



OCPF Reports

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From the Director

Clean Elections

OCPF continues to prepare for the implementation of the Clean Elections Law, which will first apply to candidates in the 2002 state election. Governor Cellucci's proposed fiscal 2001 budget contains an additional \$10 million appropriation for Clean Elections, joining the \$10 million already set aside in this year's budget and the annual proceeds of a \$1 income tax checkoff.

With that backdrop, our office has been working on drafting necessary administrative and technical amendments to the law, writing regulations for its implementation, and negotiating with vendors to develop an electronic filing system for campaign reports. As you can read elsewhere in this edition, I recently appointed eight people to a special commission created to study and recommend any changes to the law.

In early March, OCPF's proposed changes to the new law were submitted to the Legislature for consideration. Among the proposals are simplifying the reporting requirements for nonparticipating candidates, streamlining the process to certify contributions, and apportioning privately raised contributions for use in the primary and general elections.

The proposed legislation and the regulations required by the statute will require considerable discussion both in the office and with those affected by the new law.

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In office news, Doreen Stevens has joined our staff as an Audit Assistant. Doreen brings a wealth of administrative experience from her previous employment. She replaces Cynthia Smith, who has taken a position with the MDC.

Mike Sullivan
Director

Local party committees set for reorganization

The March 7 presidential primary produced a winner in each party, but also a batch of members of local ward, town and city party committees throughout the Commonwealth.

Members of those local party committees now must meet between 31 and 40 days after the primary (April 7 through 16) to elect officers, and must subsequently notify four offices of their selections. That information is reported on an organizational form that is available from OCPF or the Public Records Division of the Office of the Secretary of the Commonwealth.

The original completed form is filed with OCPF, with copies to three other offices: Public Records, the applicable state party committee and the respective city or town clerk or election commission. Ward committee secretaries also file their lists with the city committee chairperson.

The form filed with OCPF is also signed by the treasurer and constitutes accep-

tance of that office. Subsequent notices of filing requirements and other communications from OCPF will be sent to the treasurer. It is essential that a committee notify OCPF of any change in treasurer to ensure consistent communication.

Local party committees report to OCPF on the same schedule as legislative candidates and PACs: this year, reports are due eight days before both the Sept. 19 state primary and the Nov. 7 general election. However, a party committee is obligated to file only if its receipts, expenditures or liabilities exceed \$100 in a reporting period.

The organization form is also available from OCPF Online, the office's web site, at www.state.ma.us/ocpf. Further information concerning the organization of a party committee is available from the Secretary of the Commonwealth's Elections Division. That office's web site may be accessed at www.state.ma.us/sec/ele.

Sixteen members named to new Clean Elections review panel

Sixteen people have been appointed to a special commission that will review the Clean Elections Law in the coming months and make any necessary suggestions for changes to the new law.

A section of the law, which provides public funds for state candidates who agree to statutory contribution and spending limits, calls for the Special Commission on Clean Elections to review the workings of the law, including such issues as the required number of qualifying contributions, the level of clean election funds, expenditure limits for

participants, adequacy of funding for the program, the level and impact of independent expenditures in elections, the cost of implementation, estimated cost of compliance, and the priority of funding participating candidates in the event the legislature appropriates insufficient funds.

The commission is headed by two co-chairs, the House and Senate Chairmen of the Joint Committee on Election Laws. The law calls for the Commission to submit its report and proposed legislation, if any, by

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Clean Elections panel appointed

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Oct. 1, 2000, and to meet every two years thereafter.

The members are eight state officials or their designees and eight citizens of the Commonwealth appointed by the Director of OCPF.

The eight ex officio members are: Sen. Guy W. Glodis (D-Worcester), Senate Chair, Joint Committee on Election Laws (co-chair); Rep. Antonio F.D. Cabral (D-New Bedford), House Chair, Joint Committee on Election Laws (co-chair); Gov. A. Paul Cellucci or his designee; William F. Galvin, Secretary of the Commonwealth, or his designee; Sen. Thomas F. Birmingham (D-Chelsea), Senate President or his designee (Designee: Sen. Stanley Rosenberg, D-Amherst); Sen. Brian P. Lees (R-East Longmeadow), Senate Minority Leader, or his designee; Rep. Thomas M. Finneran (D-Boston), Speaker of the House, or his designee; and Rep.

Francis L. Marini (R-Hanson), House Minority Leader, or his designee;

The eight members appointed by OCPF Director Michael Sullivan are: Stephen Long, state Department of Environmental Protection, who was a member of the commission that reviewed the previous public financing program in 1996; Denise L. MacAloney, town clerk of Westminster and President of the Massachusetts Town Clerks Association; Jeffrey Milyo, Assistant Professor of Economics and Adjunct Professor of Political Science at Tufts University; Michael J. Widmer, President, Massachusetts Taxpayers Association; George Pillsbury, Director, Massachusetts Money and Politics Project; Suzanne Petersson, former member of the Northampton School Committee; Karen L. Dorfman, Massachusetts League of Women Voters; and Bradley S. Balzer, Deputy Director, OCPF.

2000 state election filing dates

Here are the filing dates for the upcoming state election for candidates and committees in the non-depository system (legislative candidates, PACs, peoples committees & local party committees)

Pre-Primary Report

Report Due: Sept. 11
 Dates covered: Day following the ending date of any previous report through Sept. 1. If this is the first report filed by a candidate, the beginning date is November 4, 1998.

Pre-Election Report

Report Due: Oct. 30
 Dates covered: Sept. 2 - Oct. 20

Year-End Report

Report Due: Jan. 22, 2001**
 Dates covered: Oct. 21 - Dec. 31
 ** The statutory deadline of Jan. 20 falls on a Saturday.

Advisories/Guidance

OCPF issues written advisory opinions on prospective activities. Each opinion summarized below also notes the OCPF file number and the requesting party. Copies of any advisory opinion are available from OCPF and online at www.state.ma.us/OCPF. The following advisory opinions were issued from Nov. 16, 1999, to Feb. 15, 2000.

■99-18: Public funds should not be used to distribute a flyer printed by a School Committee and a School Building Committee regarding a proposed school construction project, if the flyer referred to the dates of a scheduled election to secure funding for the project. In accordance with section 22A of chapter 55, disclosure should be made of funds already spent to distribute the flyer and restitution should be made to the town. (Town of Douglas).

■99-19: An individual should not be reimbursed with public funds for a town newsletter advocating support for a ballot question. If public funds or resources were spent, disclosure should be made in accordance with section 22A and restitution should be made to the town. (Town of Westminster).

■99-20: A PAC and people's committee may pay for reasonable and necessary expenses incurred by its chair, vice-chairs, and secretary-treasurer attending a Public Affairs/Grassroots Conference. Committee funds may also be used to pay expenses of members if the members are serving as agents of the committee. For example, a member attending the conference as an agent may be required to provide the committee with a summary of the sessions attended for publication in a newsletter to be issued by the committee. (Massachusetts Dental Society).

■00-01: A preference poll conducted pursuant to an order of a city council is not an election even if the council declares its intention of selecting the people's choice in the poll to fill a council vacancy. Persons running for the preference poll are not therefore candidates for purposes of M.G.L. c. 55 and do not have to file campaign finance disclosure reports. Nothing in chapter 55, however, prohibits the city council from adopting disclosure requirements similar or identical to those in chapter 55. Since restrictions on public employee fundraising and fundraising in public buildings may apply, however,

persons are advised to observe these restrictions. (City of Gloucester).

■00-02: The limitation on contributions from legislative and executive agents to candidates and political committees does not apply to contributions made to the federal account of a state political party or to any other federal political committee. (Mass. Democratic Party).

The following memorandum was recently issued:

■M-97-05 (revised): **Indexing of Certain Contribution Amounts.** OCPF is required by sections 1 and 10A of chapter 55 to adjust two contribution limits every two years. The first is the limit on the amount an individual may contribute to a people's committee during a calendar year. The second is the amount of any individual contribution that may be collected, i.e., bundled, by a regulated intermediary or conduit before certain disclosure requirements are triggered. Both limits were set at \$100 per calendar year when first enacted in 1994. OCPF has computed the new limit for both amounts as \$114, effective January 1, 2000.

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 may be settled in an informal fashion with an educational letter or a requirement that some corrective action be taken. It is important to note that 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.

Public Resolution Letters

99-45: Bradley H. Annis, N. Weymouth. No further action (solicitation or receipt of campaign contributions by public employee); 11/19/99. A person employed by the City of Boston signed campaign finance reports as treasurer of a political committee organized on behalf of a candidate for municipal office in Weymouth. Although the public employee signed the reports as treasurer, another person was the treasurer, according to the committee's Statement of Organization.

99-44: Boyce Slayman, Boston. Did not comply (solicitation or receipt of campaign contributions by public employee); 12/16/99. A compensated member of the board of directors of the Massachusetts Bay Transportation Authority solicited contributions on behalf of a candidate for federal office. The prohibition on political

fundraising applies to directors of state authorities such as the MBTA who receive any amount of compensation and also applies where such persons solicit or receive on behalf of a federal candidate.

99-46: City of Springfield. Did not comply (use of public resources for political purposes); 12/21/99. A candidate used a room in City Hall to announce her candidacy for City Council. When an opposing candidate asked for a similar opportunity to use the room, her request was denied. As a result of OCPF's review, the city instituted a policy ensuring equal access to the room for such purposes.

99-49: Mary Toomey, South Lawrence East School, Lawrence. Did not comply (use of public resources for political purposes); 1/5/00. Public school principal used school's e-mail network to inform staff about a school committee candidate's write-in candidacy. The e-mail did not specifically urge anyone to vote for the candidate, but was supportive of her candidacy.

99-51: R.H. White Construction Co., Inc., Auburn. Did not comply (disclosure of expenditures made to influence ballot question); 1/10/00. A corporation did not file a Report of Corporate Treasurer (Form CPF 22) with a town clerk eight days before and thirty days after the election to reflect expenditures made for ads and flyers relating to a municipal ballot question. However, the corporation disclosed on its ads and flyers that it paid for these items. In addition, the corporation promptly filed upon being advised by OCPF of its reporting requirements.

99-47: Nueva Esperanza, Inc., Holyoke. No further action (use of public resources for political purposes); 1/10/00. The prohibition against the use of public resources for political purposes generally applies to non-profit community development corporations that receive state grants. Such organizations may, however, engage in "get out the vote" or voter registration efforts, or hold candidate forums. In addition, they may allow candidates an equal opportunity to leave information in their offices to be picked up by interested persons.

99-52: Pat MacLeod, Buzzards Bay, and Joanne Byron, Wareham. No reason to believe (disclosure of campaign finance

activity); 1/12/00. Persons who distributed a flyer intended to influence a ballot question were not required to form a ballot question committee where all costs associated with producing and distributing the flyer are paid for by one person.

00-01: Wareham Public Schools and Barry Rabinovitch, Principal, Wareham Middle School. No reason to believe (use of public resources for political purposes); 2/1/00. School officials who produced and distributed a flyer to influence a ballot question, and made telephone calls on behalf of a ballot question committee, on their own time and using their own private resources, did not violate the campaign finance law. Also, a public school did not violate the campaign finance law when it had teachers distribute a flyer that only stated the date and time of the election, gave the text of the ballot question, and urged recipients to vote.

Referral of Non-Filers

OCPF recently referred the names of several candidates and committees that did not file year-end reports for 1998 to the Office of the Attorney General for legal action.

The candidates and committees were referred after failing to respond to several notices from OCPF of their obligations under the campaign finance law. The Attorney General was asked to take legal action to compel the filing of the reports.

M.G.L. Chapter 55 requires that OCPF impose a fine of \$10 per day for each report that is not filed by the deadline. The maximum penalty for a single report is \$2,500.

A total of 12 candidates or candidate committees were referred, along with two PACs and seven local party committees. In addition, an individual was referred for failing to file a report of independent expenditures favoring or opposing a candidate in a local election. Such expenditures must be reported if they exceed \$100.

Three of the candidates subsequently filed reports, while the other candidates and committees had not filed as of Feb. 15.

Two contribution limits are adjusted for inflation by OCPF

Two contribution limits, covering donations to people's committees and the maximum amount of any contribution that may be compiled or "bundled" by certain persons, have been raised by OCPF.

M.G.L. Chapter 55, Sections I and 10A, require OCPF every two years to adjust two limits: the maximum an individual may contribute to a people's committee during a calendar year and the maximum amount of any contribution that may be collected, or bundled, by a regulated intermediary or conduit before certain statutory disclosure requirements or limitations are triggered.

Using the Consumer Price Index (CPI) calculated for the Greater Boston area, OCPF has increased the two figures from \$108 to \$114, effective Jan. 1, 2000.

For calendar years 2000 and 2001, therefore, a people's committee may accept up to \$114 annually from individuals.

"Regulated intermediaries"—political action committees or their agents, lobbyists or any person delivering contributions from employees of a corporation who collect contributions and deliver them to a candidate or committee—may gather contributions of up to \$114 each without triggering additional reporting requirements. Contributions of more than that amount are also counted against an intermediary's personal limit.

Those wishing more information should request Memorandum M-97-05 from OCPF. The document is also available online at www.state.ma.us/ocpf.

Updated opinions, lists released

Two popular OCPF publications have been updated and reissued.

The office recently issued a new index of advisory opinions, covering all rulings from 1982 through 1999, and a revised list of all active candidates and committees.

The opinion index includes an index with topics that are the subject of frequent questions, such as contributions and expenditures, corporate and association expenditures, political activity by public employees and ballot questions.

It is useful to those researching

campaign finance issues or considering requesting an opinion from OCPF.

Three updated lists of candidates and committees registered with OCPF are available: covering candidates and their committees, political action committees and people's committees, and state ballot question committees.

Those interested in obtaining a copy of the index or any committee list should contact OCPF. The index and lists are also available from OCPF Online at www.state.ma.us/ocpf.

Ask OCPF

Q. *What kind of bank account do I need to open for my newly formed campaign committee?*

A. The law requires candidates to keep campaign funds separate from personal funds. The type of account a candidate needs varies according to the office he or she is seeking. A statewide or county candidate opens a "depository" account, where their designated bank files regular reports with OCPF. Legislative and local candidates do not need to open a particular kind of bank account, but a simple checking account in the name of the committee would keep campaign funds segregated from any personal accounts and also allow the committee to fulfill the legal requirement that all expenditures of more than \$50 be made by check. Banks usually require a federal tax ID number from a committee seeking to open an account; contact the Internal Revenue Service (978-474-9717) and Massachusetts Department of Revenue (800-392-6089) for further guidance.

Q. *What are OCPF's office hours?*

A. Our office in Room 411 of the McCormack State Office Building, One Ashburton Place, Boston, is open weekdays from 8:30 a.m. to 5 p.m.

Ask OCPF is a regular feature in which we answer frequently asked questions. Contact OCPF to suggest a question for a future edition.

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