



OCPF Reports

From the Director

You've probably heard that Governor Patrick recently signed Ch. 28 of the Acts of 2009, An Act to Improve the Laws Relating to Campaign Finance, Ethics and Lobbying. Those words sound so simple, yet, in reality, the new law is a major step toward increasing disclosure of campaign finance activity in the commonwealth. Of course, the new law encompasses much more than campaign finance issues, but I'm sure you'll understand that our focus is on the campaign finance portion.

Elsewhere in this edition, you'll find a story about the new law which will highlight certain sections of the Act. But that's not all – this fall, OCPF will publish a special edition newsletter detailing all of the changes and their impact of each of the constituencies that interact with OCPF – candidates, political committees, local election officials, interest groups, consultants, etc. Additionally, we'll be updating our Web site, scheduling educational seminars, meeting with affected parties, drafting regulations, answering advisory opinion requests, rewriting our publications, devising new forms, writing new language so our electronic filing system can comply with the new requirements, and generally trying to fairly and

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Campaign finance disclosure law changes get state approval

New rules kick off Jan. 1, 2010

State lawmakers recently revised the campaign finance law significantly for the first time since 1994, making changes that will affect candidates and other political committees from the town level to statewide campaigns and increase public disclosure of electoral financing.

The revisions to the campaign finance law, passed by the Senate and House and signed by Gov. Deval Patrick on July 1, will take effect on Jan. 1, 2010.

There will be a notable boost in disclosure on the municipal level.

Mayoral candidates in cities with populations of 40,000 to 100,000 will start filing electronic campaign finance reports with OCPF if they raise or spend \$5,000 during an election cycle. Previ-

Some Changes to the Campaign Finance Law

- Legislative candidates and PACs will file mid-year disclosure reports in odd-numbered years.
- Mayoral candidates in cities with populations of 40,000 to 100,000 will file with OCPF if they exceed \$5,000 in activity.
- Towns and cities with Web sites must post campaign finance reports on-line within 30 days of a reporting deadline.
- Fines for filing late campaign finance reports will increase from \$10 daily to \$25 daily, with a \$5,000 maximum.
- Candidates will publicly disclose how consultants and other vendors spend their campaign money (subject to certain dollar limits).

ously, they filed paper reports at their respective city halls. In cities and towns where candidates are not required to file with OCPF, election officials will post campaign finance reports on municipal Web sites within 30 days of a reporting deadline if a candidate has more than \$1,000 in activity in a reporting period.

On the state level, political action committees and House and Senate candidates will start filing an

additional report in July in odd-numbered years. The extra report provides added disclosure in non-election years. Currently, candidates only file a year-end report in odd-numbered years.

A complete copy of the bill is posted at the OCPF Web site homepage, www.mass.gov/ocpf.

OCPF will issue a special edition of the newsletter this fall outlining the revised law in detail.

Candidates spend \$248,000 in 5-month campaign to fill empty House seat

The winner raised \$144,707

The six candidates in Boston's June special election to fill a vacant House seat reported \$247,978 in expenditures, an average of \$41,329 per candidate and 27 percent higher than the average spent by state rep-

resentative candidates in the 2008 general election.

The eventual winner, Democrat Aaron Michlewitz, accounted for 52.4 percent of the race's total expenditures. His campaign raised

\$144,707 and spent \$129,797 during the five-month campaign.

Michlewitz was among four Democrats in the 3rd Suffolk District primary.

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effectively implement the statute as of Jan. 1, 2010.

So, while we are enthusiastic about the passage of the new law, we do realize that the “devil is in the details” and our staff will be hard at work over the next few months to ensure a smooth transition. We look forward to hearing your thoughts as we meet the challenge.

Mike Sullivan, Director

Did you know?

Municipal candidates who don't raise or spend campaign money and have incurred no debts don't have to file the full M102



campaign finance report. They can simply sign an M102-0 form at the local election official's office.

The document states that the candidate did not raise or spend money during the reporting period. The form is available under the “forms and publications” tab at the OCPF Web site, www.mass.gov/ocpf.

Using personal funds to run a campaign for local office?

Here's how to disclose it on campaign finance reports

Communities across the state are going to the polls this year to elect mayors, councilors, selectmen and school committee members, and some of those candidates will be paying for campaign expenses from their own pockets for election needs such as mailings, lawn signs and advertisements — and it's all perfectly legal if it's disclosed.

If a candidate spends his or her own personal money to buy services or goods, the amount spent would be recorded in the receipts portion of the campaign finance report (Schedule A) as a contribution to the campaign from the candidate. The same dollar amount would be recorded on the expenditures page (Schedule B) and would show as an expendi-

ture(s) to the vendor. This procedure balances the account, showing money going into the account and the same amount going out to a vendor.

If a candidate hopes to be paid back by the campaign, the contributed amount should also be listed on the liabilities schedule (Schedule D).

Candidates in city and town elections can contribute or loan personal money without limit to their own campaigns. Those contributions and expenditures still need to be disclosed to the public, however.

Reporting Example

Candidate X wants to buy \$1,000 worth of lawn signs but does not have that balance in his campaign account. He uses his personal credit card. He will disclose the activity by reporting a \$1,000 contribution to the campaign from himself on Schedule A of the campaign finance report and a \$1,000 expenditure to the lawn sign company on Schedule B. If it is considered a loan to the campaign, he will list the \$1,000 amount as a liability on Schedule D.

3rd Suffolk House District Campaign Finance Activity

Candidate	Receipts	Expenditures
John Keith (Unenrolled)	\$35,431	\$35,358
Aaron Michlewitz (D)	\$144,707	\$129,797
Susan Passoni (D)	\$68,787	\$69,209
Lucy Rivera (D)	\$12,481	\$11,053
Brian Ross (D)	\$3,425	\$1,410
David Trumbull (R)	\$1,150	\$1,150
Totals	\$265,981	\$247,978

3rd Suffolk District candidates file reports

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He ran against Republican David Trumbull and unenrolled candidate John Keith in the final election.

The \$247,474 in total expenditures would rank second when compared to the 160 House races in the 2008 general election. The 3rd Suffolk District race ranked first in 2008 with

\$475,984 in expenditures.

The June 16 special election filled the House seat left vacant by former Speaker Salvatore DiMasi, who announced his resignation Jan. 25.

Five of the six candidates started the campaign with no money, and only Susan Passoni had a starting balance (\$574). The six candi-

dates raised \$266,000 in the months following DiMasi's resignation announcement.

Candidates were required to file three reports — eight days before the primary, eight days before the election and 30 days after the election. The full reports are available at: www.efs.cpf.state.ma.us.

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 a 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.

Public Resolution Letters

CPF-08-79: Felix Arroyo, Boston. Did not comply (reporting, recordkeeping); 4/21/2009. The Felix Arroyo Committee failed to file timely and accurate deposit reports in 2007, and the committee did not disclose the purpose information for a substantial number of expenditures the same year. In addition, the committee initially filed its 2007 and 2008 year-end campaign finance reports late. A penalty of \$2,500 was assessed against Arroyo personally for the late filing in 2007, and an additional \$70 was assessed for the late filing of the 2008 year-end report. To resolve this matter, Arroyo has personally forgiven the remaining amount due from his personal loan of \$13,000 that he made to the committee. In addition, Arroyo has paid \$495, the balance remaining in the committee's account, to the state's general treasury as a civil forfeiture, and \$70 for the late filing of the 2008 year-end report. The committee was dissolved.

CPF-09-12: Rep. James

O'Day, West Boylston. Did not comply (disclosure); 4/30/2009. A review of the O'Day Committee's records indicated that approximately \$2,500 in receipts and \$3,500 in expenditures were not originally reported in the 2008 pre-primary report. These errors caused the committee's reported ending balance to significantly differ from the check-book balance. To rectify these issues, the committee has amended its disclosure reports. The committee has made a \$600 payment to the state's general fund for costs incurred during the review, and has agreed to an enhanced reporting schedule until Jan. 20, 2012.

CPF-08-75: Marjorie Decker, Cambridge. Did not comply (excess contribution); 5/4/2009. The John Buonomo Committee paid \$2,500 for mailers printed by Cambridge Offset Printing to the Decker Committee for the 2007 campaign. To remedy the receipt of an excess in-kind contribution, the Decker Committee paid Cambridge Offset Printing \$2,500 in September 2008, and Cambridge Offset Printing refunded \$2,500 to the Buonomo Committee the same month. Decker made a \$1,000 payment to the state's general fund in the nature of a civil forfeiture from her personal funds.

CPF-09-17: Rep. Michael Moran, Brighton. Did not comply (public employee); 5/4/2009. A member of Moran's staff collected campaign contributions at a fundraising event held on March 8, 2009, and also at a similar event in 2008. The campaign finance law prohibits the receipt of political contributions by non-elected public employees. The Moran Committee has agreed to donate \$250 to

charity.

CPF-09-13: Linda Pereira, Fall River. Did not comply (disclosure); 5/6/2009. The Pereira Committee did not disclose some receipt and expenditure activity during the period covered by the committee's 2008 campaign finance reports. The committee reports understated receipts by \$13,003, understated expenditures by \$1,527, contained inaccurate beginning balances, and did not itemize \$17,106 of the \$18,196 in reported expenditures. The committee has agreed to an enhanced reporting schedule through December 2011, and the candidate agreed to make a \$1,000 payment from her personal funds to the state's general fund for costs incurred during the review.

CPF-09-21: Thomas Cannon, Newton. Did not comply (disclosure); 5/7/2009. The candidate spent \$9,571 independent of a duly appointed depository bank account for campaign purposes in the early fall of 2008 related to the candidate's campaign for Register of Probate in Middlesex County. The candidate filed a supplemental campaign finance report to more accurately disclose his campaign's financial activity.

CPF-08-95: Tony Lafuente, Somerville. Did not comply (excess contribution); 5/12/2009. The Lafuente Committee accepted an excess in-kind contribution from the John Buonomo Committee in the amount of \$2,048. The Buonomo Committee paid \$2,148 for services that the National Telecommunications Services corporation provided to the Lafuente Committee in November

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Election 2009

Municipal reporting dates

Pre-Preliminary Report*

Report Dates: Due eight days prior to the preliminary election, covering the period from Jan. 1 to 18 days prior to the preliminary election.

Pre-Election Report

Report Dates: Starts the day following the ending date of the preliminary report and runs to Oct. 16. The report is due Oct. 26, eight days prior to the Nov. 3 election. If there is no preliminary, the reporting dates would be Jan. 1 to Oct. 16.

Year-End Report

Report Dates: Oct. 17 to Dec. 31 (due Jan. 20).

* Due dates for pre-preliminary reports vary, depending on the date of the preliminary election.

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Recent cases and rulings

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2007. Committees organized on behalf of a non-statewide candidate are prohibited from contributing to another candidate committee in excess of \$100 in a calendar year. The candidate has made a \$1,000 civil forfeiture payment to the state's general fund and has forgiven \$24,635 in liabilities owed to him by the committee.

CPF-08-93: Rep. Denis Guyer, Dalton. Did not comply (disclosure); 5/14/2009. Approximately \$15,000 in expenditures was originally not disclosed on reports from 2006 to 2008. The review also indicated the receipt of three money orders from one person in a calendar year in the amount of \$100 each (the campaign finance law prohibits the receipt of money order contributions over \$50). OCPF determined that the committee maintained adequate records and the errors were inadvertent in nature. The committee agreed to an enhanced reporting schedule until Dec. 31, 2011. The committee purged \$250 in excess money order contributions and the candidate is paying \$1,500 from his personal funds for costs incurred during OCPF's review.

CPF-09-02: Councilor Alan Kazanjian, Lowell. Did not comply (disclosure); 5/27/2009. The committee duplicated the disclosure of 25 contributions, did not disclose two contributions and inaccurately disclosed receipts of \$50 or less in 2007. The committee also accepted one money order in excess of \$50. OCPF determined that the committee maintained adequate records and the errors were inadvertent in nature. The committee agreed to provide OCPF with all copies of

contributor checks until Jan. 31, 2011. The committee will refund \$150 for the excess money order and made a \$250 payment to the state's general fund for costs incurred during the review.

CPF-08-68: Councilor Kelly Timilty, Roslindale. Did not comply (disclosure); 5/1/2009. The committee failed to file timely and accurate reports of receipts. Five deposits made in August 2008 totaling \$17,200 were not documented by the filing of reports until March 2009. The committee also reported making two deposits in June 2008 totaling \$3,375, which were not deposited until August 2008. In addition, the committee's 2008 year-end report was filed late. A penalty of \$310 was assessed against the candidate for the late filing of the year-end report. The candidate has also paid a \$1,000 civil forfeiture to the state's general fund. The committee has appointed a new treasurer and has agreed to provide OCPF with copies of all deposit slips and checks through 2010.

CPF-09-24: Rebecca Peluso, Dedham, Jonathan Diamond, Dedham. Did not comply (public resources); 5/5/2009. Diamond, a school administrator at the Academy of the Pacific Rim, a Boston charter school, offered the use of the school's automated telephone system to Peluso, a candidate for Dedham Library Trustee in the town's April 11, 2009, election. On April 10, Diamond downloaded phone numbers into the automated phone system and calls were placed that day. Public resources, namely the use of the school's automated telephone system, were used to make the calls. Peluso has now acknowledged the receipt of this in-kind contribution and has made a \$250 payment to

the state's general fund in the nature of a civil forfeiture. Diamond acknowledged his unauthorized use of the school's phone system and made a \$100 civil forfeiture payment to the state.

CPF-09-14: Albert Turco, Wakefield. No further action (solicitation in a building used for governmental purposes); 5/22/2009. Turco sent approximately 250 fundraising solicitation e-mails, nine of which went to public employee e-mail addresses at their places of work, raising \$200. State law prohibits fundraising in government buildings. Turco disgorged the \$200 by making a charitable contribution of \$200.

CPF-07-04: Rep. Eugene O'Flaherty, Chelsea. Did not comply (disclosure); 6/30/2009. The committee's campaign finance reports from 2004 to 2008 did not accurately disclose its activity. The committee's bank statement as of Dec. 31, 2008, was more than \$10,000 in excess of what the committee originally disclosed on its 2008 year-end report. A one-time adjustment to the 2008 year-end report was made to reconcile the bank statements and the campaign finance report. To resolve the matter, the committee made a \$1,000 civil forfeiture to the state's general fund for its non-compliance and will purge \$4,000 to a charity of the committee's choice. The committee will also pay \$2,000 to the state's general fund for costs incurred during OCPF's review. The committee agreed to a \$5,000 suspended forfeiture. If the committee's reports are substantially accurate from 2009 to 2011, the committee will not have to purge this amount to the state. The committee agreed to an enhanced reporting schedule.

Advisory Opinions

AO-09-05: State House staff members may maintain a private legislative/constituent services Web site, but such a site may not include a "contribute" button. A legislator may not have one combined legislative/constituent services and campaign Web site that is maintained by State House employees. The Legislator may, however, have two private Web sites, one for legislative and constituent purposes (maintained by State House staff members), and the other for campaign purposes, and there may be a simple link between the two Web sites if the link itself does not solicit votes or contributions. (Sen. Sonia Chang-Diaz).

AO-09-06: A union may process contributions made by direct deposit to the union's PAC if members complete authorization cards and provide authorization cards to the union. (State Police Association of Massachusetts).

AO-09-07: The John Kerry Committee, a federal political committee, may not send endorsements of Massachusetts candidates by e-mail to its list of supporters as membership communications. Although federal political committees are not generally considered "political committees" for most purposes of the Massachusetts campaign finance law, the exemption for membership communications in Section 1 was not intended to include communications by federal political committees. If a federal committee could use its list of e-mail contacts in the manner contemplated, this would lead to the use by state committees of an asset of a federal committee, which would not comply with Section 7. (John Kerry for Senate Committee).