



# OCPF Reports

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From the Director

## *The next step*

As you'll read elsewhere in this issue, OCPF was recently judged to have the nation's best campaign finance electronic filing program. An independent organization, the Campaign Disclosure Project, recently released its findings on the disclosure of campaign finance data by states across the country. We at OCPF are pleased that our planning and implementation of the system was favorably viewed by the campaign finance community. I would like to especially note the contributions of our Information Systems manager, Al Grimes, and our consultants, DBM Associates, in developing and maintaining the Electronic Filing System.

The continuing success and popularity of electronic filing means we are now able to pass another milestone. Starting with the next report, legislative candidates will file solely by electronic means; for them, the days of paper filing are over.

For the last two years, legislative candidates have been required by law to file both electronically and on paper. Now, however, the success of the e-file system has allowed the office to eliminate the paper requirement. Legislative candidates should note that there is a \$5,000 threshold before e-filing is legally required (paper is OK until the threshold is met). However, we encourage all legislative candidates to file electronically, regardless of what they raise and spend.

For now, the no-paper option applies to legislative candidates only. OCPF is preparing for other filers,

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## Clean Elections repeal receives final approval

The Clean Elections Law, a program that provided public funds to candidates for several state offices, has been eliminated.

The new state budget, signed into law on June 30, contained a provision repealing the law, M.G.L. Chapter 55A.

To replace the Clean Elections program, the Legislature reinstated a program that provides limited public financing to candidates for statewide office only. That program, last implemented in 1998, will be in effect at the next election for statewide offices in 2006.

The Clean Elections program provided public funds to certified candidates who

agreed to observe statutory contribution and spending limits. Those eligible included candidates for statewide office, the Governor's Council and the House and Senate.

The program was enacted by voters in the 1998 state election and saw its first and only implementation in the 2002 election. A total of 10 candidates received a total of \$4.1 million in funding.

Of that amount, just under \$3.9 million went to one gubernatorial candidate, Warren Tolman, and the rest went to the nine other candidates, all of

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**E-file threshold  
is changed  
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## OCPF's electronic filing, web site receive top marks nationwide

Campaign finance disclosure in Massachusetts received high grades in a recent study of all 50 states by a California group.

"Grading State Disclosure," a study by the Campaign Disclosure Project, ranked Massachusetts third in the nation overall, based primarily on its administration of the law and the online accessibility of information.

The Commonwealth "has one of the best campaign finance disclosure programs in the country," especially in its electronic disclosure, according to the study.

It contained especially high praise for OCPF's online offerings, including the Electronic Filing System and the office's

web site ([www.mass.gov/ocpf](http://www.mass.gov/ocpf)), which were both ranked in the top tier.

Overall, Massachusetts trailed only Washington State and Illinois and was one of 38 states receiving "passing" grades.

The study's authors evaluated four areas of campaign finance disclosure: state campaign finance laws, which set the disclosure requirements about what campaign data must be publicly disclosed; electronic filing programs, which enable states to publish accurate, timely and comprehensive data online; the degree to which the public can access campaign finance information; and the usability of state disclosure web sites.

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# E-filing threshold is changed for state candidates and committees

The Legislature has changed the thresholds for electronic campaign finance filings by candidates, a move that may mean online disclosure by a greater number of candidates for state office.

An outside section of the new state budget contains a provision establishing new amounts at which candidates must e-file, most of which are lower than those that were previously in effect.

The old thresholds varied according to each office sought, ranging from \$324,000 for gubernatorial candidates to \$3,240 for those running for a House seat.

The new minimums are more uniform, with one amount applying to candidates for statewide office and a second figure applying to those running for the Legislature or Governor's Council.

Effective immediately, candidates for governor, lieutenant governor, attorney general, secretary or auditor must e-file if they "can reasonably expect" to raise or spend \$50,000. For candidates for the House, Senate or Governor's Council, the e-file threshold is \$5,000.

The limits apply for an "election cycle," which runs from the Jan. 1 following the last election for the seat through Dec. 31 following the election. The cycle would generally be four years for a statewide office and two years for a legislative or Governor's Council seat.

For example, the election cycles for all seats started on Jan. 1, 2003. For legislative and Governor's Council candidates, the cycle runs through Dec. 31, 2004. For statewide candidates, the cycle runs through Dec. 31, 2006.

The thresholds for the other committees currently required to e-file, state ballot question committees, did not change. Such a committee must e-file if it raises or spends more than \$25,000.

Right now, the candidates and committees mentioned above are the only ones that are required to e-file their reports. That will change in 2004, however, when OCPF's Electronic Filing System receives reports from political action committees and party committees that raise or spend more than \$10,000.

# Clean Elections Law is repealed

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whom sought seats in the House.

At first, candidates received funds derived from the sale of state property, as ordered by the Supreme Judicial Court. The Legislature later appropriated the remaining funds.

Clean Elections repeal had been discussed the last few years and was, in fact, proposed in two bills filed for the current legislative session. While the repeal was not contained in the proposed budget, it was inserted as an amendment in the Senate. Both the House and Senate subsequently passed the budget containing the amendment.

The repeal, which took effect immediately, rendered moot the start of the 2004 election cycle for the purposes of Clean Elections in December 2002.

With Chapter 55A now gone, candi-

dates for the House, Senate and Governor's Council are not eligible for any public funds.

Statewide candidates will still have the option of applying for a limited public funding program for the next election in 2006. The new program is codified in M.G.L. Chapter 55C.

That program also provides funds to candidates, but has been funded only by the voluntary \$1 checkoff on state income tax returns. Clean Elections was funded by additional appropriations by the Legislature in addition to the checkoff.

To become eligible, candidates agree to limit their spending during the five-month period leading up to Election Day in early November.

Statewide candidates interested in participating in the new program do not need to take any specific actions until the beginning of 2005, when they may earmark

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*including statewide candidates, to e-file only in the near future. Statewide and governor's council candidates continue to file electronically and on paper; their reports of contributions and expenditures can also be found on the electronic filing system.*

*Two additional classes of committees will e-file starting with their 2004 reports.*

*Treasurers of all political action committees received a letter in September informing them that e-filing will be required and outlining the process.*

*To help PACs get a head start, OCPF is offering them the opportunity to e-file their 2003 year-end reports on a voluntary basis in January 2004.*

*In addition, the state's political parties, Democratic, Republican, Libertarian, and Green Rainbow, will also be required to e-file their contributors beginning in January 2004.*

\* \* \*

*In staff news, Sarah Connelly of our Audit Department has left the office to enroll in pharmacy school. Audit Assistant Robin Holder has been promoted to Sarah's position, while Claire McCarthy is now pulling double duty as our receptionist and administrative assistant to the audit department.*

**Mike Sullivan  
Director**

a portion of contributions they receive as qualifying contributions, to be used to apply for matching funds in mid-2006.

For further details, contact OCPF or check out the "Public Financing" section on OCPF Online at [www.mass.gov/ocpf](http://www.mass.gov/ocpf).

The site also contains a breakdown of disbursements under the Clean Elections program in the 2002 election.

# Recent Cases and 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 such as public resolution letters, disposition agreements or referral to the Office of the Attorney General for further action.*

*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 any wrongdoing on the part of a subject and does not require agreement by a subject.*

*A disposition agreement is a voluntary written agreement entered into between the subject of a review and OCPF, in which the subject agrees to take certain specific actions.*

*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. Public resolution letters and disposition agreements are matters of public record once cases are concluded.*

## Disposition Agreements

### **John W. Childs, Chestnut Hill, and Robert A. Maginn, Cambridge (6/23/03)**

OCPF entered into a disposition agreement with John W. Childs and Robert A. Maginn concerning election-related radio advertisements that were funded by the two men in November 2002.

In the agreement, Childs and Maginn acknowledged paying \$25,000 each for radio ads promoting Mitt Romney's candidacy for governor on Nov. 1. Each had wired \$25,000 of their personal funds to an escrow account maintained by their attorney, who in turn wired the money to the firm that placed the radio advertisement. A disclosure form concerning the independent expenditures filed on Nov. 8 identified the source of the funds as "Citizens for Good Government," with an address in Washington, D.C.

OCPF concluded that that Childs and Maginn should have disclosed their independent expenditures as required by M.G.L. c. 55, s. 18A, instead of reporting them in a manner that prevented the public from having timely and accurate disclosure of the sources of the expenditures.

## Public Resolution Letters

⚡**03-17: Medway Finance Committee.** Did Not Comply (use of public resources for a political purpose); 6/19/03. The finance committee should not have included material concerning an upcoming municipal ballot question material with its annual report to voters, since the report was prepared and distributed using public resources.

⚡**03-16: Kathy Lavin, Abington.** No Further Action (use of public resources for a political purpose and political fundraising by a public employee); 6/24/03. There was no evidence to suggest that a candidate for selectman improperly used public resources for a political purpose or that her use of the town's cable studio was inconsistent with the campaign finance law. A public employee involved with the committee, however, improperly participated in discussions regarding committee fundraising activity and, on one occasion, delivered a \$20 contribution from a family member who was too ill to attend a committee fundraiser.

⚡**02-70: Andrew B. Prior, Waltham.** Did Not Comply (failure to disclose campaign finance activity); 6/26/03. State senate candidate failed to accurately report receipts and expenditures on his campaign committee's 2000 pre-primary report and failed to provide adequate information regarding the purpose of a \$1,209.96 expenditure on his 2000 year-end report.

⚡**03-21: Ann Marie Rutolo, Reading.** No Further Action (expenditures by a ballot question committee); 6/26/03. A ballot question committee should not make expenditures to support or oppose town meeting candidates, since such expenditures are not made "solely for the purpose of favoring or opposing the adoption or rejection of a specific question or questions submitted to the voters" as required by M.G.L. c. 55, s. 6B.

⚡**03-18: Mendon-Upton Regional School District.** No Further Action (use of public resources for a political purpose); 6/26/03. A PTO newsletter should not have been distributed using public resources because it contained an article encouraging people to vote in an election while at the same time outlining the consequences of that vote.

⚡**03-30: Wachusett Regional School District.** No Further Action (use of public resources for a political purpose); 6/26/03.

A superintendent's letter about a budget override expressed gratitude for town meeting approval and mentioned the state's "fiscal crisis" in addition to stating the time, date and place of the election and including absentee ballot information.

## Advisory Opinions

*OCPF issues written advisory opinions on prospective activities. Each opinion summarized below also notes the OCPF file number and the requesting party. Copies of all advisory opinions are available from OCPF and online at [www.mass.gov/ocpf](http://www.mass.gov/ocpf).*

⚡**AO-03-04:** State agencies may process union PAC payroll deductions since the primary purpose is to fulfill the state's obligation under existing collective bargaining agreements, not to promote the unions' PACs. The Commonwealth should be reimbursed, however, for the costs of administering the plans. "Equal access" by other PACs to this arrangement would not be required given the unique nature of the labor union/ employer relationship and the Commonwealth's obligations under the collective bargaining agreements. In addition, all political solicitations by public employee PACs, including those to be diverted through payroll deduction plans, must conform to various provision of M.G.L. c. 55, specifically sections 13-17. All solicitations, therefore, must be made outside of the workplace or any other government building, and may not be made by a public employee. (Winslow)

## Interpretive Bulletins and Memoranda

*The following memorandum was recently issued by OCPF. Copies of all memoranda are available from OCPF and online at [www.mass.gov/ocpf](http://www.mass.gov/ocpf).*

**M-94-07: Municipal Non-filers,** was revised on July 30. Statutory references in the publication were updated and other minor changes were made to clarify the procedures that must be undertaken by local election officials in order for OCPF to assess civil penalties against municipal candidates or committees that fail to file required reports with the local election official, or where a required report does not "conform to law."

# OCPF study: Candidates for the House and Senate spent almost \$12 million in their 2002 campaigns

Candidates for the Legislature spent almost \$12 million in their campaigns in 2002, posting all-time highs in several categories, according to a study released recently by OCPF.

Record figures were posted for total receipts and expenditures by all candidates for the House and for average expenditures by candidates for both chambers.

The 2002 campaign also saw single-seat spending records set in both the House and Senate and individual candidate records posted for spending in the Senate and both fundraising and spending in the House.

The total legislative spending figure of \$11,976,712, up 9 percent from 2000, is the third-highest ever recorded, behind the high of \$12.3 million recorded in 1992 and the \$12.2 million posted in 1990.

The 372 legislative candidates (61 in the Senate and 311 in the House) raised a total of \$11,566,192, a decrease of 5 percent from two years before, according to the study.

The breakdown by individual chambers:

In the **Senate**, candidates raised \$3.8 million, a decline of about \$1.7 million, or 31 percent, from 2000, and spent almost \$4.2 million, a drop of 4 percent. Average receipts by a Senate candidate were \$62,619, a drop of 26 percent, while average expenditures were \$68,482, a rise of 2 percent to a record high.

In the **House**, the \$7.7 million raised by candidates was the largest House total ever recorded in an OCPF study and the first time the aggregate receipts have exceeded \$7 million. The receipts total was an increase of 15 percent over 2000. The \$7.8 million spending total was an increase of 17 percent over 2000 and is also the highest aggregate ever recorded, exceeding the previous record of \$7.129 million from 1990. Average receipts fell 2 percent to \$24,908 and average expenditures rose less than 1 percent to \$25,078, which was a new record.

In 2002, the legislative candidate spending the most money won 90 of the 102 contested races, for a success rate of 88 percent.

That is an increase of seven percentage points from 2000 and is identical to the 1998 rate.

The study also found that as in past years, Democrats, incumbents and those who ultimately won their elections showed significantly more campaign finance activity than their opponents.

Candidates who won their races in 2002 usually started and finished the year with more money than their opponents.

The lists of the top ten most active individual candidates in terms of fundraising and spending was made up mostly of incumbents, candidates for open or hotly contested seats and those who ultimately won their elections.

The entire study, with totals for each candidate, is online at [www.mass.gov/ocpf/homepage\\_studies.htm](http://www.mass.gov/ocpf/homepage_studies.htm). Candidate's figures are subject to amendment; for up to date information, visit OCPF's Electronic Filing System at the office's web site at [www.mass.gov/ocpf](http://www.mass.gov/ocpf).

## OCPF gets high grades in national survey

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While the study was critical of the Massachusetts campaign finance law, it praised OCPF's Electronic Filing System, giving it an A+ grade. The EFS, according to the study, earned high marks for usability and the range of data that is available.

"Massachusetts does a very good job of making campaign finance information accessible to the public," the study said. "The state does a very good job of providing an overview of campaign financing trends for statewide and legislative candidates and also does an excellent job of explaining which filers' reports are available online and which are not."

The study recommended further improvements to the system, such as further information concerning candidates and applicable reporting periods.

OCPF Director Michael Sullivan said the study's conclusions are based on strict criteria and are a credit to efforts by

OCPF staff to develop, maintain and improve the EFS and the office's web site, as well as the response from candidates, committees and the public.

"We've received great feedback on e-filing since the system was activated almost two years ago," Sullivan said. "Hundreds of candidates and committees have used it with no significant problems."

The study's conclusion is a further boost to OCPF's growing emphasis on the Internet, Sullivan said.


"An online presence is absolutely necessary for the comprehensive disclosure called for in the law. Campaign

finance agencies all across the country are expanding their Web presence, and several have looked to us as a model," he said.

OCPF expects to review and implement many of the changes recommended in the study in the coming months, Sullivan said.

The Campaign Disclosure Project is a collaborative effort of the UCLA School of Law, the Center for Governmental Studies and the California Voter Foundation, and is funded by a grant from the Pew Charitable Trusts.

A copy of the study may be found online at [www.campaigndisclosure.org/gradingstate](http://www.campaigndisclosure.org/gradingstate).



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