Office of Campaign and Political Finance

OCPF Reports



Winter 2018

From the Director

Mike Sullivan

I realize it's now 2018, but I want to take you back to the 2016 election for a moment.

Last year, OCPF resolved three "dark money" <u>cases</u> related to 2016's statewide ballot questions, resulting in more than \$580,000 in civil forfeiture payments to the state.

Dark money is the popular term used to describe disguising the true source of campaign contributions for an election purpose, and it's prohibited by state law.

Back to 2018. There will likely be several statewide ballot questions this fall, with multiple ballot question committees spending millions of dollars to support or oppose those issues.

We urge anyone (including nonprofits) who plans to get involved to contact us first for guidance.

2017 New Candidate Count

Our auditors are constantly working with candidates and their campaigns to register with OCPF.

In 2017, 289 candidates were newly organized with our agency—24 a month.

<u>Click here</u> for the list, sorted by city or town.

Two new members of the IT staff

We added two members to our computer technology staff, Xiaoyi An and Hao Feng.

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The year-end report was required for more than 1,500 candidates and committees

More than 1,500 candidates and committees were required to file year-end campaign finance reports with OCPF by Jan. 22 this year.

Most of them did.

"We thank everyone who filed the year-end report on time," said OCPF Director Mike Sullivan. "We received a ton of calls and answered a lot of emails, and the end result is that hundreds of campaign finance reports were posted to our website for the public to view."

If a candidate or committee files late, the statutory penalty is a fine of \$25 a day up to \$5,000. Candidates are assessed this fine personally. Treasurers are assed the fine personally for non-candidate committees.

Legislative candidates: The year-end report covered activity from July 1 to Dec. 31. Of 450 candidates, 434 filed on time (96.4 percent).

Depository Candidates: The year-end report summarizes their activity for the calendar year, and itemizes in-kind contributions and liabilities. Of 682 candidates, 589 filed on time (86.4 percent). Depository filers include statewide, county and some municipal candidates.

Political Action Committees: PACs are also in the depository system of reporting and 96.7 percent filed on time (261 of 270). The PAC totals also include People's Committees, which are a type of PAC.

Mayoral Candidates: Mayoral candidates who appeared on a ballot in 2017 filed a year-end report covering activity from 18 days before the election until Dec. 31. Mayoral candidates who were not on the ballot filed year-end reports that covered all

of 2017. Together, 76 of 83 mayoral candidates filed the year-end report on time (91.6 percent). This category only includes candidates in cities with populations of less than 75,000.

Mayoral candidates in larger cities are included in the depository candidate totals.

Independent Expenditure PACs: IE-PACs, also known as Super PACs, file year -end reports to summarize their annual activity and itemize receipts and expenditures that did not appear on regular IEPAC reports. Of 18 IEPACs, 17 filed on time (94.4 percent).

Statewide Ballot Question Committees: 94.7 percent of ballot question committees filed year-end reports on time (18 of 19) to disclose activity that happened in 2017. The next report will not be due until Sept. 7, 60 days before the state election.

Local Party Committees: Party committees in cities and towns also file with OCPF, but only if they exceed \$100 in activity during a reporting period. There were 315 year -end filings by local party committees.

Local Filers: Most municipal candidates file with their local election officials, who post year-end reports to their municipal websites if a candidate exceeds \$1,000 in activity.

<u>House and Senate candidates</u> will file three campaign finance reports for the 2018 election: a pre-primary report due Aug. 27, a pre-election report due Oct. 29, and a year-end report due Jan. 22, 2019.

Continued: From the Director

They will help keep our on-line filing system rolling, develop new technologies to improve how we make our data available to the public, and provide technical support to our filers.

I don't know too much about how they do it, but I do know it involves a lot of coding.

Xiaoyi, our web developer, previously worked for UNICEF. She lives in Belmont but is a native of China. She has a master's degree from Columbia University.

Hao is our support engineer and comes to us from another state agency, the Department of Housing and Community Development, where he worked on IT issues. He's lives in Needham and graduated from Babson College. He's currently attending graduate school at Boston University.

Coming Soon

Speaking of our IT folks, they are always looking for ways to improve our website and reporting system. Here are two issues that we are working on now: 1. On-line organization. This will allow candidates and committees to organize with OCPF via our website, without having to fill out paper forms. 2. We want to make it easier for filers to add occupation and employer information to campaign finance reports, even after the original reports have been e-filed.

We'll let you know when those and other changes have happened.

Spring training is just around the corner.

Michael J. Sullivan, Director

<u>2017 PAC Activity</u>

The 279* PACs organized with OCPF reported receipts of \$5,238,512 for calendar year 2017, and \$4,348,830 in expenditures.

Top five PACs, by receipts 1. MA & Northern NE Laborers' District Council: \$889,313 2. 1199 SEIU MA PAC: \$792,865 3. Retired Public Employees: \$324,063 4. Committee for a Democratic House: \$228,214 5. International Brotherhood of Electrical Workers: \$227,762

*As of Dec. 31. The total was 270 as of Jan. 22.

<u>Click here</u> for the complete list

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LOCAL ELECTION OFFICIAL INFORMATION ON PAGES 11-13

Summary of proposed changes to OCPF regulations

The following revisions to OCPF's regulations will be the subject of a public hearing on Feb. 13, 2018 at OCPF. The revisions will be made to clarify existing regulations (<u>970 CMR 1.00-4.00</u>), and to make the regulations consistent with changes that have been made to the campaign finance law and agency practice.

Date and time reports due. Adds a new 1.02(6) to clarify due dates for electronically filed reports.

<u>**Refunds.**</u> Simplifies 1.04(9), in part to state that contributions may be refunded by a committee that is not dissolving at any time upon the request of a contributor.

<u>Revised contribution limits chart.</u> Changes to 1.04(12) are made to reflect revisions made in 2016 to section 7A and to include limits that have been indexed as required by the statute.

<u>Contributions from trusts</u>. Revises 1.04(15) to clarify rules relating to how contributions from personal trusts are disclosed. Also states that committees may not accept contributions from testamentary trusts or bequests from estates.

<u>Revised credit card regulations</u>. Changes to the regulation (1.09) are made to make the regulation consistent with OCPF advice, for example, to address contributions made using mobile apps, crowd funding websites, and social media.

Disclosure of expenditures' specific purpose. Revises 1.10(4)(a) to clarify disclosure needed to explain the specific purpose of committee expenditures.

Disclosure of candidates supported by PAC. Revises 1.10(5), to comply with changes made to M.G.L. c. 55, s. 18 in 2016, to specify that "The report of a party committee, *PAC or people's committee* making expenditures to support or oppose a candidate must identify the candidate..."

Disclosure of PACs influencing recall of mayoral elections in cities with a population of less than 75,000. Clarifies reporting requirements in 1.16 for such PACs.

Legal Defense, Inauguration and Recount Funds. Amends 1.20(8) to state that funds raised by these segregated accounts may not be deposited into a committee account and also states that inaugural accounts must dissolve no later than six months after the inaugural event.

Tracking funding sources. Revises 1.22 to clarify when an organization must register as a political committee and disclose contributors. Provides guidelines for determining who must be listed as a "contributor" for purpose of ensuring disclosure of the true source of funds used to influence elections.

Expenditure Rules. Simplifies expenditure rules by consolidating existing 2.05 and 2.06 into one new section for regulations, 2.06 (deleting 2.05). Also defines rules for expenditures made for (1) travel by a candidate or agent of a committee, and (2) Funding a separate scholarship or make a scholarship award.

<u>Administrative closure of inactive committees</u>. Adds new 2.07(13) to allow committees to be administratively closed if they have \$250 or less of activity and a balance \$250 or less during a period of 24 consecutive months.

Disclosure of address of candidate on whose behalf expenditures are made. Adds new 2.07(14) to say that for purposes of Section 18, a committee complies with the requirement of disclosing "the name and address… [of] each candidate on whose behalf [an] expenditure was made" by disclosing either the residential, committee or other address of the candidate supported.

<u>Electronic expenditures by depository committees</u>. Revises 2.09(4) and (5) to allow depository committees to pay credit card bills or other bills online or electronically.

<u>Joint fundraising regulations</u>. Revises 2.12(2)(d), which contains examples that refer to contribution limits, to make the regulations consistent with the changes in the statute that increased the individual limit to \$1,000.

Dissolving a committee? Here are the steps

The campaign finance law specifies the procedure for candidates and committees to cease operations and dissolve. <u>Click here for OCPF's dissolution guide.</u>

Dissolution Process (Generally)

- To dissolve, a committee cannot have existing liabilities (bills and loans).
- Debts owed to the candidate can be paid to the candidate or forgiven by the candidate.
- If a candidate or committee has funds remaining after paying off liabilities, the residual funds can be donated to (1) the state's general fund (2) a city or town (3) charity (4) scholarship fund.
- A final dissolution report is filed locally or with OCPF disclosing the committee's ending activity and a "zero" ending balance. A depository candidate or committee also needs to close the depository bank account (OCPF will assist in this process).

Continued on the Next Page <u>CONTINUED: Proposed regulations changes</u>

Failure to file reports. Amends 2.14 to specify that a late filing penalty will be assessed immediately if a report of an independent expenditure (or IE PAC report) is filed late. In addition, late filing penalties will immediately be assessed if a deposit report is not filed in a timely manner within the three-month period prior to an election in which the candidate is on the ballot.

<u>State Party Expenditures</u>. Revises 2.16 to specify that if a state party committee may make an expenditure from its federal account in accordance with federal regulations, then the payment may be made from the federal account.

Independent expenditures. Amends 2.17 to (1) specify that an IE PAC becomes a traditional PAC if it coordinates with a party committee or a traditional PAC; (2) state that if IEs are made to support/oppose a candidate, that the report must not only disclose the name of the candidate(s) supported/opposed, but also disclose the office sought by the candidate who is supported/ opposed; and (3) add a new subsection describing required disclosure where an IE PAC contributes to another IE PAC.

<u>Subvendor reporting</u>. Amends 2.18 to include a new subparagraph to state that a committee is not required to file a subvendor report regarding a particular vendor if the vendor provides a statement to OCPF annually certifying that the vendor does not use subvendors.

IE, EC and BQ Disclaimers. Substantial changes are made to 2.20 to reflect the changes to M.G.L. c. 55, s. 18 made in 2016. Other changes are made in response to frequently asked questions, or to clarify reporting requirements.

Coordination. Amends 2.21(7) to make minor changes to reflect current OCPF practice.

Notices of Appearance. Revises 3.03 to specify that OCPF may require an attorney to file a notice of representation at any point prior to the attorney representing a candidate or other person or entity in a matter before OCPF.

Notice of intent to refer, how served. Revises 3.06 to reflect a recent change made recently to M.G.L. c. 55, section 3, allowing personal service of the notice.

<u>Removal of Non-filing Candidate's Name from Ballot</u></u>. Revises 3.09 to make it consistent with changes in the law, by expanding the provision to cover municipal candidates who file with OCPF.

<u>Updating public finance regulation to reflect 2015 law change</u>. Revises 4.05 to reflect the change in the law permitting money order contributions of up to \$100.

The public hearing will be held Feb. 13, 2018 at 10 a.m. in room 411, One Ashburton Place, Boston (the OCPF office). The public is invited to comment on the regulations, which are posted here: (click here). Interested persons may either appear in person at the hearing or submit comments in writing at any time prior to the hearing. Comments or questions should be directed to OCPF by e-mail at ocpf@cpf.state.ma.us





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). The identity of any complainant is kept confidential. Disposition agreements are matters of public record once cases are concluded.

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 Agreement

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, State Rep. Heroux resolve campaign finance issues

<u>12/14/2017</u>: OCPF entered into a disposition agreement with State Rep. Paul Heroux of Attleboro to resolve issues concerning disclosure, prohibited contributions, recordkeeping and personal use of campaign funds in 2015 and 2016. To resolve the matter, Heroux agreed to pay a civil disposition totaling \$2,500. The candidate has made a personal payment of \$1,435 to the state's general fund, and has repaid his committee \$1,065 for the personal use of campaign funds. The disposition agreement was the result of OCPF's review of the Heroux Committee's bank records and campaign finance reports for 2015 and 2016, as well as a review of the candidate's personal bank records. Heroux initiated the review in 2017 when he asked for OCPF's assistance with a balance discrepancy that existed between the committee's bank balance and the reported balance on campaign finance reports. OCPF's review identified the following issues:

- The committee did not disclose \$2,737 in contributions that were deposited into the campaign account.
- The committee did not disclose \$3,766 in expenditures, \$1,725 of which were transfers to Heroux's personal bank account.
- There were expenditures totaling approximately \$900, in which campaign funds were used for personal expenditures, and subsequent transfers were made from the candidate's personal account to the committee's account to reimburse the campaign.
- Prohibited business contributions were deposited into the committee account, totaling \$235.
- The committee's 2016 year-end report disclosed an ending balance of \$16,808. The actual bank balance was \$13,780.

<u>Click here</u> for the disposition agreement between OCPF and Heroux.

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-17-84: Strong Economy for Growth. Did not comply (disguising the true source of contributions, organizing, disclosure); 12/29/2017. Massachusetts-based Strong Economy for Growth (SEFG), a 501(c)(4) non-profit social welfare organization, organized a ballot question committee with OCPF as a result of OCPF's review. The committee disclosed its donors during the relevant period, and listed the contributions SEFG made to two other ballot question committees in 2016. In addition, the organization made a payment of \$31,000 to the Commonwealth. According to OCPF's letter, SEFG solicited, raised and spent money from Aug. 1, 2016 to early November, 2016 to influence two questions on the 2016 state ballot without organizing a ballot question committee or disclosing its activity. Based on the timing and amounts of the donations to SEFG and its subsequent contributions to the ballot question committees, OCPF determined that the organization violated the campaign finance law by disguising the identities of the original donors. SEFG agreed not to engage in any election-related activity in Massachusetts through 2018.

<u>CPF-17-87</u>: Remo Scarfo, Medford. Did not comply (corporate contribution); 11/20/2017. Campaign signs for Scarfo's 2017 City Council campaign were displayed on a truck owned by a corporation. The campaign finance law prohibits corporate in-kind contributions to candidates (contributions include anything of value provided to a candidate).

<u>CPF-17-102</u>: Marydith Tuitt, Boston. Did not comply (reporting); 11/21/2017. OCPF reviewed the Tuitt Committee records and determined that \$2,760 in deposited contributions

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Continued: Recent Cases and Rulings

were not disclosed, and \$1,467 in contributions that did appear on campaign finance reports were not deposited. Additionally, the committee did not disclose \$1,660 in expenditures and reported \$1,650 in expenditures that did not clear the bank account. To resolve this matter, the committee amended its campaign finance reports, and the candidate agreed to forgive a \$2,000 loan she made to the committee.

<u>CPF-17-124</u>: Salem State University. Did not comply (public resources); 12/13/2017. Salem State University used staff time, email lists and a computer to send an e-mail in 2017 that addressed, in part, the re-election of Salem Mayor Kim Driscoll, and appeared to promote the passage of a statewide ballot question. The university sent follow-up emails, prior to OCPF involvement, recognizing that the original email should not have addressed those election issues. The campaign finance law prohibits the use of public resources for political campaign purposes.

<u>CPF-17-128</u>: Billerica School Department. Did not comply (public resources); 12/19/2017. The school department used public e-mail to send an informational communication to parents regarding a Dec. 2, 2017 town ballot question. The campaign finance law prohibits the use of public resources for campaign purposes.

<u>CPF-17-75</u>: Daniel Finn, Lowell. Did not comply (disclosure, reporting); 1/2/2018. Finn, a candidate for City Council, raised and spent money without first opening a bank account and disclosing that activity with OCPF. The campaign finance law requires a <u>depository candidate</u> to designate a bank as his or her depository, and requires all financial activity to take place through the bank account.

<u>CPF-17-144</u>: Joanne Babin, Middleborough. Did not comply (timely filing of report); 1/12/2018. The Vote Yes for MHS Ballot Question Committee organized with the town clerk on July 26, 2017, for a Nov. 4 override election. The committee filed a combined pre-election and post-election report on Dec. 7, more than a month after the election. The pre-election report was due Oct. 27. The post-election report was due Dec. 4.

Advisory Opinions

An advisory opinion is a letter written in response to a request for the OCPF director to render an opinion concerning the application of the campaign finance law, or any OCPF regulation, to a specific activity or transaction.

<u>AO-18-01</u>: A candidate is eligible to be appointed to a vacant school committee position, even if that candidate is prohibited from appearing on a municipal ballot due to the failure to file a campaign finance report. If the campaign finance report is not filed, the candidate may not seek election at the conclusion of the term for which the candidate was appointed.

Legal Case Resolutions

OCPF issued 34 Public Resolution Letters and five Disposition Agreements in 2017. Click here for OCPF's Agency Actions page.



SPRING ELECTIONS

A candidate on the town ballot will file a preelection report eight days before the election. The ending date for the report is 18 days before the election.

A candidate on the ballot will file a post-election report 30 days after the election. The ending date for this report is 20 days after the election.

If your town has a preliminary election, call OCPF at 617-979-8300.

Click here for the M102 campaign finance report.

<u>Click here</u> for the M101 organizational form.

Click here to "like" OCPF's Facebook page

WHAT ARE THE PUBLIC EMPLOYEE CAMPAIGN FINANCE RESTRICTIONS?



<u>Appointed public employees</u> on the state, county and municipal levels are prohibited from soliciting or receiving contributions for any political purpose (candidates, ballot questions, PACs, parties, IE-PACs, federal candidates).

Restriction is in place 24-7 (even on personal time).



/estf



A public employee may not ...

... sell tickets to a fundraiser

... allow his or her name to be used in a fundraising invitation

... post fundraiser information on social media, such as Facebook and Twitter.

EXCEPTION: Elected officials, even if paid, can solicit and receive

<u>Click here</u> for additional information.







FUNDRAISING IN GOVERNMENT BUILDINGS

It is prohibited for any person to solicit or receive contributions for any political purpose in buildings used for governmental purposes.

Receipt of campaign contributions means physically receiving money. For example, a student at a state college can't sell tickets in the student union for his friend's political campaign fundraiser. Soliciting contributions means asking for funds for a political purpose. For example, a city council candidate is prohibited from mailing invitations to her fundraiser to the police chief at the police station.

The restrictions are in place 24-7, even when government offices are closed.

Examples of buildings used for governmental purposes: City and town halls, libraries, senior centers, Massachusetts Statehouse, police stations, fire stations, community college buildings and district courts. Click here for a one-minute tutorial.

SUBVENDOR REPORTS ARE REQUIRED FOR ALL CANDIDATES & COMMITTEES

Who Files? — Candidates and committees at all levels (state, county and local) file the subvendor report.

What are the thresholds? — Subvendor reports are required when a candidate or committee pays a vendor \$5,000 or more in a calendar year, and the vendor makes an expenditure of \$500 or more on behalf of the candidate or committee.



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60 SECONDS

TH OCPF

60 Seconds with OCPF provides quick answers to common campaign finance questions

Can a candidate use campaign funds to donate to a charity?

Can candidate committees contribute to other candidate committees?

How can candidates change the type of office they are seeking?

Who files the year-end report in cities and towns?

What is equal access?

<u>Click here</u> for OCPF's Top 10 rules

PUBLIC FINANCING

Statewide candidates who agree to spending limits may receive public financing for the 2018 election, subject to available funds.

In return for agreeing to limits, candidates who have opposition are eligible to receive money for both the primary election and, if successful, the general election.

The program is funded by taxpayers who direct \$1 of their tax liability on their annual income tax returns.

For more information, please call Michael Joyce at 617-979-8300. <u>Click here</u> for the 2014 public

CANDIDATE LOAN LIMITS

Election Loan Limit (Candidate to his or her own campaign)

Governor: \$200,000

Lt. Gov.: \$200,000

Secretary: \$150,000

Treasurer: \$150,000

Auditor: \$150,000

Attorney General: \$150,000

Senate: \$50,000

House: \$30,000

All Other Candidates: Unlimited

The limit is per election. For example, a candidate for state senate can loan \$50,000 for the primary election and \$50,000 for the general election.

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. PACs AND LOCAL PARTY COMMITTEES ALSO HAVE AUDITORS.

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

| Candidate Last Name | Auditor | E-Mail |
|------------------------|----------------|---------------------------|
| A-D: | Alanna Kelly | akelly@cpf.state.ma.us |
| E-L: | Jeff Tancreti | jtancreti@cpf.state.ma.us |
| M: | Shane Slater | sslater@cpf.state.ma.us |
| N-Z: | Anne Bourque | abourque@cpf.state.ma.us |
| PACs (80500 to 89998): | Caroline Paras | cparas@cpf.state.ma.us |
| PACs (80000 to 80499): | Michael Joyce | mjoyce@cpf.state.ma.us |
| Local Parties: | Sheila Cole | scole@cpf.state.ma.us |
| Ballot Questions: | Michael Joyce | mjoyce@cpf.state.ma.us |

Local Party Committees could file three* reports in 2018.

- 1. Pre-primary report, due Aug. 27, eight days before the primary election.
- 2. Pre-election report, due Oct. 29, eight days before the general election.
- 3. Year-end report, due Jan. 22, 2019.

*A report is required if a committee had more than \$100 in activity in a reporting period.



<u>Click here for</u> the local party <u>committee</u> <u>guide</u>

INDEXING CONTRIBUTIONS: 2018-19

Every two years, OCPF is required to adjust two specific contribution limits, based on the Consumer Price Index calculated for the Greater Boston area.

- 1. The first is the limit an individual can give to a people's committee.
- 2. The second is the amount of money that a regulated intermediary can contribute.

The amount is \$172

This issue is explained in greater detail in our indexing memo, <u>here</u>.

Do you hold public office in your city or town, but plan to run for higher office in 2018?

If yes, you'll need to transfer your campaign finance activity and file campaign finance reports with OCPF.

- To start, a "<u>change of purpose</u>" form is filed with OCPF and with your local election official.
- File a new <u>CPF 101 form</u> with OCPF.
- Provide OCPF with a copy of your last campaign finance report (M102 form).
- Call OCPF at 617-979-8300 to discuss the transfer process.

<u>Click here</u> for OCPF's guide on how to transfer.

Forms and documents can be faxed to OCPF at 617-727-6549, or e-mailed to ocpf@cpf.state.ma.us.

<u>Click here for a 60-second</u> <u>tutorial on the topic.</u>



OCPF changed* the form that allows depository candidates and committees to get a bank account.

When a candidate or committee enters the depository system of reporting, he or she is required to appoint a bank to file campaign finance reports with OCPF. As part of the organizational process, candidates and committees were required to file what's called an "initial report," showing activity that may have happened before the bank account was opened.

The newly formatted form allows candidates and committees to check a box if no money was raised or spent prior to opening the bank account. *If the box is checked, then no initial report is required.* If the box is not checked, an initial report is required.

Click here to view the new form (D103 form).

*We changed it to make it easier!

