

970 CMR 1.00: CAMPAIGN FINANCE ACTIVITY

Section

- 1.01: Scope and Purpose
- 1.02: General Provisions
- 1.03: Debts
- 1.04: Contributions
- 1.05: Loans
- 1.06: Limitations on Contributions by Political Committee
- 1.07: Contributions by Conduits and Intermediaries
- 1.08: Reporting of Contributor's Occupation and Employer
- 1.09: Contributions by Credit or Debit Card
- 1.10: Record Keeping
- 1.11: Electronic Filing
- 1.12: Transfer of Candidate Political Committee From Municipal Level to State Level
- 1.13: Transfer of Candidate Political Committee From State Level to Municipal Level
- 1.14: Electioneering Communications
- 1.15: Posting of Campaign Finance Reports by Local Election Officials
- 1.16: Disclosure Required of Candidates for Mayor in Municipalities with a Total Population of Between 40,000 and 100,000
- 1.17: Mid-year Campaign Finance Reports
- 1.18: Reports of Late Contributions Received
- 1.19: Contributions from Gaming License Applicants and Persons Holding Such Licenses
- 1.20: Legal Defense, Inauguration and Recount Funds
- 1.21: Municipal Candidates Filing of Pre-preliminary Reports
- 1.22: Identifying Funding Sources of Funds Transferred for Purposes of Making Contributions, Electioneering Communications, and Independent Expenditures Made by Tax Exempt or Other Organizations or Individuals

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) Authority. 970 CMR 1.00 is promulgated under authority and in conformity with M.G.L. c. 55, §§ 3 and 6 and M.G.L. c. 30A.
- (2) 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.
- (3) 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.
- (4) 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.

(5) 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(b) for cities.

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

1.03: continued

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:

- (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 non-political 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.

(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

970 CMR: OFFICE OF CAMPAIGN AND POLITICAL FINANCE

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 2.05(2)(w) or 2.06(3)(a). 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.

1.04: continued

(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 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) A political committee or candidate may elect to refund a contribution, subsequent to its deposit, under the following circumstances:

(a) The political committee or candidate determines that the receipt of the particular contribution creates an appearance of a conflict of interest or other possible impropriety. Such a refund would be appropriate, for example, where the receipt of a particular contribution might reasonably be interpreted to create an impression that a contributor can improperly influence or unduly enjoy official favor, or exercise undue influence.

(b) The political committee or candidate has established, or establishes, a refund policy regarding contributions from a particular category or type of contributor. This policy, and the refund of such contributions, must be stated and applied in an open and consistent manner.

(c) Except as provided in 970 CMR 1.04(9)(d), contributions may be refunded to some or all contributors making contributions to a candidate or committee for any reason if refunds are made within 90 days of receipt of such contributions.

(d) Contributions may be refunded within 90 days of receipt because of the termination of a particular candidacy. Such refunds shall be calculated in accordance with 970 CMR 1.04(9)(d)1. or 2.:

1. refunds may be made on a *pro rata* basis; or

2. refunds may be made on a "last in, first out" basis, *i.e.*, the most recent contribution will be refunded in full and the remaining balance will be used to refund each contribution in the reverse order of receipt.

(e) Except as expressly provided, 970 CMR 1.04 shall not be construed to affect the requirements of 970 CMR relating to the disposition of residual funds by candidates and political committees.

(f) The contributions have been given to a ballot question committee that was organized to support or oppose an anticipated ballot question and the question the committee was organized to support or oppose was not placed on the ballot. If some of the contributions received by the committee have been spent and are not available when refunds are to be made, refunds shall be made on a *pro rata* basis or on a last in, first out basis.

(g) If a candidate or committee has issued a refund check to a contributor but the refund check is not negotiated within three months of issuance, the candidate or 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.

(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.

970 CMR: OFFICE OF CAMPAIGN AND POLITICAL FINANCE

1.04: continued

(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	\$500	\$161	\$5,000 ⁴	\$5,000 ⁴	No limit
Lobbyist	\$200	\$200	\$161	\$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)	\$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

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 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 \$161 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 and individual to a people's committee is adjusted biennially by OCPF. The \$161 figure is in effect for 2014 and 2015.

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

970 CMR: OFFICE OF CAMPAIGN AND POLITICAL FINANCE

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.

1.04: continued

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* OCPF's advisory opinion, AO-11-05.

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."

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

(a) 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, address, email address, and phone number of the person who will be filing the reports. If the fund concerns a candidate who files reports 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.

(b) 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.

(c) 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 funds clause of M.G.L. c. 55, § 18 and OCPF must be notified, in writing, that the fund has been closed. Any money remaining in the fund's account may not be deposited into a candidate's or political committee's account.

(14) 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.

(15) Contributions from Trusts. Contributions received from trusts shall be subject to the following requirements:

(a) A contribution from a personal or family living trust is attributed to the individual signing the check or authorizing the credit or debit card transaction, for purposes of the

disclosure requirements and contribution limits of the campaign finance law, if the individual signing the check or authorizing the credit or debit card transaction is the donor of the funds used to create the trust account (the "settlor") (*e.g.*, if Mary Smith signs the check on the Mary Smith Trust, the contribution is attributed to Mary Smith). The contribution counts towards the individual's annual contribution limit.

1.04: continued

(b) Personal or family living trusts are considered separate entities for purposes of the disclosure requirements and contribution limits of the campaign finance law and a contribution shall be attributed to the trust if the individual signing the check or authorizing the credit or debit card transaction is not the settlor (*e.g.*, if John Doe signs the check on the Mary Smith Trust, the contribution is attributed to the Mary Smith Trust). A contribution to political committees from a personal or family living trust that is not signed by the settlor is attributed to the trust, subject to the same limits and disclosure requirements that apply to contributions from individuals. The contribution limits for such trusts are separate from the limit on contributions by the individual beneficiaries and trustees of the trust.

(c) A contribution to political committees by a testamentary trust or an estate is attributed to the trust or the estate, subject to the same limits and disclosure requirements that apply to contributions from individuals.

(d) The limit applicable to contributions made by trusts or estates is separate from the limit on contributions that applies to individual beneficiaries, trustees, executors, administrators, or personal representatives of the trust or estate, except as provided in 970 CMR 1.04(15)(a).

(e) The name and address of the trustee, executor, administrator, or personal representative must be provided to the committee at the time the contribution is made and disclosed by the committee when reporting the contribution.

(f) Contributions from realty trusts are prohibited.

1.05: Loans

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

(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 is being charged by the banking institution, provided however, that he or she may do so only on the exact amount he has loaned to his 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 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.

1.06: continued

(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;
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.

970 CMR: OFFICE OF CAMPAIGN AND POLITICAL FINANCE

(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."
 - (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,

970 CMR: OFFICE OF CAMPAIGN AND POLITICAL FINANCE

(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).

(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 or Debit Card means a 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,

970 CMR: OFFICE OF CAMPAIGN AND POLITICAL FINANCE

debit card contributions include contributions made from a contributor's bank account by electronic transfer.

Merchant Provider means a bank or other business authorized to process credit or debit card transactions.

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

Vendor means an individual or entity other than a merchant provider that provides services for campaign fundraising on the Internet to candidates and political committees.

1.09: continued

(2) Contributions by Credit or Debit Card Made over the Internet.

(a) Credit or Debit Card and Internet Agreements. A candidate or political committee may enter into an agreement with a vendor or merchant provider in order to receive contributions by credit or debit card over the Internet. Any such agreement must comply 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 candidate or political committee and the vendor or merchant provider must be consistent with customary and usual business practices.
2. The vendor or merchant provider may not provide a discount or other financial incentive to a candidate or political committee that is not available to any other candidate, political committee or the general public.
3. The candidate or committee must, in addition to being responsible for any portion of contributions deducted during processing by the vendor or merchant provider, also pay any applicable additional fees established by the vendor or merchant provider.

(b) Web Site: Screening and Compliance. The vendor or merchant provider, or the candidate or political committee, shall cause to be displayed on the contributor's computer screen 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 the cursor in a box or pressing the enter key on the computer keyboard. In addition, a Web site that is used to solicit contributions by credit or debit card must:

1. clearly identify the name of the candidate or political committee that is using the Web site to solicit such contributions via the Internet;
2. require that contributors certify by making an affirmative action that the contributor is responsible for paying all charges incurred in using the credit or debit 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 Web site 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 merchant provider, or the candidate or political committee must promptly send written confirmation of each credit or debit card contribution made over the Internet to the contributor by electronic mail or, if the contributor does not have an email address, by first class mail, postage prepaid.

(3) Credit or Debit Card Contributions Not Made *via* the Internet – Credit or Debit Card Agreements. A candidate or political committee may enter into an agreement with a merchant provider in order to receive contributions by credit or debit 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 a paper record signed by the contributor at or before the time the committee processes the contribution. Any such agreement between a candidate or political committee and a merchant provider must comply with M.G.L. c. 55, § 9 and 970 CMR 1.09, including, but not limited to 970 CMR 1.09(2)(a)1. through 3.

(4) Credit or Debit Card Contributions by Phone. Such contributions are prohibited.

(5) Recordkeeping and Disclosure.

(a) A candidate or political committee soliciting or receiving contributions by credit or debit

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;
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 or the merchant provider;

1.09: continued

5. the last four digits of the credit or debit card number and expiration date of the contributor's credit or debit card, unless pursuant to a written agreement a vendor or merchant provider has agreed to maintain such records on behalf of the candidate or committee; and
 6. the billing address used by the contributor for receipt of credit or debit card bills, if different from the residential or business address of the contributor.
- (b) Contributions made by credit or debit card shall be disclosed as received by a candidate or political committee on the day the funds are received into the committee's account either by check or electronic transfer.
- (c) A candidate or political committee receiving contributions by credit or debit card must report as receipts, on the candidate or committee's campaign finance reports, the full (gross) amount of each contribution before the payment of any fees or deductions to the vendor, card issuing bank or the merchant provider. In addition, all fees paid to or deducted from contributions by a vendor or merchant provider for processing such contributions are expenditures which must be reported in accordance with M.G.L. c. 55 and 970 CMR 1.09.
- (d) In accordance with 970 CMR 1.04(8), candidates and political committees must review all contributions received by credit or debit 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) Candidates and political committees that receive credit card or debit card contributions must obtain processing information from the vendor or merchant provider reflecting contributions received, which itemizes actual deposits made by the merchant provider or vendor to the candidate or 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 merchant provider or vendor, the candidate or political committee must reconcile the information to the information provided by the candidate or committee's bank regarding actual deposits, to ensure the accuracy of information the candidate or committee will file with OCPF.
- (6) Depository Candidates/Committees.
- (a) Within seven business days of receipt of the contribution from the card issuing bank, the vendor or merchant provider shall deposit the amount of the contribution into the candidate or political committee's depository account, unless the agreement between the candidate or political committee and the vendor or merchant provider authorizes the vendor or merchant provider to deduct transaction costs or fees from a credit or debit card contribution(s) received in which case the vendor or merchant provider may deposit the net proceeds of such contribution(s) into the candidate or 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 or debit card is deemed to take place on the day the funds are received into the committee's account either by check or electronic transfer.
- (b) Each candidate and each treasurer of a political committee required to designate a depository account shall file reports of credit or debit card receipts with the director. These reports shall be filed on the fifth day of each month, complete as of the first day of that month and on the 20th day of each month complete as of the 15th day of that month, if during such reporting period a credit or debit card contribution(s) is deposited into the candidate or political committee's depository account. The reports shall contain the following information regarding the credit or debit card contributions deposited in the candidate or

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 or debit 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;
2. The total amount of contributions itemized pursuant to 970 CMR 1.09(6)(b)(1);

1.09: continued

3. The total amount of contributions \$50.00 and under;
 4. The total amount of credit and debit card receipts; and
 5. The total proceeds of credit and debit card contributions deposited in the committee account. If this amount is less than total amount of credit or debit card receipts for the reporting period due to a vendor or merchant provider having deducted a fee prior to depositing a contribution(s) into the candidate or committee's depository account in accordance with 970 CMR 1.09(6)(a), then the total amount of transactions costs or fees deducted by the vendor or merchant provider during the reporting period shall also be disclosed. This figure should be calculated by subtracting the aggregate proceeds of credit and debit card contributions deposited during the reporting period from the total amount of credit and debit card receipts reported pursuant to 970 CMR 1.09(6)(b)4. and entered on the deposit report as a negative entry (with parentheses around the amount of the 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 candidates and political committees that receive contributions by credit or debit card must request information from merchant providers or 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 Expenditures

- (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 specific purpose of each expenditure shall be reported in sufficient detail to demonstrate that an expenditure complies with the campaign finance law.
Examples of such detail include the following:
1. "Candidate radio ads" instead of "Ads."
 2. "5,000 bumper stickers" instead of "Printing."
 3. "Auto reimbursement" instead of "Travel."

970 CMR: OFFICE OF CAMPAIGN AND POLITICAL FINANCE

(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 making expenditures to support or oppose a candidate must identify the candidate. For example, an in-kind contribution by a party committee for staffing to assist candidate John Doe should be reported as "Staff time - for John Doe campaign."

1.10: continued

(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.

(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(10) 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 & 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.

970 CMR: OFFICE OF CAMPAIGN AND POLITICAL FINANCE

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.

1.11: continued

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.

(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.

1.11: continued

- (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 and 20th day of each month, complete as of the preceding first and fifteenth day of each month.
- (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.
- (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

970 CMR: OFFICE OF CAMPAIGN AND POLITICAL FINANCE

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.

1.12: continued

- (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 must also be 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 non-depository office. If such a determination is made, the candidate will be required to file reports only as a non-depository candidate.
- (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 non-depository candidate in accordance with M.G.L. c. 55, § 18 because the candidate is an incumbent legislative or other officer required to file as a non-depository candidate, is primarily seeking depository office. If such a determination is made, the candidate will be required to file reports only as a depository candidate.

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 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:

1.13: continued

- (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.

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 web site until December 31st of the sixth year following the date that the statement or report was filed.

1.16: Disclosure Required of Candidates for Mayor in Municipalities with a Total Population of less than

75,000

(1) Pursuant to M.G.L. c. 55, § 18, paragraph one, candidates for mayor in municipalities with a total population, as determined by the most recent federal decennial census, of less than 75,000, must file campaign finance reports with the director. A political committee organized on behalf of such a candidate must file a Statement of Organization with the director, and a copy of the Statement of Organization must be filed with the local election official. Except where the context indicates otherwise, such candidates are subject to all disclosure requirements included in M.G.L. c. 55, § 18, including the requirement that reports must be filed with the director within 72 hours of depositing any contribution of \$500 or more within the period between 18 days and 72 hours prior to a special, preliminary, primary or general election.

1.16: continued

(2) A committee organized on behalf of a candidate, who has been defeated in a city election for mayor in a municipality with a total population, as determined by the most recent federal decennial census, of less than 75,000 persons, and who is not an incumbent mayor in such city, shall file all campaign finance reports due during the election year with the director. For example, a non-incumbent candidate for mayor who is defeated in November 2015 will file the pre-preliminary, pre-election and year-end 2015 report (due in January 2016) with the director.

(3) An incumbent mayor in a municipality with a total population, as determined by the most recent federal decennial census, of less than 75,000 persons, shall file all campaign finance reports required to be filed with the director up to and including the first campaign finance report due after the mayor leaves office.

(4) A political action committee or people's committee organized to promote or oppose the recall of a mayoral candidate who is required to file with the director must file its campaign finance reports, in accordance with the schedule for filing in M.G.L. c. 55, § 18, with the director.

1.17: Mid-year Campaign Finance Reports

Pursuant to M.G.L. c. 55, § 18(h), mid-year reports shall be filed by candidates for the state senate or house of representatives, and the committees organized on behalf of such candidates. Such reports must be filed on or before the 20th day of July, complete as of June 30th, in each odd-numbered year.

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 eighteenth 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.

(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.

1.19: continued

(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.

(6) A candidate or committee that has a separate legal defense fund, inauguration fund or recount fund can also use the candidate's committee, or where a legal defense fund has been

created by a state party committee, the state party committee, to raise funds and make expenditures for legal defense, inauguration and recount purposes if the expenditures for such purposes comply with M.G.L. c. 55, § 6. If funds are raised by a political committee for such purposes and deposited into the committee's campaign account, the funds are also considered "contributions" subject to the limits of the campaign finance law.

(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.

1.20: continued

(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 funds clause of M.G.L. c. 55, § 18, and the director notified, in writing, that the fund has been closed. Any money remaining in the fund's account may not be deposited into a candidate's or political committee's account.

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: Identifying Funding Sources of Funds Transferred for Purposes of Making Contributions, Electioneering Communications, and Independent Expenditures Made by Tax Exempt or Other Organizations or Individuals

(1) 970 CMR 1.22 establishes rules, adopted in accordance with M.G.L. c. 55, § 3, governing disclosure and recordkeeping required of transfers of money or other things of value, by individuals or organizations that are formed and operate as tax exempt organizations under Internal Revenue Code § 501(c)(3), 501(c)(4), 501(c)(5), and 501(c)(6), as well as other organizations, including organizations created under § 527 of the Internal Revenue Code, that are not Massachusetts political committees. 970 CMR 1.22 applies when the transfers are made for purposes of facilitating the eventual making of contributions, electioneering communications, or independent expenditures, and require disclosure of contributions, including contributions to an independent expenditure PAC, made for the purpose of supporting or opposing a candidate, political party, or ballot question in Massachusetts. In addition, 970 CMR 1.22 requires disclosure by organizations or individuals that raise or transfer money or other things of value for the purpose of making electioneering communications, and provide guidelines for ensuring that the origin of the funds used to make contributions, electioneering communications, or independent expenditures are disclosed in the manner required by M.G.L. c. 55.

(2) An organization, whether existing in Massachusetts or in another state, that solicits 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 and must organize as such prior to soliciting any money or other things of value for that purpose, pursuant to M.G.L. c. 55 and 970 CMR 2.17: *Independent Expenditures*. 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 and 18.

(3) Any organization, including a political committee or organization registered in a non-Massachusetts jurisdiction that supports political parties or candidates must organize as a political committee in Massachusetts, prior to soliciting money or any other thing of value for

the purpose of influencing the election of a Massachusetts state, county or municipal candidate or candidates, or to support or oppose a Massachusetts PAC or political party.

(4) A committee that receives a contribution from an organization, whether existing in Massachusetts or in another state, may be required by OCPF to obtain a written statement from the organization, signed under the penalties of perjury. The written statement shall verify that the organization made the contribution solely from general treasury funds and not in any part from funds solicited for political purposes. If a statement affirming that the contribution was derived solely from general treasury funds is not provided to the committee in response to its request, OCPF may require the committee to return the contribution.

1.22: continued

(5) An organization that solicits money or anything of value to make contributions to Massachusetts candidates or political committees, including ballot question committees or independent expenditure PACs, or for the purpose of allowing another individual, group, association, corporation, labor union or other entity, to make such contributions, is a political committee pursuant to M.G.L. c. 55, § 1. Such 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, and must also maintain detailed accounts of all campaign finance activity pursuant to M.G.L. c. 55, §§ 5 and 18, which accounts must be provided to the director upon request. A determination of whether an organization is required to organize and file campaign finance reports as a political committee depends on an assessment of various factors, including the timing and content of solicitations.

(6) 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.

(7) If a donor to a tax exempt or other organization knows that a payment or thing of value it provides to the organization will be used to make a contribution or an independent expenditure to support or oppose a Massachusetts candidate or ballot question, or an electioneering communication referencing a Massachusetts candidate, the full amount of the donor's payment or donation to the organization shall be disclosed, if the aggregate value of the amount given by the donor exceeds \$250 during a calendar year, by the organization receiving the donation. The donation shall be disclosed in accordance with M.G.L. c. 55, § 18A or 18F with the director or local election official, depending on where the candidate supported or opposed, or named in an electioneering communication, files reports. If an organization making an expenditure to influence a ballot question raises funds for that purpose, the organization must organize as a ballot question committee and the contributions received shall be disclosed in accordance with M.G.L. c. 55, § 18, with the director if the question is on the state election ballot, or if it is on a municipal ballot, with the clerk in the city or town in which the question is on the ballot. For purposes of 970 CMR 1.22, a donor "knows" that a payment will be used to make a contribution, independent expenditure, or electioneering communication, if the donor makes a contribution in response to a message or a solicitation indicating the organization's intent to make a contribution, independent expenditure, or electioneering communication, or if other circumstances, including the timing and context of the donations, indicate that a donor knew that the payment would be used for such purpose.

(8) An organization or individual making, or soliciting 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 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.

1.22: continued

(9) If an organization makes a contribution, electioneering communication, or independent expenditure from its general treasury that is not fully paid from general organizational income, it must organize a political committee and identify additional donors to the extent that general treasury funds and those contributors described in 970 CMR 1.22(7) 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 who are presumed to have had reason to know that all or part of their payments would be used to make contributions, electioneering communications or independent expenditures, 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. An organization need not report a donor as a contributor if the organization has evidence clearly establishing that the donor did not intend that a payment would be used to fund a contribution, electioneering communication or independent expenditure.

(10) 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).

REGULATORY AUTHORITY

970 CMR 1.00: M.G.L. c. 55, §§ 3, 6 and 10A.