received, including copies of checks, written attribution requests, and notifications provided to contributors.

(2) No check reflecting the name of a business corporation, partnership, professional corporation, limited liability partnership, or limited liability company may be solicited or received by any candidate or political committee, other than a ballot question committee or an independent expenditure PAC.

1.04: continued

(3) Political Contributions by Corporations, Partnerships, Limited Liability Companies and Limited Liability Partnerships. M.G.L. c. 55, § 8 prohibits contributions to candidates and committees (other than independent expenditure PACs and ballot question committees) from business or professional corporations, partnerships, limited liability companies, and limited liability partnerships incorporated or formed under the laws of the commonwealth, or doing business in the Commonwealth. Where accounts are created by a partnership to hold the equity interest of individual partners, however, such accounts may be used by partners to make individual contributions.

(4) Contributions which are received by ticket sellers must be disclosed as contributions from original and true contributors in the amount given by them.

(5) Anonymous contributions may not be accepted and shall, if unable to be returned to the contributor, be donated within 30 days of receipt, to an entity or entities specified in the residual funds clause, M.G.L. c. 55, § 18, or in a manner consistent with 970 CMR 2.06(3). Candidates and political committees must keep records reflecting such contributions.

(6) Any corporation or any other entity which is prohibited from making a particular contribution may not reimburse an individual for any contribution made by that individual.

(7) Any contribution received by a candidate or political committee, which is returned to the contributor in its original form, is deemed to have not been accepted and therefore need not be reported.

(8) Candidates and committees shall exercise their best efforts to determine whether contributions are legal at the time of receipt. Any contribution which is believed by a candidate or committee to be illegal under M.G.L. c. 55 or any other law prior to its deposit into the account of a political committee or candidate shall be returned to the contributor in its original form. Any contribution which is believed by a candidate or committee to be illegal, subsequent to its deposit, shall be purged immediately either by refund to the contributor or payment pursuant to the residual funds clause in M.G.L. c. 55, § 18. This refund shall be in the form of a check written to the contributor on the account of the candidate or political committee into which the original contribution was deposited. When the Director determines a contribution to be illegal, the Director may either require the contribution to be refunded to the contributor, or alternatively, he or she may require the contribution to be disgorged through a payment by the candidate or committee to the Commonwealth or through a payment to a charitable entity or entities or otherwise pursuant to the residual funds clause in M.G.L. c. 55, § 18.

(9) Contributions received by political committees may be refunded as provided in 970 CMR 1.04(9)(a), (b) or (c).

(a) Except as provided in 970 CMR 1.04(9)(c), a political committee that is not dissolving may refund a contribution upon request of a contributor.

(b) A political committee may establish a refund policy allowing refunds of contributions from a particular category or type of contributor. The policy must be applied in a consistent manner and in conformance with 970 CMR 1.04(9).

(c) Contributions may be refunded because of the termination of a particular candidacy or by a ballot question committee, if the question the committee was organized to support or oppose is not placed on the ballot. Refunds made due to termination of a particular candidacy or because a ballot question was not placed on the ballot shall be made either on a *pro rata* or a "last in, first out" basis or in response to a request from a contributor for a refund. Refunds made because of the termination of a candidacy may be made only for contributions that were received within six months prior to the termination of the candidacy. Ballot question committees may refund contributions upon the request of a contributor only if the request and refund take place prior to the date of the election in which the question is or was to be placed on the ballot.

(d) If a committee has issued a refund check to a contributor but the refund check is not negotiated within three months of issuance, the committee shall instead disgorge the funds by making a payment to a charitable entity or entities or otherwise pursuant to the residual funds clause in M.G.L. c. 55, § 18.

1.04: continued

(10) Membership Communications. Communications from membership organizations, not including a corporation subject to M.G.L. c. 55, § 8, to its members and their families, on any subject, shall not be understood to be a contribution or expenditure.

(11) Cash and Money Order Contributions.

(a) No person, candidate or political committee shall make a contribution of cash in an amount exceeding \$50.00 in the aggregate during a calendar year.

(b) Contributions in an aggregate amount exceeding \$100 during a calendar year may only be made by check or by credit or debit card, or electronic transfer, in accordance with 970 CMR 1.09. For the purposes of 970 CMR, the word "check" shall, unless the context otherwise requires, mean a check on which the contributor is directly liable or which is written on a personal, escrow, trust, partnership, business or other account which represents or contains the contributor's funds and shall not mean a certified check, cashier's check, treasurer's check, registered check, money order, traveler's check or other similar negotiable instrument.

(12) Contribution Limitations. Contributions from individuals, candidates and political committees to candidates and political committees shall comply with the contribution limitations set forth in the following chart:

ANNUAL CAMPAIGN CONTRIBUTION LIMITS
OFFICE OF CAMPAIGN AND POLITICAL FINANCE
COMMONWEALTH OF MASSACHUSETTS

TO: >>>>>	Candidate/ Candidate's Committee	Political Action Committee (PAC) ¹	People's Committee ²	State Party Committee	Local Party Committee	Ballot Question Committee
Individual ³	\$1,000 ¹⁴	\$500	\$191	\$5,000 ⁴	\$5,000 ⁴	No limit
Lobbyist	\$200	\$200	\$191	\$200 ⁴	\$200 ⁴	No limit
Statewide Candidate's Committee ⁵	\$100 ^{6,7}	No limit ^{6,8}	0	No limit ⁶	No limit ⁶	No limit ⁶
County, legislative, municipal or other candidate/ candidate's committee	\$100 ⁷	No limit ⁸	0	No limit	No limit	No limit
Political Action Committee (PAC) ¹	\$500 ⁹	\$500	0	\$5,000 ⁴	\$5,000 ⁴	No limit ¹⁰
People's Committee	\$500	\$500	0	\$5,000 ⁴	\$5,000 ⁴	No limit ¹⁰
State Party Committee	\$3,000 ¹¹	\$500	0	--	\$5,000 ⁴	No limit ¹⁰
Local Party Committee	\$1,000 ¹¹	\$500	0	\$5,000 ^{4,12}	\$5,000 ^{4,12}	No limit ¹⁰
Ballot Question Committee	0	0	0	0	0	No limit ¹³

Note: Contributions from federal political committees or other unregistered, non-Massachusetts political committees, are prohibited. Exception: Independent Expenditure PACs and Ballot Question Committees may accept unlimited funds from such sources.

1.04: continued

¹ **PACs:** PACs must organize with OCPF under M.G.L. c. 55 before they may contribute to Massachusetts candidates or committees. Limits do not apply to Independent Expenditure PACs. (Independent Expenditure PACs may not contribute to candidates or other political committees, except for other Independent Expenditure PACs or ballot question committees) Please see 970 CMR 2.22 and OCPF's interpretive bulletin concerning Independent Expenditure PACs, IB-10-03.

² **People's Committee:** After six months in existence, a PAC that has received contributions from individuals of \$191 or less per year and contributed to five or more candidates may request a change in its status to that of a people's committee. The maximum contribution from an individual to a people's committee is adjusted biennially by OCPF. The figure is in effect for 2022 and 2023.

³ **Contributions by Individuals:** Individuals younger than 18 years old have an aggregate contribution limit of \$25 per year. There is no limit on how much a candidate may contribute to his or her own campaign, though the maximum amount that certain candidates may loan varies by the office sought. Contact OCPF for information concerning limits on loans from state candidates to their own campaigns.

⁴ **Contributions to Party Committees:** The maximum annual aggregate contribution that may be made by an individual, lobbyist, PAC, people's committee or party committee to all committees of any one party, including those on the state and local level, is \$5,000.

⁵ **Statewide candidates** include those running for or holding the office of governor, lieutenant governor, attorney general, treasurer/receiver general, auditor and secretary of the commonwealth.

⁶ **Candidates Certified to Receive Public Funds:** No candidate's committee that receives public financing pursuant to M.G.L. c. 55C may make a contribution to another political committee during the calendar year in which the candidate's committee receives public financing, except that a committee that receives public financing may pay a political party committee for goods or services provided by the political party committee to the candidate's committee.

⁷ **Contributions from a candidate's personal funds** to another candidate are subject to the \$1,000 individual limit, not the \$100 committee limit.

⁸ **Contributions from candidates to PACs:** A candidate is prohibited from "financing" a political action committee (M.G.L. c. 55, § 5A). Please see 970 CMR 1.24.

⁹ **Total PAC contributions:** The aggregate annual amount a state or county candidate may accept from all PACs in a calendar year is limited by M.G.L. c. 55, § 6A. For example, a candidate for the Senate may not accept more than \$18,750 in total PAC contributions and a candidate for the House may not accept more than \$7,500. Candidates for municipal office are not subject to any such annual aggregate restriction.

¹⁰ **Contributions from a PAC, people's committee or party committee to a ballot question committee** are not subject to limitation but must be consistent with the principle for which the contributing committee was organized.

¹¹ **Party contributions to candidates:** This limit applies to monetary contributions only. There is no limit on in-kind contributions by a party committee to an individual candidate.

¹² **A local party committee** may contribute up to an aggregate of \$5,000 in a calendar year to all ward, town, city and state committees of the same political party.

¹³ **Contributions among ballot question committees:** A ballot question committee may contribute to another ballot question committee without limitation, provided such contributions are "consistent with the purpose for which [the contributing committee] was organized."

¹⁴ **Individual contribution to candidates:** An individual may contribute up to \$1,000 to a candidate seeking election to the office of state senator or state representative in a special election, and an additional \$1,000 to the same candidate seeking election to the office of state senator or state representative in a general election held during the same calendar year.

(13) Earmarked Contributions. Other than when a candidate contributes to the candidate's own political committee, once a person contributes to a political committee, the person does not retain control over the funds. A person may not make a contribution to a political committee on the condition or with the agreement or understanding that the funds or a substantial portion of the funds contributed must subsequently be contributed by that committee to any other committee.

- (14) Contributions received from trusts shall be subject to the following requirements:
- (a) A contribution from a living trust shall be reported as a contribution from the beneficial owner(s) of the trust. The committee receiving the contribution is responsible for determining the identity of the beneficial owner(s).
 - (b) Committees may not accept contributions from testamentary trusts or bequests from estates.
 - (c) Contributions from realty or nominee trusts are prohibited, except where such contributions are received by ballot question committees or IE PACs.

1.05: Loans

- (1) All loans by a candidate to the political committee organized on behalf of that candidate are subject to the following:

1.05: continued

(a) If the candidate borrows money with interest from a banking institution in the ordinary course of business, and if he or she lends those same funds to his political committee, he may charge his or her committee the exact terms he or she is being charged by the banking institution, provided however, that he or she may do so only on the exact amount he or she has loaned to his or her committee from funds loaned to him or her by the banking institution.

(b) If a candidate makes a loan to his or her political committee from his or her own personal funds without having secured a bank loan he or she may not charge his or her committee interest or any other costs.

(2) Statutory Limitations.

(a) Candidates for any statewide office and for the offices of state senator and state representative shall not loan, per election, more than the following amounts to their committee:

Governor, Lieutenant Governor	\$200,000
Secretary of State	\$150,000
Treasurer	\$150,000
Auditor	\$150,000
Attorney General	\$150,000
State senator	\$50,000
State representative	\$30,000

(b) For the purpose of 970 CMR 1.05, the phrase “per election” shall mean any regular or special preliminary or primary election, or any regular or special general election and shall include the period between the prior relevant primary or election and the following primary or election. For example, a state senator may loan his committee \$50,000 for the period between the prior November election and the following September primary which occurs approximately 22 months later, and loan an additional \$50,000 for the period between that September primary and the following November election.

(c) All other candidates may make loans to their committees in unlimited amounts.

1.06: Limitations on Contributions by Political Committee

(1) (a) Pursuant to and only for the purposes of the contribution limitations in M.G.L. c. 55, § 6, contributions shall be considered to be made by a single political committee if made by more than one political committee established, financed, maintained, or controlled by any person, including any parent committee of a subsidiary committee or any person other than a natural person.

(b) Two or more political committees may be considered to be a single political committee for the purposes of the contribution limitations in M.G.L. c. 55, § 6, if such committees make contributions to one or more of the same candidates or political committees and if, based on a consideration of the circumstances in 970 CMR 1.06(1)(b)1. through 6., the committees are determined to have been established, financed, maintained or controlled by the same person (or persons) or entity (or entities):

1. Such person possesses one or more of the following with respect to each of the political committees:

a. Ownership of a controlling interest in voting rights, shares or securities of one or more of the political committees in question or of a person having control over such committee or committees, if any;

b. The authority, power, or ability to direct or control the activities of one or more of the political committees in question or of a person having control over such committee or committees, if any; or

c. The authority, power, or ability to hire, appoint, discipline, discharge, demote, or remove or otherwise influence the decision of the officers or members of one or more of the political committees in question or of a person having control over such committee or committees, if any.

2. Each of the political committees having the same, or substantially the same, persons as principal officers or members;

3. Each of the political committees reach decisions regarding contributions made to one or more candidates or political committees in cooperation, consultation or concert with, or at the request or suggestion of, each other or of a person having control over such committees, if any;

1.06: continued

4. The transfer of funds between the political committees which represent a substantial portion of the funds of either the transferor or transferee political committee;
 5. Contributions to the political committees by the same person or persons; or
 6. The use of shared administrative resources including, but not limited to, office space, equipment or personnel, by the political committees.
- (2)(a) Pursuant to and only for the purposes of the contribution limitations in M.G.L. c. 55, § 6, contributions made by the state committee of a political party and contributions made by any ward or town political committee of the same political party shall be considered to be made by separate political committees.
- (b) Pursuant to and only for the purposes of the contribution limitations in M.G.L. c. 55, § 6, contributions made by a political committee established, financed, maintained, or controlled by one or more ward or town political committee of a political party including, but not limited to, a city political committee, and contributions made by such ward or town political committee(s) shall be presumed to be made by one political committee.
- (c) Pursuant to and only for the purposes of the contribution limitations in M.G.L. c. 55, § 6, contributions shall be presumed to be made by one political committee if made by political committees established, financed, maintained, or controlled by:
1. a single corporation or its subsidiaries (to the extent such political committees are permitted pursuant to M.G.L. c. 55);
 2. an organization of national or international unions or local central bodies;
 3. a single national or international union or any of its local unions or other subordinate organizations; or
 4. a membership organization, including but not limited to a trade or professional association or any state or local entities related to such organization or association.
- (d) The presumptions contained in 970 CMR 1.06(2)(b) and 970 CMR 1.06(2)(c) may be rebutted if the political committees in question present credible evidence that they have not made contributions in cooperation, consultation or concert with, or at the request or suggestion of each other or of any person who has established, financed, maintained or controlled such political committees. If the presumptions contained in either 970 CMR 1.06(2)(b) or 970 CMR 1.06(2)(c) are rebutted by credible evidence, the political committees in question nevertheless remain subject to the provisions of 970 CMR 1.06(1)(b).

1.07: Contributions by Conduits and Intermediaries

- (1) Generally. Contributions gathered and delivered to a candidate through an intermediary or conduit (“bundled” contributions) are treated not only as contributions from the person making the contribution but also as contributions from the intermediary or conduit, if the intermediary or conduit is a “regulated intermediary,” and at least one of the contributions is greater than \$100, subject to biennial indexing.
- (2) Regulated Intermediaries. Regulated intermediaries include:
- (a) political action committees and their officers, employees and agents;
 - (b) legislative agents and executive agents, and employees or agents acting on their behalf;
 - (c) lobbying organizations and their officers, employees or agents acting on behalf of the organization; and
 - (d) persons responsible for delivering “pooled contributions” from a corporation’s officers or employees.
- (3) Contributions “Through an Intermediary or Conduit”.
- (a) contributions “through an intermediary or conduit” include either:
 1. contributions delivered, in person or by mail, to a particular candidate or candidate’s committee; or
 2. contributions to a particular candidate or candidate’s committee made in a manner that identifies in writing the person who arranged the making of the contributions.
 - (b) personal contributions made by a regulated intermediary are not made “through an intermediary or conduit.”
 - (c) contributions from a political action committee or lobbying organization which are delivered by an officer or agent of the political action committee or lobbying organization are not made “through an intermediary or conduit.”

1.07: continued

(d) the reporting and attribution requirements of M.G.L. c. 55, § 10A apply only if two or more contributions are made through a regulated intermediary.

(e) contributions received by a candidate pursuant to a written or oral solicitation by a regulated intermediary are not subject to the provisions of M.G.L. c. 55, § 10A unless the regulated intermediary delivers the contributions to a candidate or the contributions are made in a manner that indicates, in writing, that the contributions were arranged by the regulated intermediary.

(4) Reporting of Bundled Contributions.

(a) Regulated intermediaries who deliver or arrange for the making of contributions to a candidate shall file reports, on a form prepared by the Director, with the office, or a city or town election official, if applicable, and shall provide a copy of the completed report to the candidate, identifying the original source and the intended recipient of each contribution. A copy of the report shall be delivered to the candidate on the date the candidate receives the contribution, and within ten days thereafter, the original report shall be filed with the Director, or with a city or town election official, if applicable.

(b) The report of bundled contributions shall set forth the following information:

1. The name and residential address of the original contributors;
2. The occupation and employer of the original contributors, if the contribution is \$200 or more;
3. The amount of each contribution;
4. The intended recipient;
5. The name and residential address of the regulated intermediary; and
6. The basis for the regulated intermediary's being regulated by M.G.L. c. 55, § 10A, (whether the intermediary is a PAC, legislative agent, person arranging pooled corporate contributions, or other regulated intermediary);
7. The dates contributions are delivered to a candidate;

(c) Candidates receiving contributions through regulated intermediaries shall report only the original source of the contributions on their candidate reports and attach a copy of the report required to be filed with the candidate by 970 CMR 1.07(4)(a) and (b).

(d) Candidates shall keep copies of the reports received from regulated intermediaries for six years from the date of the relevant election, together with other records required to be kept by M.G.L. c. 55, § 2.

1.08: Reporting of Contributors' Occupation and Employer

(1) Generally. All candidates and political committees must report both the occupation and the employer or employers of each person whose contribution or contributions in the aggregate equal or exceed the sum of \$200 within any one calendar year. Contributions received after the first \$200 is received during a calendar year must be refunded if occupation and employer information is not obtained and reported after the exercise of a candidate or committee's best efforts, as defined in 970 CMR 1.08(2).

(2) Exception to Obligation to Disclose - Best Efforts. Contributions may be kept by a committee if the committee, after exercising best efforts to obtain the information, is not able to obtain the information from a contributor after making a request when the contribution is solicited and an additional written request. For the purposes of 970 CMR 1.08, best efforts shall include the following:

(a) The first request for such information must be made, orally or in writing, at the time the contribution is solicited, if a contribution is \$200 or more.

(b) If the required information regarding both occupation and employer is not provided at the time of receipt of the contribution, an additional written request addressed to the contributor must be made within 45 days of a committee's receipt of any contribution which brings the total received to \$200 or more during a calendar year. The written request must specifically identify the contributor.

(c) If the initial request is made at the time of solicitation and the subsequent written request is made in a timely manner as provided in 970 CMR 1.08(2)(b) and the requested information is not provided by the contributor, the committee may keep the contribution without reporting the occupation and employer information to the Director or the city, town or district election official. Committees should note on their campaign finance reports, however, that a letter was sent in compliance with 970 CMR 1.08(2)(b).

1.08: continued

(d) If a candidate or treasurer of a committee determines that information provided by a contributor is incomplete, but wishes to keep the contribution, the committee must keep records reflecting all attempts made by the committee to obtain the required information.

(3) Obligation to Report Additional Information. If a committee files a campaign finance report which contains incomplete occupation and employer information regarding a contributor and subsequently obtains the required information, the committee must submit written notification to the Director or city, town or district election official reflecting receipt of the correct information, and supplementing the information previously filed. Such supplemental information must be submitted within 30 days of its receipt by the committee.

1.09: Contributions by Credit or Debit Card

(1) Definitions. For the purpose of making and receiving contributions by credit or debit card pursuant to M.G.L. c. 55, § 9 and 970 CMR 1.09, the following terms shall have the following meanings:

Cardholder means the person or political committee whose name appears on a credit or debit card and who is directly liable for the payment of any credit extended or funds expended.

Card Issuing Bank means the bank or other financial institution that issues a credit or debit card.

Credit Card means a credit or debit card or other similar device issued by a card issuing bank or other business authorizing the cardholder to buy goods or services. For purposes of 970 CMR 1.00, credit card contributions also include contributions made from a contributor's bank account by electronic transfer.

Internet Transactions include transactions made *via* a committee website, a committee vendor's website, a mobile application "app", crowd funding website or social media.

Paper Record means a credit card receipt or other printed record documenting a credit card transaction.

Vendor means a bank or other business authorized to process credit card transactions, or an individual or entity that provides services for campaign fundraising on the Internet to political committees.

(2) Internet Transactions. Except as provided in 970 CMR 1.09(2)(d), internet transactions may be received only if the contributor, contemporaneously with the making of the contribution, certifies that the contributor is using the contributor's own credit card, which is in the contributor's name, and also certifies that the contributor's personal funds are the true source of the contribution. In addition, the contribution may be accepted only if the contributor, contemporaneously with the making of the contribution, provides his or her name and residential address, and if the amount contributed by a single contributor is \$200 or more in the aggregate during the calendar year, their occupation and employer. A political committee may not, except as provided in 970 CMR 1.09(2)(d), process a credit card transaction made *via* the Internet if the required acknowledgment and contributor information is not provided contemporaneously with the contribution.

(a) Agreements with Vendors. A political committee must enter into an agreement with a vendor *i.e.*, a "user agreement" in order to receive contributions by credit card over the Internet. Any such agreement must include procedures that the vendor will follow to ensure compliance with M.G.L. c. 55, § 9, and 970 CMR 1.09. In addition to any other requirements of 970 CMR 1.09, such agreement must demonstrate compliance with the following:

1. The financial agreement between the political committee and the vendor must be consistent with customary and usual business practices.
2. The vendor may not provide a discount or other financial incentive to a political committee that is not available to any other candidate, political committee or the general public.
3. The committee must, in addition to being responsible for any portion of contributions deducted during processing by the vendor, also pay any applicable additional fees established by the vendor.

1.09: continued

(b) Screening and Compliance. Except as provided in 970 CMR 1.09(2)(d), the vendor, or the political committee, shall cause to be displayed on the contributor's computer screen, or otherwise display, appropriate questions requiring a response from the contributor to determine whether the source and amount of a contribution complies with M.G.L. c. 55 and 970 CMR 1.09. Such questions shall require the contributor to answer with an affirmative act such as clicking or tapping the cursor in a box or pressing the enter key on the computer keyboard. In addition, a Website or other Internet site or app that is used to solicit contributions by credit card must:

1. clearly identify the name of the political committee that is soliciting such contributions;
2. require that contributors certify by making an affirmative action that the contributor is responsible for paying all charges incurred in using the credit card to make a contribution and that the contributor's personal funds will be the true source of the contribution in accordance with M.G.L. c. 55, § 10; and
3. make a clear distinction between information that is required by law or regulation and information that is optional, if any. For example, a Website could indicate required information such as a contributor's name and residential address in red and optional information such as a contributor's interest in working as a volunteer in green.

(c) Confirmation of Contribution. The vendor, or the political committee, must promptly send written confirmation of each contribution made over the Internet to the contributor by email or, if the contributor does not have or does not provide an email address, by first class mail, postage prepaid.

(d) Contributions Made Using Peer-to-Peer Payment ("P2P") Applications. Contributions may be received through the use of P2P applications without contemporaneously obtaining contributor certifications required by 970 CMR 1.09(2), or the name and residential address of the contributor at the time of receipt, in the following circumstances:

1. the amount contributed by the contributor to the candidate or committee through P2P payment is no more than \$50 during a calendar year;
2. the contribution was authorized and withdrawn from the contributor's personal funds; and
3. the candidate or committee receiving the contribution knows the identity of the contributor at the time the contribution is received and obtains, within seven days after the receipt of the contribution, the residential address of the contributor. The candidate or committee must maintain records regarding all contributions, regardless of amount, and anonymous contributions are prohibited. Recipient candidates and committees must keep records of all contributions received, and such records must include the residential address of all contributors, regardless of amount.

(e) Anonymous Contributions. If unable to determine or verify the identity of a contributor, funds received must be purged in accordance with the residual funds clause of M.G.L. c. 55, § 18.

(3) Credit Card Contributions Not Made *via* the Internet - Credit Card Agreements. A political committee may enter into an agreement with a vendor in order to receive contributions by credit card other than *via* the Internet, except as prohibited in 970 CMR 1.09(4). All contributions received pursuant to 970 CMR 1.09(3) must be documented by an electronic or back-up paper record. Any such agreement between a political committee and a vendor must comply with 970 CMR 1.09 including, but not limited to, 970 CMR 1.09(2).

(4) Credit Card Contributions by Verbal Communication by Phone. Such contributions are prohibited.

(5) Recordkeeping and Disclosure.

(a) A political committee soliciting or receiving contributions by credit card shall maintain printed and, if a contribution is received over the Internet, electronic and back-up printed records of each contribution. Such records, which shall be maintained for six years from the date of the relevant election, shall include the:

1. name and residential address of an individual contributor;
2. date received and amount of the contribution;

1.09: continued

3. occupation and employer if the contribution is equal to or greater than \$200 or if the aggregate of all contributions received from a contributor within any one calendar year is equal to or greater than \$200;
 4. any costs or fees deducted by or paid to the vendor; and
 5. the billing address used by the contributor for receipt of credit or card bills, if different from the residential address of the contributor.
- (b) For credit card contributions authorized in any month other than December that are received by a non-depository committee, contributions made by credit card shall be disclosed as received by a political committee on the day that the committee has access to the funds. Credit card contributions authorized in December, but not received until the following calendar year, are considered "received" in the year in which the contributions were authorized, and are reported in the year-end report for that calendar year.
- (c) A political committee receiving contributions by credit card must report as receipts, on the committee's campaign finance reports, the full (gross) amount of each contribution before the payment of any fees or deductions to the vendor, or card issuing bank. In addition, all fees paid to or deducted from contributions by a vendor for processing such contributions must be reported by the committee as expenditures in accordance with M.G.L. c. 55, and 970 CMR 1.09.
- (d) In accordance with 970 CMR 1.04(8), political committees must review all contributions received by credit card to determine that such contributions comply with both the source and limitation requirements of the campaign finance law. Any contribution determined to be illegal or in excess of the limits of M.G.L. c. 55 shall be refunded in accordance with 970 CMR 1.04(8) to the contributor.
- (e) Political committees that receive credit card contributions must obtain processing information from the vendor reflecting contributions received, which itemizes actual deposits made by the vendor to the committee's account, and lists all contributions that cleared or were declined by the issuing bank and also must obtain all information required by 970 CMR 1.09(5)(a);
- (f) After receiving the processing information from the vendor, the political committee must reconcile the information to the information provided by the committee's bank regarding actual deposits, to ensure the accuracy of information the committee will file with OCPF.
- (6) Depository Committees.
- (a) Within seven business days of receipt of the contribution from the card issuing bank, the vendor or committee shall deposit the total amount of the contribution into the political committee's depository account, unless the agreement between the political committee and the vendor authorizes the vendor to deduct transaction costs or fees from a credit card contribution received in which case the vendor may deposit the net proceeds of such contribution into the political committee's depository account. For purposes of filing disclosure reports required by the campaign finance law, a deposit of a contribution made by credit card is deemed to take place on the day the funds are received into the committee's account either by check or electronic transfer, if the contribution was authorized in any month other than December. A credit card contribution authorized in December but not received until the following calendar year is considered a "receipt in transit" and is reported in the previous year's year-end report.
- (b) Each candidate and each treasurer of a political committee required to designate a depository account shall file reports of credit card receipts with the Director. These reports shall be filed no later than the fifth day of each month, complete as of the first day of that month. The reports shall contain the following information regarding the credit card contributions deposited in the committee's account during the reporting period:
1. The full name and residential address of each contributor where the contribution was in excess of \$50.00 or where the aggregate of all contributions received from that contributor within the calendar year has exceeded \$50.00, along with the date of the deposit and amount of contribution, and the contributor's occupation and employer if aggregate contributions by that contributor has equaled or exceeded \$200.00 for the calendar year. In the case of a credit card contribution by a trust, foundation or association, other than a political committee, the names and addresses of its principal officers shall also be disclosed as required by M.G.L. c. 55, § 10;

1.09: continued

2. The total amount of contributions itemized pursuant to 970 CMR 1.09(6)(b)1.;
 3. The total amount of contributions \$50.00 and under;
 4. The total amount of credit card receipts; and
 5. The total proceeds of credit card contributions deposited in the committee account. If this amount is less than total amount of credit card receipts for the reporting period due to a vendor having deducted a fee prior to depositing a contribution into the committee's depository account in accordance with 970 CMR 1.09(6)(a), then the total amount of fees deducted by the vendor during the reporting period shall also be disclosed. This figure should be calculated by subtracting the aggregate proceeds of credit card contributions deposited during the reporting period from the total amount of credit card receipts reported pursuant to 970 CMR 1.09(6)(b)4, and entered on the deposit report as a "merchant provider fee".
- (c) The information required to be forwarded in accordance with 970 CMR 1.09(6)(b) shall be submitted electronically in compliance with M.G.L. c. 55, § 18C.
- (d) Depository committees that receive contributions by credit card must request information from vendors and obtain information regarding contributions received in accordance with 970 CMR 1.09(5)(e) and perform the reconciliation required by 970 CMR 1.09(5)(f) prior to filing each report of contributions received with OCPF.

1.10: Recordkeeping and Disclosure of In-kind Contributions

- (1) Candidates and treasurers of political committees shall keep and preserve detailed accounts as required by M.G.L. c. 55, §§ 2 and 5 and 970 CMR 1.10, and shall, upon request by the Director, provide copies of such records to OCPF.
- (2) For the purpose of 970 CMR 1.10, the word “accounts” shall include all accounts, records and other documents including, but not limited to, correspondence and fund raising materials, maintained or required by M.G.L. c. 55, M.G.L. c. 55C or 970 CMR by the candidate or candidate committee whether in written, electronic or other form. In addition, accounts shall include, but are not limited to:
 - (a) bank accounts, bank statements, ledgers, canceled checks or other information relative to such bank accounts;
 - (b) bills, receipts, and other vendor information received in connection with any expenditure made or liability incurred for goods and services;
 - (c) copies of all contributor checks, contributor lists, card files, and other contributor information.
- (3) Candidates and political committees shall keep all accounts required to be maintained under 970 CMR 1.00 separate and distinct from all other accounts and shall preserve such accounts for a period of six years from the date of the general election.
- (4) (a) The purpose of each expenditure shall be reported in sufficient detail to ensure accurate and complete disclosure. Examples of such detail include the following:
 1. “Dinner with colleagues to discuss health-care bill, budget, *etc.*” instead of “Dinner with colleagues.”
 2. “Candidate radio ads” instead of “Ads.”
 3. “5,000 bumper stickers” instead of “Printing.”(b) 970 CMR 1.10(4)(a) applies to expenditures by candidates and political committees, and also to independent expenditures or electioneering communications by any individual or entity, as well as to expenditures made to influence ballot questions.
- (5) The report of a party committee, PAC or people’s committee making expenditures, including in-kind contributions, to support or oppose a candidate, must identify the candidate supported or opposed. For example, an in-kind contribution by a party committee for staffing to assist candidate John Doe should be reported by the party committee as “Staff time — for John Doe campaign.” A party committee, PAC, or people’s committee that makes an independent expenditure, in addition to disclosing the committee’s expenditure in the committee’s campaign finance reports filed in accordance with M.G.L. c. 55, § 18 and 19, must also file a report of independent expenditures, in accordance with M.G.L. c. 55, § 18A and 970 CMR 2.17(6).
- (6) Candidates and treasurers of political committees which do not keep and preserve detailed accounts as required by 970 CMR 1.10 shall, at the Director’s request, exercise their best efforts to arrange with the candidate or committee’s bank and vendors or other persons providing goods or services to the candidate or committee to provide the Director with copies of all such accounts. The costs to arrange and provide copies of such accounts shall be paid by the committee.
- (7) Candidates and treasurers of political committees must keep paper or electronic copies of all reports, correspondence, or other items filed electronically with OCPF for six years from the date of the general election.
- (8) A committee may choose to disclose, on campaign finance reports filed by the committee, the work address rather than the residential address of a contributor, if the contributor is employed by a law enforcement, judicial, or prosecutorial agency, or by the department of youth services, department of social services, department of correction or any other public safety and criminal justice system office. In the event that a committee discloses the work address of such a contributor, the committee must keep a record reflecting both the work and residential address of the contributor.

1.10: continued

(9) Any committee expenditure that is not supported by bills, receipts, or other documentation reflecting the purpose of the expenditure creates a presumption that the expenditure was made for the personal use of the candidate or another person. The presumption may be rebutted if a committee submits sufficient evidence demonstrating that the expenditure was made for purposes consistent with M.G.L. c. 55, § 6.

1.11: Electronic Filing

(1) Definitions. For the purposes of M.G.L. c. 55, § 18C and 970 CMR 1.11, the following words shall have the following meanings:

Authentication shall mean the method used to identify a person signing and creating electronic signatures and records.

CPF ID Number shall mean the unique identification number assigned to a candidate or political committee by the Director pursuant to 970 CMR 2.07(8) and the unique identification number assigned to depository banks pursuant to M.G.L. c. 55, § 19.

Depository Bank shall mean a financial institution which a candidate or political committee has designated as a depository for the campaign funds of such candidate or political committee in accordance with M.G.L. c. 55, § 19(a).

EFS shall mean the OCPF Electronic Filing and Campaign Disclosure System that is the electronic reporting system developed for the submission, retrieval, storage and public disclosure of campaign finance reports and financial activity statements required to be filed with the Director pursuant to M.G.L. c. 55, § 18C(a).

Election Cycle shall mean, for local party committees, the period beginning on the first day of January following the most recent biennial state election and ending on the 31st day of December following the next biennial state election.

Electronic Record shall mean a record created, generated, sent, communicated, received or stored by electronic means.

Electronic Signature shall mean an electronic process attached to or logically associated with an electronic record and executed or adopted by a person with the intent to sign the record.

User shall mean a candidate, duly appointed treasurer of a political committee or the cashier or treasurer of a depository bank to whom a CPF ID number and password have been assigned or a person acting under the authority or on behalf of the candidate, political committee or depository bank to whom a CPF ID number and password have been assigned. The term “user” shall also mean a person who has registered with OCPF using his or her e-mail address and a password created by the user for the purpose of completing and filing a Report of Independent Expenditures, a Report of Electioneering Communications, or any other report required to be electronically filed by M.G.L. c. 55, either as the person making such expenditures, or as the person authorized to do so by an entity making such expenditures.

(2) Pursuant to M.G.L. c. 55, § 18C, electronic campaign finance reports and financial activity statements created and filed with the Director shall be electronically signed by means of the following process:

(a) Authentication. The EFS shall be maintained on secure servers. Access to the EFS servers for the purpose of creating and submitting electronic records shall be accomplished by a login protocol requiring users to use both their CPF ID number and a unique eight-digit, alpha-numeric password or their registered e-mail address and password.

(b) Demonstration of Intent to Sign the Record. A user shall demonstrate his or her intent to electronically sign an electronic campaign finance report or financial activity statement by the affirmative act of clicking through an electronic interface to file an electronic record with this office. The electronic interface that this office shall employ for electronically signing records will provide written notice upon the web page presented to the user for electronic signature that clearly indicates to the user that the click-through method used is a binding signature and the pages or data to which the user is agreeing when he or she signs electronically.

1.11: continued

(c) Binding. For candidates and political committees, the electronic signature shall be bound to the electronic record(s) by two means: the candidate's, committee's or depository bank's CPF ID number shall be encoded into the electronic record(s) at the time of its creation; and at submission, each signed electronic record shall be assigned a unique transaction identification number maintained on the EFS secure server. Proof of electronic signature shall be provided to the user at the time of signing the record(s) in the form of a file submission receipt that shall clearly identify the user's CPF ID number and the transaction number for the electronic record(s) submitted. For all other persons required to file reports electronically, the signature shall be bound to the electronic record(s) by the encoding of the person's name, title, and (if applicable) the entity the person is filing on behalf of.

(d) Data Integrity. The Director shall ensure the data integrity of the signed electronic records submitted, stored and maintained in the EFS by:

1. employing encryption technology for the transmission of data from remote locations to the EFS secure servers;
2. managing the servers so that the EFS provides an audit trail for every electronic record created, submitted and stored in the EFS; and
3. by immediately electronically locking electronic records at signing so that they cannot be subsequently altered.

(e) Notice. Pursuant to M.G.L. c. 55, § 18C, notice shall be provided on the web page presented to the user for electronic signature that electronic records shall be signed under penalties of perjury as required by M.G.L. c. 55, § 24, and 970 CMR 2.14(6). Such electronic signature shall, in the case of a candidate's committee report, be attributable to both the candidate and the duly appointed treasurer of the candidate's political committee, in the case of other types of committees, to the duly appointed treasurer of the political committee or, in the case of depository banks, to the cashier or treasurer of the bank.

(3) All candidates and committees required to file with the Director, with the exception of local party committees, must file reports electronically. For local party committees that raise or spend more than \$5,000 in an election cycle, the requirement to file electronically commences at the start of the election cycle and not when the statutory threshold provided in M.G.L. c. 55, § 18C(b) is exceeded.

(4) (a) Once a local party committee exceeds the electronic filing threshold during a particular reporting period, the committee must file electronically for that reporting period and for all subsequent reporting periods prior to the end of the committee members' four-year term of office.

(b) A local party committee that does not exceed the electronic filing threshold during a reporting period may voluntarily file electronically for that reporting period. By voluntarily filing a report electronically, the committee is not precluded from filing in paper form in a future reporting period, if the committee has continued to not exceed the electronic filing threshold.

(5) All electronic reports shall be filed in the EFS *via* the Internet using software approved by the Director. If the Director determines that a person required to file is not able otherwise to file electronically, the Director may, in his or her discretion, allow the person to file an electronic report by disk or e-mail attachment. If a person files by disc or e-mail attachment, the person will be required to file with the Director a written attestation of the report signed under the penalties of perjury as required by M.G.L. c. 55, § 24, and 970 CMR 2.14(6).

(6) Candidates and treasurers required to designate a depository account shall report information regarding contributions to the Director electronically on the fifth day of each month, complete as of the last day of the preceding month, except for candidates for state senate or house of representatives, in which case the reports must be filed by the dates specified in M.G.L. c. 55, § 19(b)(3). A candidate for state senate or house of representatives is required to file deposit reports before a primary no later than eight days before a primary, as specified in M.G.L. c. 55, § 19(b)(3), regardless of whether the candidate is on the ballot in the primary election.

(7) Individuals, corporations, groups or associations making expenditures in an aggregate amount exceeding \$250 during a calendar year, to influence or affect the vote on any question which appears on the state ballot in a state election, must file reports required by M.G.L. c. 55, § 22 electronically with the Director. If the question appears on ballots at a city or town election or appears on ballots for use in a city or town at a state election, the report must be filed in paper form with the city or town clerk.

1.11: continued

(8) The treasurer of any city, town, or other governmental unit, filing a report in accordance with M.G.L. c. 55, § 22A concerning an expenditure or payment made to influence or affect the vote on a question submitted to the voters of the commonwealth shall file reports electronically with the Director. If the expenditure or payment concerns a question which appears on ballots at a city or town election or appears on ballots for use in a city or town at a state election, the report must be filed in paper form with the city or town clerk.

(9) Any individual, group or association making independent expenditures or electioneering communication expenditures in an aggregate amount exceeding \$250 during any calendar year must file reports required by M.G.L. c. 55, § 18A or § 18F electronically with the Director if the expenditures relate to a candidate who files with the Director.

(10) Reports of donations received by legal defense, recount, or inauguration funds, required by M.G.L. c. 55, § 18E, shall be filed electronically with the Director if the donations relate to a candidate or committee that files with the Director.

(11) For every individual, candidate, committee or entity required to file electronically, the dates for filing and the contents of the filing shall be the same as that required for an individual, candidate, committee or entity under M.G.L. 55.

(12) Any individual, candidate, committee, or entity required to file electronically who fails to file, files late, files a false return, or allows a false return to be filed, shall be subject to the same penalties as if they failed to file a paper filing required under M.G.L. c. 55, § 18, or filed a false return or allowed a false return to be filed.

1.12: Transfer of Candidate Political Committee from Municipal Level to State Level

(1) A candidate or candidate committee that files reports with a city or town clerk or election commission must, if the candidate intends to seek state or county elective office, or will otherwise be required to file with OCPF in accordance with M.G.L. c. 55, § 18 or § 19 because of the new office being sought, transfer by registering with the Office of Campaign and Political Finance as provided in 970 CMR 1.12.

(2) A new Statement of Organization of the Candidate's Committee (OCPF Form CPF 101) must be filed with the Office of Campaign and Political Finance.

(3) A copy of the candidate's most recent Campaign Finance Report (OCPF Form CPF M102) as filed with the local election official, and the Transition-In Report, described in 970 CMR 1.17(2), must be e-filed with the Office of Campaign and Political Finance. The next filing with OCPF will report activity from the day following the ending date of such report.

(4) While a candidate continues to seek or hold offices with reporting requirements at both OCPF and the municipal level, reporting requirements with both the Office of Campaign and Political Finance and the local election official will continue.

(5) The Director may determine, based on a review of the relevant facts, that a candidate, who would otherwise be required to appoint a depository bank and file reports in accordance with M.G.L. c. 55, § 19 because the candidate is an incumbent city or county officer, is primarily seeking legislative office. If such a determination is made, the candidate will be required to file reports according to the schedule required for candidates for legislative office.

(6) The Director may determine, based on a review of the relevant facts, that a candidate, who would otherwise be required to file reports as a candidate for legislative office in accordance with M.G.L. c. 55, §§ 18 and 19 because the candidate is an incumbent legislative office holder, is primarily seeking other depository office with a more frequent filing schedule. If such a determination is made, the candidate will be required to file reports on the more frequent schedule required for candidates for non-legislative depository office.

1.13: Transfer of Candidate Political Committee from State Level to Municipal Level

- (1) A candidate or candidate committee that files reports with the Office of Campaign and Political Finance must, if the candidate intends to seek elected office in a city or town, and provided the candidate or candidate committee will not otherwise still be required to file with the Office of Campaign and Political Finance in accordance with M.G.L. c. 55, § 19 because of the new office being sought, transfer by registering with the local election official as provided in 970 CMR 1.13.
- (2) A Change of Purpose form (OCPF Form CPF P101) must be filed with OCPF to indicate the city or town office the candidate is seeking.
- (3) A new Statement of Organization of the Candidate's Committee (OCPF Form CPF M101) must be filed with the local election official.
- (4) A copy of the last Campaign Finance Report (OCPF Form CPF 102) previously filed with OCPF, and a copy of the Transition-Out Report, described in 970 CMR 1.17(3), must be filed with the local election official. The first Campaign Finance Report filed with the local election official will report activity from the day following the ending date of the last report filed with OCPF.
- (5) A committee's filing requirements with OCPF will be discontinued when a committee's filing requirements are transferred to the municipal level, and no further concurrent filings will be required with OCPF, unless, if at the time of transfer, the candidate continues to seek or hold an office for which reporting is required with OCPF or the Director determines, based on his review of the committee's campaign finance reports and other information available, that concurrent filings with OCPF should be required.
- (6) While a candidate continues to seek or hold offices with reporting requirements at both OCPF and the municipal level, reporting requirements with both the Office of Campaign and Political Finance and the local election official will continue.
- (7) A candidate not initially required to appoint a depository under M.G.L. c. 55, § 19 who later seeks an office which causes the candidate to be required to appoint a depository in accordance with M.G.L. c. 55, § 19, shall become subject to depository reporting requirements on whichever of the following dates is the earliest:
 - (a) on the date a change of purpose form is filed for such candidate; or
 - (b) on the date the candidate first raises or spends money for the purposes of influencing the nomination or election for such office.
- (8) A candidate who seeks municipal office and maintains filing requirements with the Office of Campaign and Political Finance shall also file reports as required by M.G.L. c. 55, § 18C.

1.14: Electioneering Communications

- (1) Definitions. The following terms, as used in the definition of "electioneering communication" in M.G.L. c. 55, §§ 1 and 18F shall have the following meanings in the context of M.G.L. c. 55, §§ 1 and 18F, and 970 CMR 1.14:

Bonafide Candidate Debates or Forums, as used in M.G.L. c. 55, § 1, shall include a voter guide or questionnaire where all candidates running for the same office are asked the same question or questions and where all such candidates are given an equal opportunity to respond to each question, provided that said questionnaire or guide does not contain additional language, images, or symbols, conveying support or opposition to the opinions of the candidates.

Publicly Distributed within 90 Days before an Election in Which the Candidate Is Seeking Election or Reelection, as used in M.G.L. c. 55, § 1, shall mean the period within 90 days of a general or special election.

Within Seven Days after Making the Expenditure, as used in the first paragraph of M.G.L. c. 55, § 18F, shall mean within seven days of the date the goods or services purchased to make the electioneering communication are utilized.

1.14: continued

Within Seven Days before the Date of an Election, as used in M.G.L. c. 55, § 18F, shall mean the period within seven days of a general or special election, or a primary or preliminary election.

(2) Electioneering Communications Reports.

(a) Where Reports are Filed. Reports of electioneering communications required to be filed by M.G.L. c. 55, § 18F, shall be filed electronically with the Director as provided in M.G.L. c. 55, § 18C if communications clearly identify a candidate who files with the Director. Reports required by M.G.L. c. 55, § 18F shall be filed with the city or town clerk in paper form if such communications identify a candidate seeking public office at a city or town election who does not otherwise file with the Director.

(b) Persons Required to File Reports. Reports must be filed by any individual, group, association, corporation, labor union, or other entity, not defined as a political committee, that makes electioneering communication expenditures or incurs liabilities for an electioneering communication in an aggregate amount exceeding \$250 during a calendar year.

1.15: Posting of Campaign Finance Reports by Local Election Officials

A campaign finance report posted on a municipal web site in accordance with M.G.L. c. 55, § 26 must remain on the municipal website until December 31st of the sixth year following the date that the statement or report was filed.

1.16: Disclosure Required of PACs Organized to Promote or Oppose Recall of Municipal Candidates

A political action committee or people's committee organized primarily to promote or oppose a mayoral candidate or candidates, including the recall of a mayoral candidate or candidates, must electronically file its campaign finance reports with the Director in accordance with the schedule for filing in M.G.L. c. 55, § 19 and with the requirements defined in 970 CMR 2.22: *PACs – Disclosure and Other Requirements*. If organized to support or oppose recall of other municipal candidates, who file with a City or Town Clerk, the PAC files reports with the local election official.

1.17: Additional Reports Required from Candidates and Committees That File with OCPF

In addition to the reports otherwise required to be filed by M.G.L. c. 55 and 970 CMR, candidates and committees that file reports with the Director pursuant to M.G.L. c. 55, § 19 (collectively, "depository committees") must also e-file the following additional reports, subject to the requirements of 970 CMR 1.11 and 2.14. In addition, ballot question committees that file reports with the Director are not required to file the reports described in 970 CMR 1.17(1) - (4), but may be required to file the reports described in 970 CMR 1.17(5) and 970 CMR 1.17(6)(a).

(1) External Activity Reports. External Activity Reports must be e-filed by depository committees to disclose contributions received or expenditures made, including out-of-pocket expenditures, outside of the depository committee's depository account. Such reports also disclose in-kind contributions received and liabilities incurred, after the committee begins filing with OCPF, to the extent such activity is not disclosed in accordance with the requirements of M.G.L. c. 55, § 19, or in a transition-in report as defined in 970 CMR 1.17(2). Nothing in 970 CMR 1.17(1) shall be construed, however, as authorizing expenditures outside the depository account by depository committees, which are not allowed by M.G.L. c. 55, § 19.

(2) Transition-In Reports. Transition-In Reports must be e-filed by depository committees to disclose contributions received or expenditures made outside of the depository account, as well as in-kind contributions received and liabilities incurred, prior to the committee's first filing with OCPF but after the closing date of the most-recently filed local report. The report is authorized by OCPF but completed and e-filed by the committee. It itemizes contributions received, including in-kind contributions, expenditures made, and liabilities incurred. The report covers the period from the date after the ending date of the last report filed with the local election official through the date the Change of Purpose form is submitted. The requirement for filing a Transition-In Report is in addition to the requirements for committees transferring from local filing to OCPF filing, as described in 970 CMR 1.12.

1.17: continued

(3) Transition-Out Reports. Transition-Out Reports must be e-filed by depository committees that transition to filing with a local election official after filing with OCPF. The report is authorized and created by OCPF staff on behalf of the committee. It discloses a summary of activity incurred while filing with OCPF, as well as any funds raised or expended, and any liabilities incurred or in-kind contributions received, after the closing date of the last report filed with OCPF, but before the activity included in the first report filed with the local election official. The requirement for filing a Transition-Out Report is in addition to the requirements for committees transferring from OCPF to local filing, as described in 970 CMR 1.13.

(4) PAC and Party Committee Itemization Reports. Traditional PACs and state party committees that file with OCPF and make expenditures to support or oppose more than one candidate must e-file itemization reports, in accordance with 970 CMR 1.10(5) to disclose the value that may be attributable to each candidate supported or opposed by the expenditure. Independent Expenditure PACs, and traditional PACs making independent expenditures, must itemize such information in independent expenditure reports as described in 970 CMR 2.17: *Independent Expenditures.*

(5) Payroll Itemization Reports. Payroll Itemization Reports (also referred to as Payroll Reports) must be e-filed by committees that file with OCPF to identify all persons paid by the committee through a bank withdrawal made to a payroll vendor, for services provided to the committee. The itemization must include: the names of the persons providing services, the date payments were made, the amount paid, and the purpose of the expenditure.

(6) Initial Reports.

(a) Ballot Question Committees. The "initial report" described in M.G.L. c. 55, § 18(a)(5) must be filed by a newly organizing ballot question committee if the committee indicates, when filing its Statement of Organization, that it has had financial activity (i.e., it has raised or spent money, received in-kind contributions, or incurred liabilities) prior to the organization of the committee. If the committee indicates, however, that it has not had such activity prior to organizing, a separate initial report is not required. The initial report, if required, must be filed electronically with OCPF, or with the local election official if the committee is organized to support or oppose a question submitted to voters in a city or town election.

(b) Depository Committees Filing with OCPF. The Initial Report referenced in M.G.L. c. 55, §§ 18(a)(2), 18(a)(3) and 18(c), and the Transition-In Report referenced in 970 CMR 1.17(2) shall be filed as an initial report if a newly organized depository committee has had financial activity (i.e., it has raised or spent money, received in-kind contributions, or incurred liabilities) prior to organizing with OCPF. The reporting period for such reports is January 1st of the current year through the day before the opening of the new depository account. If the committee indicates when organizing that it has not had such activity prior to organizing, the report is not required. Committees transferring from the local level must file the Transition-In Report.

1.18: Reports of Late Contributions Received

(1) A ballot question committee or a non-depository candidate or committee that is required, pursuant to M.G.L. c. 55, § 18, to file a report of a contribution of \$500 or more received and deposited after the 18th day but more than 72 hours before the date of a special, preliminary, primary or general election ("the late contribution reporting period"), may satisfy that requirement by filing a Report of Late Contributions Received. A depository candidate or committee required to file such a report by M.G.L. c. 55, § 19(g) may satisfy the requirement by filing either a Contribution Deposit Report for monetary contributions received or, if in-kind contributions have been received during the late contribution reporting period, a Report of Late Contributions Received.

(2) The filing of a Report of Late Contributions Received does not replace the requirements for the filing of other reports and statements specified in M.G.L. c. 55.

(3) For purposes of filing a Report of Late Contributions Received or a Contribution Deposit Report, a "deposit" of a contribution made by credit or debit card is deemed to take place when the contribution is received into the committee's account.

1.18: continued

(4) When a non-depository candidate makes an expenditure from personal funds of \$500 or more on behalf of his or her committee, or when a person or entity provides an in-kind contribution valued at \$500 or more to a political committee organized on behalf of a candidate that files with the Director or to a ballot question committee that files with the Director, during the late contribution reporting period, a "deposit", for purposes of determining when a Report of Late Contributions Received must be filed, is deemed to occur on the date of the expenditure or as of the date the in-kind contribution is made.

1.19: Contributions from Gaming License Applicants and Persons Holding Such Licenses

(1) Pursuant to M.G.L. c. 55, § 7A, the aggregate of all contributions by a person who holds a license issued by the Massachusetts gaming commission, who was required to apply for that license under M.G.L. c. 23K, § 14, for the benefit of any one candidate and such candidate's committee, or for the benefit of any other political committee other than the license holder's own committee if the license holder is a candidate, or a ballot question committee, shall not exceed \$200 in a calendar year.

(2) Pursuant to M.G.L. c. 23K, § 47, all political contributions or contributions in kind made by an applicant for a gaming license to a municipality or a municipal employee, as defined in M.G.L. c. 268A, § 1, of the host community of the applicant's proposed gaming establishment, shall be disclosed by the applicant to the gaming commission and the city or town clerk of the host community.

(a) Such disclosure shall be made by the applicant biannually, on or before July 15th for the period covering January 1st to June 30th, of that year and on or before January 15th for the period covering July 1st to December 31st, of the preceding year. The disclosure shall include a listing of the amount or value of each contribution, the date each contribution was made, and the name and address of each contributor.

(b) Disclosure of contributions by applicants shall be made using a form to be prescribed by the Director. The disclosure shall be filed in paper form. The city or town clerk shall make the completed disclosures that have been filed with the clerk available for viewing on the internet website of the municipality within seven days of filing.

1.20: Legal Defense, Inauguration and Recount Funds

A candidate or candidate's committee may establish a separate legal defense fund, inauguration fund, or recount fund, and a state party committee, may establish a separate legal defense fund in accordance with M.G.L. c. 55, § 18E.

(1) The candidate or committee on whose behalf the fund is established, or the person establishing the fund, must notify the Director or local election official, in writing, of the creation of the fund. Such notification must be filed prior to the date the first report disclosing donations is due, and shall indicate the name of the fund, and the name, address, email address, and phone number of the person who will be filing the reports. The name of the fund shall include the full name of the candidate or committee on whose behalf the fund is created and shall also indicate whether the fund is a legal defense, inauguration or recount fund.

(2) If the fund concerns a candidate who files reports with the Director, or a committee that files with the Director, the notification must be submitted to the Director. If the fund concerns a candidate who files with a city or town clerk, the notification must be submitted to the clerk.

(3) Notwithstanding the testimonial provisions of M.G.L. c. 55, § 1, payments made by a legal defense, inauguration, or recount fund, and donations received by such a fund, shall not be considered "expenditures" or "contributions" subject to the campaign finance law.

(4) Monthly reports of donations, required by M.G.L. c. 55, § 18E(b), shall not be filed if donations are not received by a legal defense, inauguration or recount fund during the month that would be covered by a report.

(5) Fundraising for legal defense, recount, and inauguration funds, is subject to M.G.L. c. 55, §§ 13 through 17. Persons employed for compensation by the Commonwealth or any of its subdivisions may not directly or indirectly solicit or receive donations for a legal defense, recount or inaugural fund, and donations for such funds may not be solicited or received in any building occupied for state, county or local governmental purposes.

1.20: continued

(6) A candidate or committee that has a separate legal defense fund, inauguration fund or recount fund may also use the candidate's committee account to make expenditures for legal defense, inauguration and recount purposes if the expenditures for such purposes comply with M.G.L. c. 55, § 6. Where a legal defense fund has been created by a state party committee, the state party committee may use either the legal defense fund or the state party committee's account to make legal expenditures consistent with M.G.L. c. 55, § 6. Funds raised solely for such purposes must be deposited into a separate legal defense, recount or inauguration fund account, and may not be deposited into a committee's campaign finance account.

(7) Legal defense funds may be used to defend against a criminal matter or to pay costs associated with a civil matter if the criminal or civil or administrative matter is not primarily personal in nature. Such costs may include fines or penalties assessed or amounts agreed to be paid in a settlement agreement reached in such matter.

(8) When all donations have been received and all payments made to accomplish the purposes of a legal defense, inauguration, or recount fund, any money remaining in the fund's account must be disposed of in a manner consistent with the residual fund's clause of M.G.L. c. 55, § 18, and the Director notified in writing that the fund has been closed. Inaugural funds shall dissolve no later than one year after the inaugural event. Any money remaining in the fund's account may not be deposited into a candidate's or political committee's account or used for any other purpose not consistent with the residual funds clause.

1.21: State Candidates Filing of Pre-primary Reports and Municipal Candidates Filing of Pre-preliminary Reports

(1) Where there is a primary election for a state elected office, unenrolled candidates seeking election to the office are required to file pre-primary reports.

(2) Where there is a preliminary election in a city, only those candidates on the preliminary ballot are required to file pre-preliminary reports.

1.22: Definition of "Political Committee", and Identification of Funding Sources

(1) General Applicability. 970 CMR 1.22 is issued to:

- (a) Define contribution limits that apply to organizations that are not political committees.
- (b) Define when an organization must register as a "political committee", and provide rules for groups that do not engage in political fundraising, but which make expenditures or contributions from their existing funds to support or oppose Massachusetts state or local candidates, PACs, party committees or ballot questions (for purposes of 970 CMR 1.22, "expenditures" or "contributions"); and.
- (c) Establish rules to ensure disclosure required of transfers of money or other things of value by individuals or organizations that are formed and operate as tax exempt organizations as well as by any other entity that is not organized as a Massachusetts political committee, where funds are ultimately used to make expenditures or contributions.

(2) Limits on Contributions by Organizations Prior to Exceeding the Incidental Threshold.

Prior to exceeding the incidental threshold defined in 970 CMR 1.22(3)(b), an organization may contribute up to the following amounts in a calendar year: \$1,000 to a candidate's committee; \$500 to a PAC (other than an independent expenditure PAC); and \$5,000 in the aggregate during a calendar year to all political party committees of any one political party. Such contributions may not be made by business entities prohibited from contributing by M.G.L. c. 55, § 8, or by associations funded, in whole or in part, by such entities.

1.22: continued

(3) When an Organization Must Register as a Political Committee. An organization must register as a political committee if it: receives contributions, as defined in 970 CMR 1.22(3)(a) or makes contributions to candidates, PACs (other than independent expenditure PACs) or party committees that exceed the incidental threshold defined in 970 CMR 1.22(3)(b).

(a) Becoming a Political Committee – Receipt of Contributions. An organization, including a political committee registered in a non-Massachusetts jurisdiction, that receives money or anything of value to make contributions to Massachusetts candidates or political committees, including ballot question committees or independent expenditure PACs, or to make independent expenditures, is a political committee pursuant to M.G.L. c. 55, § 1. Such an entity shall organize as a political committee and file campaign finance reports disclosing all contributions received, all expenditures made, and all liabilities incurred for the purpose of making contributions or independent expenditures. A determination of whether an organization has received contributions and is required to organize and file campaign finance reports as a political committee may depend on an assessment of various factors including, but not limited to, the timing and content of solicitations and the timing of receipts.

(b) Becoming a Political Committee – Making Contributions in Excess of the Incidental Threshold. If an organization does not receive money or anything of value to make contributions to Massachusetts candidates or political committees, including ballot question committees or independent expenditure PACs, or to make independent expenditures, but uses its existing funds to make contributions that are more than incidental when compared to the organization's revenues, it must register as a political committee and comply with 970 CMR 1.22(4). "More than incidental", for purposes of 970 CMR 1.22, means making contributions in any calendar year that exceed, in the aggregate, either \$15,000 or 10% of the organization's gross revenues for the previous year, whichever is less.

(c) Political Activity Excluded from Incidental Threshold Analysis. The following activity by an organization is not included in calculating whether the organization has made contributions in excess of the incidental threshold: independent expenditures, contributions to independent expenditure PACs, expenditures to support or oppose ballot questions, contributions to ballot question committees, or contributions or expenditures made to influence a federal election or election for office in another state.

(4) Consequences of Making Contributions in Excess of the Incidental Threshold.

(a) Registration. An organization that is not a registered political committee, which makes contributions to candidates, political action committees (not including independent expenditure PACs) and political party committees that exceed the incidental threshold defined in 970 CMR 1.22(3)(b), must register as a PAC immediately upon exceeding the threshold.

(b) Disclosure. After exceeding the incidental threshold, the organization must file reports as a PAC to itemize all contributions received and expenditures made, as those terms are defined by M.G.L. c. 55, for the calendar year in which the threshold was exceeded as well as during the following calendar year, and must remain organized as a PAC until the first year after the calendar year in which its contributions do not exceed the incidental threshold. In addition, receipts and disbursements of the organization, that are not contributions or expenditures as defined by M.G.L. c. 55, must also be disclosed, in the aggregate (not itemized), in the new PAC's campaign finance reports.

(c) Non-political Expenditures. An organization that exceeds the incidental threshold defined in 970 CMR 1.22(3)(b), but that does not receive contributions, may make expenditures other than for political purposes without restriction under 970 CMR 1.22.

(d) Limits. The new PAC would be subject, during the remainder of the calendar year in which the incidental threshold is exceeded, and at least for the next calendar year, to the limits on contributions that may be made by PACs, as defined in M.G.L. c. 55, § 6, including the \$500 limit on the amount that PACs may contribute to a candidate, and to all other limits and disclosure requirements that apply to PACs. For example, an organization that exceeds the incidental threshold in 2019 may contribute :

1. \$1,000 to a particular candidate in 2019 prior to exceeding the threshold;
2. no more than an additional \$500 to the candidate during 2019 after exceeding the threshold (for a total contribution that year of \$1,500); and
3. may also contribute no more than \$500 to any candidate during 2020. If the incidental threshold in contributions made by the PAC is not exceeded in 2020, then the PAC may dissolve as of December 31, 2020.

1.22: continued

If the PAC dissolves as of December 31, 2020, the organization may again make contributions subject to the threshold in 2021 and would not, during 2021, be subject to the \$500 contribution limit that applies to PACs, unless the incidental threshold is exceeded in 2021.

(5) Required Verifications.

(a) Statements regarding Preceding Year's Revenues. An organization that is not a political committee may be required by OCPF to complete and file a written disclosure that affirms that, during the year in which it made contributions, the organization did not make contributions exceeding the incidental threshold, as defined in 970 CMR 1.22(3)(b). The statement, if required, shall indicate the organization's gross annual revenue for the year prior to the year in which the contributions were made, and the amount of contributions made during the year.

(b) Statements regarding Source of Funds. A political committee that receives a contribution from an organization, whether the organization is existing in Massachusetts or in another state, may be required by OCPF to obtain a written statement from the organization. The written statement shall verify that the organization made the contribution solely from general treasury funds and not in any part from funds received for political purposes, *i.e.*, not received to support or oppose a candidate or candidates, a political party or a ballot question, whether in Massachusetts or elsewhere. In addition, the statement shall certify that funds provided do not, except as allowed by M.G.L. c. 55, include money derived from business or professional corporations or partnerships. If a statement is not provided to the political committee in response to its request, OCPF may require the committee to return the contribution.

(c) Form and Review of Statements. The statements required by 970 CMR 1.22 must be submitted under penalties of perjury. All statements and reports filed by organizations under 970 CMR 1.22 shall be verified by an officer of the organization with knowledge of the organization's financial activities. The organization submitting a statement shall be entitled to a presumption that the statement is accurate, and the organization may submit additional evidence and argument in support of that statement. OCPF shall be entitled to request or subpoena evidence from the organization with respect to the accuracy of the statement. OCPF may conclude that the statement is not credible and require that a contribution be returned only upon a written finding, based on substantial evidence, and only after having provided the organization both notice and an opportunity to be heard.

(6) Organizations Receiving Contributions to Influence Ballot Questions. An organization that receives money or other things of value to support or oppose a ballot question must organize as a ballot question committee.

(7) Organizations Receiving Donations to Make Electioneering Communications. If an organization receives money or other things of value to make electioneering communications, it must disclose its donors and electioneering communication expenditures in the organization's reports of electioneering communications filed in accordance with M.G.L. c. 55, § 18F, and 970 CMR 1.14. Such an Organization, however, is not a political committee and does not have to register as such.

(8) Independent Expenditure PACs. An organization, whether existing in Massachusetts or in another state, that receives money or other things of value to make independent expenditures in Massachusetts, or for the purpose of allowing another individual, group, association, corporation, labor union or other entity to make independent expenditures in Massachusetts after transfer of the money or things of value to such individual or entity, is an independent expenditure political action committee.

(a) Registration and Disclosure. Independent Expenditure PACs must organize prior to soliciting or receiving any money or other things of value for that purpose, pursuant to M.G.L. c. 55, and 970 CMR 2.17 and 2.22. Such independent expenditure political action committees are required to file campaign finance reports disclosing all contributions received, all expenditures made, and all liabilities incurred for the purpose of making contributions or independent expenditures in Massachusetts, and must also maintain detailed accounts of all campaign finance activity pursuant to M.G.L. c. 55, §§ 5, 18 and 18A.

1.22: continued

(b) Contributions by Independent Expenditure PACs to Other Independent Expenditure PACs. An independent expenditure PAC may contribute to another independent expenditure PAC if making the contribution is consistent with the donating committee's statement of purpose. The independent expenditure PAC making the contribution to the recipient independent expenditure PAC must file seven-business day and 24-hour IE PAC reports, based on the date of the contribution to the IE PAC, with the director in accordance with the requirements of M.G.L. c. 55, § 18A(d).

(9) True Source of Contributions Must Be Disclosed. No organization or individual may directly or indirectly make a contribution or independent expenditure, or an electioneering communication, in any manner for the purpose of disguising the true origin of the contribution, independent expenditure, or electioneering communication.

(10) Identification of Contributors and Donors.

(a) Funds Used to Make Contributions or Independent Expenditures. There shall be a rebuttable presumption that a donor "knows or has reason to know" that a donor's funds will be used to make a contribution or independent expenditure if:

1. Such donations are received within 30 days prior to an organization's making a contribution or an independent expenditure; and
2. The organization's general treasury account as of the date of the donation's receipt contained insufficient funds to cover the contribution or independent expenditure.

(b) Funds Used to Make Electioneering Communications. There shall be a rebuttable presumption that funds received by an organization making electioneering communications were received by the organization for the purpose of making electioneering communications if:

1. Such donations are received within 30 days prior to an organization's making an electioneering communication; and
2. The organization's general treasury account as of the date the donation's receipt contained insufficient funds to cover the electioneering communication.

(c) Rebuttal of Presumption. Prior to requiring disclosure of donations in accordance with M.G.L. c. 55 §§ 18, 18A or 18F, and 970 CMR 1.22(10), OCPF shall provide the donor and organization with an opportunity to provide evidence and argument to rebut the presumption and to establish that it is more likely than not that the donor did not know the general treasury account balance of the organization and did not intend that the donation be used to make a contribution, independent expenditure, or electioneering communication.

(11) Identification of Contributors and Donors When General Treasury Funds Are Insufficient.

(a) If an organization makes a contribution, electioneering communication, or independent expenditure that is not fully paid from general organizational income, it must identify additional donors to the extent that general treasury funds and those donors described in 970 CMR 1.22(10) did not provide the full balance of the funds used to make the contribution, electioneering communication, or independent expenditure. In such cases the organization shall identify and report donors using a "last in, first out" accounting method, until a sufficient number of donors have been identified and reported to account for the full balance of the contribution, electioneering communication or independent expenditure.

(b) An organization that makes independent expenditures or contributions need not report a donor in accordance with M.G.L. c. 55, §§ 18 and 18A, if the organization has evidence clearly establishing that the donor did not intend that the payment would be used to make a contribution or independent expenditure.

(c) An organization receiving funds to make an electioneering communication must disclose each donor providing funds used to make the electioneering communication, in accordance with M.G.L. c. 55, § 18F, if the donor provides in excess of \$250 in the aggregate during a calendar year.

1.22: continued

(12) Required Recordkeeping. Detailed accounts of all campaign finance activity shall be maintained pursuant to M.G.L. c. 55, §§ 5 and 18. Such accounts must be provided to the director upon request. An organization or individual making independent expenditures or electioneering communications, or soliciting or receiving money or anything of value to make contributions, independent expenditures or electioneering communications in Massachusetts must maintain detailed records regarding the funds raised, expenditures, or electioneering communications made using funds or in-kind contributions raised, including all records necessary to demonstrate the source of the funds. This recordkeeping requirement exists whether the funds or things of value used to make contributions, independent expenditures, or electioneering communications are contributions received for that purpose or funds from the organization's general treasury.

1.23: Additional Rules Relating to Disclosure by Depository Committees

(1) Filing of Deposit Reports. A separate deposit report is required for each deposit. Multiple reports may, however, be filed on the same date. Deposit reports may be filed prior to the date such filings are due.

(2) Filing of Initial Reports, Transition-In and Transition-Out Reports, External Activity Reports, and Itemization Reports. Committees that file with OCPF in the depository system must file these reports, which are defined in 970 CMR 1.17.

(3) Disclosure Schedule for Legislative and Mayoral Special Election Candidates. Legislative and mayoral special election candidates must clarify expenditures, and file any required credit card, subvendor, reimbursement, and payroll reports no later than eight days before the special primary, eight days before the special election, and 30 days after the special election. The post-election report must, in addition to disclosing monetary contributions and expenditures, also disclose outstanding liabilities and in-kind contributions received.

(4) Candidates for Legislative Office Who Concurrently become Candidates for Other Depository Office. Since committees organized on behalf of candidates for legislative office are required by M.G.L. c. 55, § 19 to file deposit reports and clarify bank reports according to a schedule that differs from the schedule applicable to other committees that file in the depository system, the following rules apply to candidates who change the office sought from one type of depository reporting schedule to the other, or who are seeking office for both legislative and other depository office concurrently:

(a) Filing of Change of Purpose Form – the General Rule. When a candidate's committee files a Change of Purpose form with OCPF, the committee is required, after the filing of the Change of Purpose form, to file reports according to the schedule applicable for the new office sought. Example 1: if a candidate for mayor (required to file monthly) files a change of purpose reflecting a new purpose of running for the state legislature (required to file quarterly in odd numbered years and five times a year in even numbered years), the frequency for required filing changes from monthly to the schedule applicable for legislative candidates as of the month following the filing of the Change of Purpose form. Example 2: if a candidate for the state legislature files a change of purpose reflecting a new purpose of running for state constitutional office (required to file monthly reports), the frequency required for filing changes to monthly as of the month following the change of purpose.

(b) Reversion to Initial Schedule after Election. If an incumbent candidate files a change of purpose to seek election for a depository office with a different schedule and is unsuccessful in the election for the new office, the candidate's filing schedule reverts to the schedule applicable to the office the candidate holds, as of January 1st following the date of the election (or, as of the beginning of the first month after a special election if the candidate was unsuccessful in a special election). For example, if an incumbent state legislator files a change of purpose reflecting a new purpose of running for statewide or county office and the candidate is not successful in the election held for statewide or county office, but continues as a state legislator after the election for statewide or county office, the candidate's committee files on a monthly basis while running for statewide or county office (between the filing of the Change of Purpose and December 31st after a regularly scheduled state election). Starting January 1st, however, the candidate's committee files on the schedule applicable for legislative candidates, and the committee continues to file on the legislative schedule during the period the candidate remains an incumbent legislator.

1.23: continued

(c) Seeking Both Legislative and Other Depository Office Concurrently. If a candidate seeks both legislative and other depository office concurrently, the required filing schedule is determined by which election will occur next. The filing schedule reverts to the other schedule as of the first day of the month following the first election.

1.24: Website and Social Media Use by Public Employees

(1) As used in 970 CMR 1.24, a public employee, means, as defined in M.G.L. c. 55, § 3, "a person employed for compensation, other than an elected officer, by the commonwealth or any county, city or town", or by a state college or university, authority, or other public instrumentality created by the commonwealth and funded by state and local funds, even if the person declines compensation. Social media means any interactive Internet-based technology that facilitates the creation or sharing of information, ideas, events, or other forms of expression *via* virtual communities and networks.

(2) For the purposes of M.G.L. c. 55, § 13, a public employee may not intentionally:

- (a) Solicit or receive political contributions using a website or a social media account, post or site;
- (b) Share, retweet or "tag" other individuals or entities, or otherwise distribute, a social media post that directly solicits political contributions;
- (c) Invite persons to events publicized using social media or a website, if the event is advertised as a political fundraising event;
- (d) Send or provide a link to a social media post or to the part of a website that solicits political contributions (*i.e.*, a link directly to the "donate" section of a social media page or a website);
- (e) Design or administer the portion of any social media account or website that is used to solicit or receive political contributions;
- (f) Allow his or her name to be used, or provide a message supporting a candidate or committee, that will appear on the portion of a website or social media page that solicits political contributions; or
- (g) Post political fundraising solicitations on a candidate's or political committee's website or social media page.

(3) It is not a violation of M.G.L. c. 55, § 13 for a public employee to do the following, or any other activities that are similar to the following and not inconsistent with M.G.L. c. 55, and 970 CMR:

- (a) If the public employee is also a candidate, the public employee/candidate may have a political committee which uses a website or social media account to solicit political contributions, although the communication in such instances must clearly be from the committee rather than personally from the public employee, and the name of the page/social media account must use the political committee's name;
- (b) If asked for information regarding fundraising, a public employee who is also a candidate may refer persons to the candidate's political committee website or social media account;
- (c) "Like" a political fundraising event posted on a social media site;
- (d) "Like", "follow" or become a "friend" of a political candidate or political committee (even if the website of the candidate or committee solicits contributions);
- (e) Attend an event in response to a website or social media post;
- (f) Indicate on a personal website or on a social media page that he or she will be attending a political fundraising event, even if the response, or planned attendance, is ultimately posted on the public employee's social media account, on the website, or on the social media page of the candidate or committee holding the event, (but without additional language soliciting contributions);
- (g) Contribute to a candidate or committee in response to a social media post;

1.24: continued

- (h) Post non-fundraising information regarding a candidate or political committee, on a website or social media page;
- (i) Share, retweet, tag other individuals or entities, or otherwise distribute a link to a social media post or any part of a candidate or committee's website, if the part of the social media post or website reached through the link is not primarily the "donate" page of the social media post or website, *e.g.*, a link to the front page of a candidate's campaign website is permitted, even if the page contains a small "donate" button; or
- (j) Share, retweet, tag other individuals or entities, or otherwise distribute notice of a political event if at the time of distribution, the event is not advertised as a fundraising event, *e.g.*, it is advertised as a "meet and greet" or "stand out" event.

(4) A public employee who is tagged or otherwise referenced in a social media post distributed by a non-public employee advertising a political fundraising event does not result in a solicitation by the public employee in violation of M.G.L. c. 55, § 13.

(5) A public employee viewing a social media site in a governmental building does not result in the receipt of a political fundraising solicitation in a violation of M.G.L. c. 55, §§ 13 or 14.

(6) Public resources, *e.g.*, public computers, may not be used to support or oppose a candidate, political committee, political party or ballot question (*i.e.*, "for political purposes"). Public resources may be used, however, for a website, or a social media account, that provides legislative and constituent services, but not if the site is also used for political purposes. For example, a social media account paid for with public resources may not be used to post information regarding a political campaign event.

(7) Website and social media use by public employees as defined in 970 CMR 1.24(1), as well as by state, county, and municipal employees as defined in M.G.L. c. 268A, § 1, is subject to the conflict of interest law, M.G.L. c. 268A.

1.25: Non-contribution Receipts

(1) The following items, when provided by business entities in the ordinary course of business, are "non-contribution receipts". These items are not considered "contributions" subject to the prohibition on the receipt of corporate contributions in M.G.L. c. 55, § 8, or the contribution limits of the campaign finance law:

- (a) refunds, credit card rewards, or other monetary benefits, which would also be available to other committees or the general public on the same terms and conditions; or
- (b) goods or services which would also be available to other committees or the general public on the same terms and conditions.

(2) To the extent non-contribution receipts are in monetary form, the money received must be deposited into the recipient committee's campaign account and disclosed as a "non-contribution receipt". If the item received is a good or service, the item is not subject to disclosure requirements and is not reported by the committee as an in-kind contribution, but instead is an asset of the committee.

(3) Except as provided in 970 CMR 1.25(4), the sale of an item by a committee, whether directly or through a third-party vendor, results in a contribution received by the committee for the entire sale price, not the net amount after deducting the committee's cost for obtaining the item or vendor fees.

(4) A transfer between political committees of money, goods or services, creates a rebuttable presumption that the value transferred is a contribution to the receiving committee, subject to the limits and disclosure requirements of the campaign finance law, including the \$100 limit on contributions between candidate committees in M.G.L. c. 55, § 6. The presumption may be rebutted if the committees are able to demonstrate to OCPF that the committee selling the item would receive or has received fair market value for the item sold, and the item could only be sold one time. For example, a candidate's committee may sell a desk to another committee if it receives fair market value from such sale, but it may not sell a mailing list if it would result in the receipt of more than \$100 from another candidate's committee because a mailing list may be sold more than one time.

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1.25: continued

(5) Committees are required to maintain records, consistent with the requirements specified in 970 CMR 1.10.

1.26: Barnstable Assembly of Delegates

Candidates for election to the Barnstable Assembly of Delegates file campaign finance reports in the same manner as candidates for districts specified in M.G.L. c. 41, §§ 113 through 119, with the Assembly of Delegates Clerk.

REGULATORY AUTHORITY

970 CMR 1.00: M.G.L. c. 55, §§ 3 and 6 and M.G.L. c. 30A.