



# OCPF Reports

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From the Director

## *A new cycle ahead*

*March 31, 2001 – It's not that far away!*

*According to the Clean Elections law, that's the date the 2002 election cycle begins for statewide, legislative, and Governor's Council candidates.*

*If a candidate running for one of these offices wishes to become a participant, he or she will be required to restrict fundraising and limit expenditures in order to qualify for the public financing offered for that seat. For any candidate who does not wish to participate, March 31<sup>st</sup> is the date that expenditures begin to count toward that same limit. Non-participants must be aware of the amount for their race; if a participant opposes them, any expenditures over the limit in the cycle made by the non-participant must be disclosed and will be matched with public funds up to twice the expenditure limit for the primary or general election, as the case may be. While it may sound confusing, OCPF plans to conduct educational seminars on the new law in various locations around the state to ensure that both participating and non-participating candidates and their committees understand their obligations.*

*We also continue to move forward technologically. As you can read elsewhere in the newsletter, we have posted all 2000 legislative candidate and ballot question committee reports on our web site ([www.state.ma.us/ocpf](http://www.state.ma.us/ocpf)).*

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## Legislative, ballot reports are now on the Internet

OCPF's online information has taken a big step forward with the recent addition of disclosure reports filed by candidates for the Legislature and by state ballot question committees to the office's web site.

The legislative reports include all candidates for the House and Senate, numbering more than 300. So far, the pre-primary and pre-election reports have been posted; the year-end reports will be posted soon after the due date of Jan. 22.

Ballot question committee reports posted so far run through Nov. 15. All committees still open after that date also must file year-end reports by Jan. 22.

OCPF's web site may be accessed at [www.state.ma.us/ocpf](http://www.state.ma.us/ocpf).

Legislative reports are listed both alphabetically and by district. While the imaged reports are complete as filed, they will not include any subsequent amendments or correspondence, such as

requests by OCPF for additional information or later filings by a committee.

"Online availability of these reports is a great step toward full disclosure," said OCPF Director Michael Sullivan. "Posting the images now allows anyone in the Commonwealth, in fact anywhere in the world, to review some of the most requested reports without having to come to Boston."

The posting of images of the reports in ".pdf" format is not the final step in web disclosure. By the 2002 election, most reports will be filed electronically as well as on paper, with information filed to be made available on the Web that same day.

Information regarding statewide candidates has been available online since 1998. OCPF's Contributor Information Database (CID) includes contributors as listed on reports filed by candidates for the six statewide offices, including incumbents.

## Candidates and committees to file year-end reports by January 22

It's time once again for candidates and political committees on both the state and local levels to file their year-end campaign finance reports.

All active candidates, political action committees, people's committees, state party committees and ballot question committees that report to OCPF are required to file campaign finance reports with the office on or before Monday, Jan. 22. (The usual statutory deadline of Jan. 20 falls on a Saturday.)

Most local candidates file with their

city or town clerks or election commissioners by the same date. The exceptions are candidates for mayor and councilor-at-large in Boston, Lowell, Springfield and Worcester, who file with OCPF.

The reports may cover the last few months or all of 2000, depending on whether a candidate sought office during the year.

Candidates for the state legislature in 2000 have already filed pre-primary and pre-election reports with OCPF. The year-

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## Sturges named Ethics Commission Director; Birne becomes new OCPF General Counsel

OCPF General Counsel Peter Sturges has left the agency to become executive director of the State Ethics Commission.

Replacing Sturges at OCPF is Gregory H. Birne, who has served as Deputy General Counsel.

Sturges, who has headed OCPF's legal division for 10 years, was chosen by the Ethics Commission to oversee the office, which administers the conflict of interest and financial disclosure laws. He started his new job on Dec. 18.

He succeeds Stephanie Lovell, who was recently chosen to head the Government Bureau of the Attorney General's Office.

Sturges is a former Election Commissioner in Cambridge and, in addition to OCPF, has served on the legal staff of three other state agencies: the Office for

Children, the Department of Education and the Department of Mental Health.

Birne has been with OCPF for the last seven years, the last three of which he has been deputy general counsel.

A Navy veteran and graduate of Boston University and Cornell Law School, Birne also received a master's in public administration in a joint program of the College of Charleston and the University of South Carolina. He is a former associate at the Boston law firm of Hinckley, Allen and Snyder. Prior to joining the firm he clerked for U.S. District Court Judge Thomas D. Lambros in Cleveland.

"Greg has lent his expertise, commitment and work ethic to a broad range of issues for us over the years," said OCPF Director Michael Sullivan. "He'll step into his new position without missing a beat."

## Year-end: Filing deadline Jan. 22

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end reports, Form CPF 102 ND, will cover activity from Oct. 21 through Dec. 31.

Committees in the depository system, which includes statewide, county and Governor's Council candidates, state party committees and the citywide candidates noted above, have their banks file reports with OCPF throughout the year. The committees file Form CPFD102, which summarizes all activity for the year and lists liabilities and in-kind contributions, by the Jan. 22 deadline.

Local party committees – at the ward, town and city level – are required to file with OCPF only if their activity (receipts, expenditures or liabilities) exceeded \$100 in the reporting period.

On the local level, reports are required from all elected officials as well as any other candidates and committees with cash balances, outstanding liabilities, or any campaign activity in the last reporting period.

Some candidates may have dual filing obligations. For example, a local selectman who holds or is seeking a state legislative seat must file reports with both his or her municipal election official and OCPF. Reports must be filed in both places by the deadline; filing in only one office does not

meet the obligation to file at the other agency.

Reports due with OCPF must be received at the agency's office at Room 411 of the McCormack State Office Building, One Ashburton Place, Boston, MA 02108 by the close of business on Jan. 22. The office is open weekdays from 8:30 a.m. to 5 p.m.

Whether hand-delivered or mailed, reports must be received on time to avoid the imposition of an automatic late fine of \$10 per day. The fine, which can run up to \$2,500 per report, must be paid personally by a candidate or treasurer; committee funds may not be used.

The law requires that a report bear the original signatures of a candidate and treasurer, so faxed copies are not considered official filings.

To assist filers, OCPF has once again scheduled seminars in Boston, which will include a review of the filing process and a sample report.

One seminar had been scheduled as of press time. That will take place on Tuesday, Jan. 16, from 2-4 p.m. in Conference Room 2, 21st Floor, McCormack Building, One Ashburton Place.

A second seminar is tentatively scheduled for an evening during the

## From the Director

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*Also, beginning in January, reports from statewide incumbents and announced statewide candidates will be posted within a week of receipt. Although these images will not be searchable, we will also continue to contract with a data entry firm to provide for searchable data for statewide candidates; there will just be a time lag involved.*

\* \* \*

*In staff news, OCPF's General Counsel, Peter Sturges, has recently accepted a position with the State Ethics Commission as its Executive Director. Peter was a valued employee with OCPF for 10 years and will be missed. We wish him well in what will be, I'm sure, an exciting and challenging job. Greg Birne, our deputy general counsel, has been selected to replace Peter.*

*There was one other staff change recently: Tony Zannotti of our Auditing Department has resigned to take over the family business, Guertin Trophy, in Worcester.*

\* \* \*

*On a somber note, we were recently saddened by news of the passing of Charles Doherty, former Director of OCPF. Mr. Doherty was the Office's second director and the first to serve a full six-year term, from 1976 to 1982. Our thoughts and prayers are with his family.*

\* \* \*

*Best wishes for the holiday season from all of us at OCPF. We'll talk again in the next issue.*

**Mike Sullivan  
Director**

previous week. Candidates and committees who received this newsletter in OCPF's year-end mailing should check for an update elsewhere in the packet.

OCPF staff will also be available to help filers with last minute questions by telephone on the weekend before the filing deadline. See Page 4 for a rundown of the hours to call on Saturday and Sunday, Jan. 20 and 21.

# 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.*

## Disposition Agreements

### ■ National Association of Governmental Employees, Quincy (9/14/00).

OCPF, the National Association of Government Employees (NAGE), and its three Massachusetts political action committees entered into an agreement concerning several violations of the campaign finance law from 1997 through 1999. In the agreement, OCPF concluded that NAGE and its PACs improperly commingled and disclosed funds received from members, used a "negative check-off" to receive funds from members, and made excess contributions totaling \$69,850.

To resolve the case, NAGE and the three NAGE PACs -- Unit One State Employees PAC, Unit Six State Employees PAC and NAGE PAC -- agreed to make a payment to the Commonwealth totaling \$30,000, to be split evenly among the three PACs; combine the three PACs into one new PAC; and refrain from contributing to any candidate who received excess contributions from the three affiliated PACs in 1997, 1998 or 1999. The contribution ban ranges over the next four years, varying according to the excess amount

that was contributed to a candidate.

OCPF concluded that NAGE's PACs did not keep contributor records or copies of weekly payroll deduction forms necessary for an employee check-off and that NAGE did not ensure that the amounts deposited into its general treasury and then into each PAC corresponded with the amounts raised from members. Funds raised from NAGE members were originally deposited into the union's general treasury, and then distributed in an as-needed manner to the NAGE PACs.

OCPF concluded that the three PACs operated as "affiliated" committees making aggregate contributions to 65 candidates that were over the \$500 annual aggregate limit totaling \$69,850.

Finally, NAGE employed a check-off under which 50 cents was automatically deducted from members' paychecks each week, unless an employee chose not to contribute by notifying his or her payroll office in writing. OCPF concluded that such a negative check-off is not authorized by the campaign finance law; in order for a contribution to be given, the donor must take an affirmative action, such as writing a check or giving consent to a payroll deduction.

NAGE discontinued the negative check-off practice after OCPF initiated its review and has agreed to require written approval from members before weekly deductions are made. The new PAC will not make contributions over the next four years to any of the candidates who received excess contributions from the affiliated PACs in 1997, 1998 or 1999, depending on the amount of the excess.

NAGE also agreed to additional disclosure and verification of future reports by the new unified PAC and to provide a copy of the disposition agreement to the Federal Election Commission. NAGE also maintains a PAC at the federal level.

## Public Resolution Letters

■00-13: Douglas MacLean, Lancaster. Did not comply (disclosure of campaign finance activity); 9/15/00. Candidate's committee did not keep detailed records of campaign finance activity and did not file timely or accurate reports of campaign finance activity. Repeated requests for

additional information or clarification were needed before accurate reports were filed. Because a completed 1999 year-end report, due on Jan. 20, 2000, was not filed until May 17, 2000, the candidate was assessed a fine of \$1,180. After a subsequent hearing, the candidate's waiver request was granted in part and the fine was reduced to \$370.

■00-60: Konstantina Lukes, Worcester. Did not comply (disclosure of campaign finance activity); 10/16/00. Depository candidate's committee did not file contributor information in a timely manner. On one occasion, although accurate contributor information regarding a deposit was provided to the committee's bank, the information provided to OCPF in response to the office's inquiries did not accurately reflect the amount deposited.

■00-59: Chris Ciampa, Saugus. Did not comply (solicitation or receipt of political contributions by public employee and in buildings occupied for municipal purposes); 11/14/00. An invitation to fundraising event that encouraged recipients to call a campaign manager, who was a public employee, to obtain tickets was an indirect solicitation not consistent with M.G.L. c.55, s.13. In addition, the office advised that future fundraising events should not be held in the Gannon Golf Club in Lynn, because the club is municipally owned and is in a building occupied for municipal purposes, even if the event is held in a part of the building that is leased to a private entity.

■00-61: Matthew C. Patrick, Waquoit. No further action (solicitation or receipt of political contributions by public employee); 11/14/00. Candidate asked OCPF to review an advertisement for a fundraising event that stated that it was paid for by the Committee and named its chairman, who is a public employee. A committee that has a public employee as its chairman should designate other persons associated with the committee to be named in a fundraising advertisement.

■00-66: Andrew Baker, Shelburne Falls. No further action (solicitation or receipt of political contributions in building occupied for municipal purposes); 11/14/00. This complaint related to the planned use of the second floor of a municipal building for a

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# A reminder: New IRS rules for state and local political committees

Last month's *OCPF Reports* detailed new federal tax reporting requirements for political committees. We're repeating the notice for any committees that formed recently or may have missed the last issue.

Under Section 527 of the tax code, all state and local candidate committees, party committees, PACs and people's committees (not ballot question committees) must register with the IRS unless a committee "reasonably expects its annual gross receipts to always be less than \$25,000."

The \$25,000 threshold would seem to exempt most local committees and PACs and some state candidate committees,

PACs and people's committees. Nevertheless, each committee should examine the law and determine its own filing status.

PACs and people's committees that reasonably anticipate gross receipts of \$25,000 or more must file periodic disclosure reports with the IRS. State and local candidate committees and political party committees are not required to file such reports.

The direct web address for information on this topic is [http://www.irs.gov/bus\\_info/eo/pol-file.html](http://www.irs.gov/bus_info/eo/pol-file.html). For information by telephone, contact IRS customer service at (877) 829-5500.

## *Weekend phone help available Jan. 20-21*

*OCPF staff will once again be available on the weekend before the filing deadline, Jan. 20 and 21, to help candidates and committees working on their year-end reports.*

*Call OCPF's regular numbers -- (617) 727-8352 or (800) 462-OCPF -- on Saturday from 10 a.m.-4 p.m. and Sunday from noon-4 p.m. for help.*

*Our building will be closed, so walk-in service will not be available and no reports may be filed.*

*OCPF's web site ([www.state.ma.us/ocpf](http://www.state.ma.us/ocpf)) is also a good after-hours resource for information such as candidates' and PACs' ID numbers.*

## Recent Cases and Rulings (continued)

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political fundraising event. That part of the building contains a theater leased out to a private nonprofit association and contained no governmental offices. The candidate, in response to OCPF's review, announced that no funds would be accepted in connection with the event. To ensure compliance with section 14, the office advised that notices of fundraising events should not be placed on the municipal building, including areas that are used by the nonprofit.

■00-69: Rep. Robert S. Hargraves,

Groton. No further action (contributions by media organization); 11/14/00. A newspaper that provides space to a legislator for a regularly published column discussing issues such as legislation has not necessarily provided space for a political advertisement where the column contains an incidental reference to a campaign fundraiser. For there to be an advertisement subject to M.G.L. c.55, s.8A, there must be some indication of intent or knowledge on the part of the newspaper that the particular item published is to be used for that purpose.

■00-67: Newton Public Schools. No reason to believe (use of public resources for political purposes); 11/16/00. Distribution of information, use of public address systems, and presentations to parents concerning a ballot question at "back-to-school" parent teacher meetings did not violate campaign finance law. Although the equal access requirement does not generally apply to routine meetings of parent-teacher organizations in public schools, there was no indication in this case that equal access was denied to any group opposing the question.

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