

OCPF Reports



From the Director

Mike Sullivan

In August, when new campaign finance laws went into effect, we reached out to educate people on the changes. If you don't know about the changes, please see our summary on pages 7 and 8 in this newsletter.

During the past several weeks we have updated our guides, website and bulletins to reflect changes in the law. We also created [this tutorial](#) to assist groups and committees that make independent expenditures, electioneering communications and ballot question expenditures using TV, radio, internet ads, billboards and direct mail.

The next phase is updating our regulations.

We are in the process of drafting regulations and will post them to our website when they are ready. We will also ask for public comment and hold a public hearing.

Public Employee Training

This year we have conducted a series of seminars for public employees who work in state agencies.

Feel free to invite us to your agency, city or town for public employee training.

The seminar lasts about 40 minutes, and employees will leave with a better understanding of what they can and can't do concerning politics at all levels.

To schedule a seminar, contact Jason at 617-979-8300.

93.5 percent of House and Senate candidates filed pre-primary on time

OCPF tried something new this year by e-mailing notifications to legislative candidates and treasurers about the Aug. 31 pre-primary report deadline. Since 1973, those notices have been sent by traditional mail.

The e-mail notices worked well — 93.5 percent of 336 candidates filed on time, similar to past state election years. As of Sept. 19, only one candidate has not filed.

In total, candidates raised \$7.8 million and spent \$5.8 million in the period that began Jan. 1 and ended Aug. 21. We expect that several million more dollars will be spent between Aug. 22 and the Nov. 8 election.

In 2014, a total of \$12.4 million was spent. The total was \$11.9 million in 2012.

Confirmation E-Mails

In the days and hours leading up to the pre-primary filing deadline, many candidates

and committees called to confirm whether their reports were e-filed and accepted.

To alleviate that uncertainty, OCPF will now send confirmation e-mails to candidates and treasurers when reports are filed, starting with the pre-election report due Oct. 31. Please go to page 10 of this newsletter to see more questions from filers and how we answered them.

OCPF staffers will be available by phone until 8 p.m. on Oct. 31 to assist filers.

Pre-Primary Filing Stats: On-Time Filers

| | |
|-------|--------------|
| 2016: | 93.5 percent |
| 2014: | 94 percent |
| 2012: | 97 percent |
| 2010: | 94 percent |
| 2008: | 89 percent |

PRE-PRIMARY STATISTICS

TOTAL SPENT: \$5.8 MILLION

TOTAL RAISED: \$7.8 MILLION

SPENT BY DEMOCRATS: \$4.9 MILLION

SPENT BY REPUBLICANS: \$837,017

AVERAGE SPENT: \$22,937

State Ballot Question Committees Disclose Campaign Finance Activity Twice Monthly

Nov. 8 Ballot Questions

**Question 1: An Act
Relative to Expanded
Gaming**

**Question 2: An Act to
Allow Fair Access to
Public Charter Schools**

**Question 3: An Act to
Prevent Cruelty to
Farm Animals**

**Question 4: The
Regulation and
Taxation of Marijuana
Act**

**[Click here](#) to view
campaign finance reports
filed by state ballot
question committees**

From Page 1: From the Director

COGEL 2016

The international Council on Governmental Ethics Laws (COGEL) is having its annual conference in New Orleans from Dec. 10 to 14 this year.

As president of COGEL, I invite you to attend if you have an interest in ethics, election laws, campaign finance and public records access.

[Click here](#) for the registration page.

Hundreds of people from governmental entities, educational institutions, law firms and corporations attend the conference seeking professional growth.

E-Filing

On the front page of this newsletter, you'll see that most people filed their pre-primary reports on time.

On behalf of our entire staff, I want to take a moment to thank you for your cooperation.

Among those who filed late, or had difficulty filing, a primary issue was that they didn't click the green "E-FILE" button. To complete the process, the button must be clicked. We discuss other common filing-day issues on page 10.

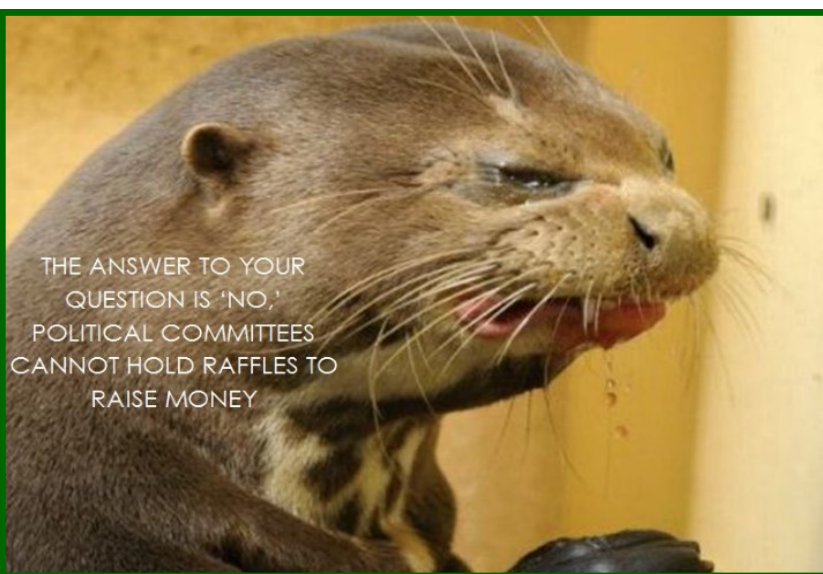
E-File A Report

Municipal Election Year

Everyone who runs for mayor in 2017 will organize with OCPF, as well as city council and alderman candidates in cities with populations of more than 75,000. Call and we'll help you get started.

[Click here](#) for the guide for mayoral, city council and alderman candidates in cities with populations of more than 75,000. [Click here](#) for the guide for all other mayoral candidates. [Click here](#) for the guide for other municipal candidates who file locally.

Mike Sullivan, Director





THE 2018 STATE ELECTION IS WAY DOWN THE ROAD, BUT THE PERIOD FOR PUBLIC FINANCING BEGINS JAN. 1, 2017, FOR STATEWIDE CANDIDATES.

Contributions received from individuals and deposited in a statewide candidate's depository account on or after Jan. 1, 2017, may be eligible as qualifying contributions for matching public financing. It is a voluntary program.

During the last state election in 2014, candidates received more than \$1 million in matching public funds for their campaigns.

Statewide campaigns can contact OCPF at 617-979-8300 with questions.

[Click here](#) for an overview of past public financing distributions.



2017 Municipal Elections: R6 can be used by municipal

candidates who file locally and is only available by contacting OCPF. To register, candidates and committees should send the [M101 organizational form](#) with "R6 Only" written at the top to OCPF. [Click here](#) for a tutorial on how to use R6 to create and print campaign finance reports.

Recent Cases & Rulings

OCPF audits all campaign finance reports and reviews all complaints alleging violations of the campaign finance law. These audits and reviews may result in enforcement actions or rulings (below). OCPF does not comment on any matter under review, nor does the office confirm or deny that it has received a specific complaint. The identity of any complainant is kept confidential. PRLs and disposition agreements are matters of public record once cases are concluded.

Public Resolution Letters

A public resolution letter may be issued in instances where the office found “no reason to believe” a violation occurred; where “no further action” or investigation is warranted; or where a subject “did not comply” with the law but, in OCPF’s view, the case is able to be settled in an informal fashion with an educational letter or a requirement that some corrective action be taken. A public resolution letter does not necessarily imply a wrongdoing on the part of a subject and does not require agreement by a subject.

CPF-16-46: Mass. Values IEPAC, Boston: Did not comply (disclosure); 6/13/2016. The Mass. Values IEPAC made an expenditure of \$7,743 for two mailings relative to an April 12, 2016, special senate election. Because the expenditure was made shortly before the election, the IEPAC was required to file a campaign finance report within 24 hours of mailing the communication. The report was filed two days late. The treasurer of the IEPAC made a \$50 payment to the state for the late penalty. Going forward, the assessment and payment of a small monetary fine may not serve as an adequate deterrent to the late filing of independent expenditure reports. Accordingly, OCPF suggests that the Legislature review the \$25 per day

penalty for late disclosure of independent expenditures and consider increasing the amount substantially.

CPF-16-58: Kim Rivera, Springfield: Did not comply (disclosure); 6/13/2016. The committee filed inaccurate or incomplete deposit reports and did not disclose the purpose of a \$1,000 expenditure in 2015. The committee filed the appropriate amendments.

CPF-16-67: Konstantina Lukes, Worcester: Did not comply (disclosure); 6/29/2016. The committee did not file deposit reports totaling \$5,000 in 2015. It was not until June 24, 2016, that the committee filed deposit reports to disclose the contributions received in 2015.

CPF-16-36: Concerned Citizens Ballot Question Committee, East Longmeadow: Did not comply (organizing); 7/12/2016. The campaign did not register as a ballot question committee with the town clerk prior to initiating financial activity, and did not disclose its financial activity in a timely manner as required by the statute. The committee filed all required reports after being contacted by OCPF.

CPF-16-73: Linda Parent, West Springfield: Did not comply (public employee fundraising); 7/27/2016. Parent, a City of Springfield employee, was listed on a 2016 fundraising invitation on behalf of the Tom Ashe Committee. Public employees are prohibited from soliciting contributions directly or indirectly.

CPF-16-32: Clara Fallon, Fall River: Did not comply (public employee fundraising); 7/27/2016. Fallon, an aide to State Rep. Alan Silvia, posted a 2016 fundraising invitation to her Facebook page (Fallon stated that her son, who is not a public employee, posted the invitation to her Facebook page). Public employees are prohibited from soliciting contributions, including solicitations on social media.

Continued on the Next Page



From previous page: Recent Cases and Rulings

CPF-16-20: Mass Fiscal Alliance, Boston: Did not comply (disclosure); 8/3/2016. OCPF initiated a review to determine whether MassFiscal solicited funds for the purpose of making electioneering communications. In one instance, MassFiscal did not disclose the source of funds received to make electioneering communications.

CPF-16-78: Daniel Bianchi, Pittsfield: Did not comply (disclosure); 8/15/2016. The Bianchi Committee's 2015 campaign finance reports disclosed \$17,715 in payments to Get Set Marketing and \$6,350 in aggregate payments to RMC Strategies. OCPF sent audit letters in 2016 to the committee on April 1 and June 14, requesting that the committee determine if subvendors were used by these vendors. The committee failed to respond to OCPF's requests, and no disclosure of subvendor expenditures, if such expenditures were made, has taken place.

Advisory Opinions

AO-16-04: An Independent Expenditure PAC may not make a contribution to a non-profit corporation. The campaign finance

law clearly specifies that IEPACs are created for the purpose of making independent expenditures, and the statute does not contemplate IEPACs making contributions to non-profit entities.

AO-16-03: A political committee may host a fundraising event at the Dudley Café located in the Bruce C. Bolling Municipal Building in Dudley Square, Boston. The building houses a number of different tenants, including the Boston Public School administrative offices on floors 2 through 5, and community rooms and a roof deck on the 6th floor. Private businesses and restaurants occupy the first floor. A fundraiser can be held in the café because the part of the building that is occupied for governmental purposes is separate and distinct from the restaurant, with a separate entrance.



DUE DATE FOR: Legislative candidates, local party committees and Barnstable Assembly of Delegates.



FAQ: If I lost in the primary election for state representative and will not appear on the Nov. 8 general election ballot, do I need to file a pre-election report?

ANSWER: Yes. All 2016 House and Senate candidates file the pre-primary, pre-election and year-end reports.



THE REPORT LOG IS A LIVE LISTING OF CAMPAIGN FINANCE REPORTS, DISPLAYED IN CHRONOLOGICAL ORDER AS THEY ARE FILED.

[CLICK HERE](http://www.ocpf.us/report-log) FOR THE LOG.

Recent changes to the state's campaign finance law

The state recently passed new campaign finance legislation that impacts many candidates and committees.

The legislation, which went into effect this summer, comes directly from the special Campaign Finance and Disclosure Task Force that was established in 2014 and then disbanded when it issued its final report in December that year. [Click here](#) to read the task force report.

Changes:

Annual Contribution Limits for Legislative Special Elections

Prior to the recent change in the law, the contribution limit from an individual to a candidate was \$1,000 per calendar year, even for House and Senate candidates who were on the ballot in a special election in same year as a regular general election. If an individual gave \$1,000 to a legislative candidate for the special election, that individual could not make any contributions to the candidate for the rest of the year, even if the candidate faced an opponent that year in the fall election.

The change allows an individual to contribute up to \$1,000 for the special election, and up to \$1,000 during the period that begins on the day after the special election and ends Dec. 31. This statute is only in effect during state election years (even-numbered years), and only applies to House and Senate candidates in special elections during a state election year.

Disclosure of Top Donors for Independent Expenditures and Electioneering Communications

Independent expenditures* and electioneering communications* that are transmitted through paid TV, internet and print advertising are required to list the top five contributors to the committees or organizations that paid for the communications.

The change adds billboards and direct mail to the list of advertisements that require the top five contributors to be listed. The top five contributors must be listed "regardless of the purpose for which the funds were given," according to the change in the statute.

Only contributions that exceed \$5,000 made during the 12 months before the date of the advertisement or communication must be listed.

The requirement to disclose the top five donors on ads and communications also applies to communications made to influence ballot questions.

State Party and PAC Disclosure

The change requires state party committees and PACs to identify candidates in the memo section of their checks, if the expenditure was made to support or oppose the candidates.

These expenditures are generally in-kind contributions and independent expenditures made by a state party or PAC. The information in the memo section of the check is then e-filed with OCPF by a committee's

United Green Democratic Republican State Party 5719

1234 North Ave. Example

Boston, MA 01234

DATE: 8/8/2016

PAY TO THE ORDER OF: E Corp. Printing \$ \$1,300

One Thousand Three Hundred and 00/100 DOLLARS

MEMO: Direct mail supporting Sen. candidate Robert Wiley, 123 Main St., Boston, Seeking 15th Essex

Leo Marvin

⑆000045678000 0000⑆ ⑆0000

*defined on the next page

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Continued: Changes to the Campaign Finance Law

bank.

A PAC or state party committee must review the bank's report within seven days of when it was filed. If the bank's report does not identify the candidate who was supported or opposed, the committee is required to append the bank's report to disclose the information.

Disclosing PAC, State and Local Party Expenditures that Support Candidates

The change requires *PACs and state and local party committees* to disclose on campaign finance reports the name and address, elective office held, if any, and office sought by each candidate on whose behalf an expenditure was made.

For example, if a local party committee hires individuals to distribute door-hangers in a town for a candidate, the purpose of the expenditure must list the name and address of the candidate, the elective office held, if any, and the office sought.

What is an Independent Expenditure?

An expenditure made or liability incurred by an individual, group, association, corporation, labor union, political committee or other entity as payment for goods or services to expressly advocate the election or defeat of a clearly identified candidate; provided, however, that the expenditure is made or incurred without cooperation or consultation with any candidate or a nonelected political committee organized on behalf of the candidate or an agent of the candidate and is not made or incurred in concert with or at the request or suggestion of the candidate, a nonelected political committee organized on behalf of the candidate or agent of the candidate.

What is an Electioneering Communication?

Any broadcast, cable, mail, satellite or print communication that: (1) refers to a clearly identified candidate; and (2) is publicly distributed within 90 days before an election in which the candidate is seeking election or reelection; provided, however, that "electioneering communication" shall not include the following communications: (1) a communication that is disseminated through a means other than a broadcast station, radio station, cable television system or satellite system, newspaper, magazine, periodical, billboard advertisement, or mail; (2) a communication to less than 100 recipients; (3) a news story, commentary, letter to the editor, news release, column, op-ed or editorial broadcast by a television station, radio station, cable television system or satellite system, or printed in a newspaper, magazine, or other periodical in general circulation; (4) expenditures or independent expenditures or contributions that must otherwise be reported under this chapter; (5) a communication from a membership organization exclusively to its members and their families, otherwise known as a membership communication; (6) bonafide candidate debates or forums and advertising or promotion of the same; (7) email communications; and (8) internet communications which are not paid advertisements.



FAQ: WHAT DATE IS USED WHEN REPORTING A CONTRIBUTION?

Non-depository candidates and committees* use the date the contribution was received, either physically or, when an on-line contribution is made, when the funds are deposited into the bank account.

Depository candidates and committees* use the deposit date. However, there are additional instructions, [here](#), for contributions received during the last few weeks of the year.

*For committee types, [click here](#).

Filing Day Assistance

OCPF staff members answered many phone calls and e-mails shortly before the Aug. 31 deadline to file pre-primary campaign finance reports. Most questions were about using Reporter 6 (R6), the agency e-filing system.

Here's a summary of common questions and answers:

Question: Why is R6 blocking me from filing the report?

Answer: You created and attempted to file a mid-year report. It's important, when filing, to select the correct report type and reporting dates.

Question: Why is our PAC unable to file a pre-primary report?

Answer: PACs are now in the depository system and no longer file pre-primary or pre-election reports.

Question: I've used donations from others as well as my own money for my campaign. Why is my balance negative?

Answer: The legislative candidate made out-of-pocket expenditures using personal funds, which they reported only as expenditures. Please delete those expenditures and use the "out-of-pocket" function on R6.

Question: I entered my receipts and expenditures. How do I actually file?

Answer: Click the blue "Report List" button and select "Create a Draft Periodic Report." After creating the report, remember to click the green "E-File" button.

Question: Two contributors who gave more than \$200 did not provide their occupation and employer information?

Answer: Send a letter or e-mail to the donors asking for the information. Indicate on the report that you have requested the information by letter or e-mail.

Question: Can I lump bank fees together, or do I need to itemize each one?

Answer: They can be lumped together as one expenditure.

Question: I can't file my report before the deadline. Can I get an extension?

Answer: The campaign finance law does not provide for extensions.



HOW TO CONTACT YOUR OCPF AUDITOR

EACH CANDIDATE ORGANIZED WITH OUR AGENCY IS ASSIGNED TO AN OCPF AUDITOR BASED ON THE FIRST LETTER OF HIS OR HER LAST NAME.

OCPF AUDITORS ASSIST CANDIDATES AND THEIR COMMITTEES WITH RULES, REGULATIONS AND E-FILING. THEY ALSO REVIEW THE REPORTS FILED BY CANDIDATES AND COMMITTEES.

| Candidate Last Name | Auditor | E-Mail |
|---------------------|-----------------|---------------------------|
| A-D | Shane Slater | sslater@cpf.state.ma.us |
| E-L | Jeff Tancreti | jtancreti@cpf.state.ma.us |
| M | Tricia Jacobson | pjacobson@cpf.state.ma.us |
| N-Z | Anne Bourque | abourque@cpf.state.ma.us |

