

CAMPAIGN FINANCE GUIDE

Municipal Ballot Question Committees



Office of Campaign and Political Finance
Commonwealth of Massachusetts

This booklet is designed to introduce the Commonwealth's campaign finance law to treasurers and other officials of political committees organized to favor or oppose a question appearing on a municipal ballot. The Office of Campaign and Political Finance (OCPF) is responsible for administering Massachusetts General Laws Chapter 55, the campaign finance law. OCPF is available to assist individuals in understanding and complying with the statute and encourages candidates, treasurers, committee members, campaign workers and any interested persons to familiarize themselves with these laws and regulations.

This publication is meant only to be an introductory guide to the campaign finance law, not a substitute for it. It is the responsibility of all those participating in political campaign financing in Massachusetts to become familiar with the provisions of the law and regulations. Violations of the law carry serious penalties of fines, imprisonment or both. For additional information, please contact:

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Office of Campaign and Political Finance

Chapter 1173 of the Acts of 1973 strengthened the state campaign finance law and established the Office of Campaign and Political Finance. While the 1970s saw a push for reforms in campaign finance disclosure laws all across the country, portions of the campaign finance law were on the books in Massachusetts as early as 1884. Some of those original laws provide for restrictions on and protections for public employees and will be discussed later in this brochure. Significant changes to the law were made in 1994 and 2009. Some of these changes affect municipal ballot question committees and are addressed in detail in this brochure.

The Campaign Finance Law

Chapter 55 of the Massachusetts General Laws is a comprehensive statute governing the financing of political campaigns in the Commonwealth. The statute requires, for example, that candidates and political committees disclose all contributions received and expenditures made. The campaign finance law also provides for limitations, and in some cases absolute prohibitions, on certain sources of campaign contributions. Additionally, the way in which campaign funds may be spent is regulated by the statute as well as by regulations and guidelines established by OCPF. Finally, Chapter 55 regulates certain conduct in connection with the raising and spending of campaign funds, such as the activities of public employees, and prohibits the use of governmental resources for political purposes. OCPF has promulgated regulations (970 CMR) on contributions and expenditures, which should be consulted for more specific guidelines on these requirements.

The Municipal Ballot Question Committee

A ballot question committee is defined as “a political committee which receives or expends money or other things of value for the purpose of favoring or opposing the adoption or rejection of a specific question or questions submitted to the voters including, without limitation, a charter change, an initiative or referendum question or a constitutional amendment.” If you are thinking of undertaking any activity related to a ballot question, we urge you to contact OCPF or your local election official (city or town clerk or election commission) prior to doing so, because expenditures made before a question is placed on the ballot may be subject to the provisions of Chapter 55. If a ballot question appears on a municipal ballot, a committee favoring or opposing such a question must register its committee and file reports with the city or town clerk or election commission in that municipality prior to raising any money. This brochure is designed to assist you in this process.

If a question is submitted to all voters in the state or a county or a legislative district, the committee should contact OCPF for the proper filing requirements or consult OCPF’s *Campaign Finance Guide: State Ballot Question Committees* for further information.

Organization and Disclosure Forms

The following is a summary of the appropriate forms required for municipal ballot question committees and their purpose. OCPF staff would be glad to review with you these forms and the procedures for filing them.

CPF M 101 BQ: Statement of Organization Municipal Ballot Question Committee

By law, the name of a ballot question committee must clearly identify the economic or other special interest of a majority

of its contributors, and, if a majority of its contributors share a common employer, identify that employer. If the economic or other special interest or common employer of contributors is not identifiable, then the committee must use a name that clearly identifies the economic or other special interest of a majority of its organizers, and, if a majority of its organizers share a common employer, identifies that employer. If the committee is organized, financed, controlled or maintained by an individual, the name of the committee must identify that individual. No ballot question committee may use any name other than the name in its Statement of Organization.

A ballot question committee may not accept any contributions nor incur any expenses until its treasurer qualifies for such office by completing, signing and filing Form CPF M 101 BQ with the local election official. This form contains the names and addresses of the committee chairman, treasurer and any other officers, including finance committee members, if any. Any change in information previously submitted should be reported to the city or town clerk within 10 days of such change. Political committees are prohibited from receiving or expending funds without a qualified treasurer. Any change in treasurer should therefore be submitted by completing Form CPF M T 101 (Change of Treasurer) and filing it immediately with the local election official.

By law, a committee must name a chairman and a treasurer. The chairman and the treasurer may be the same person, unless that person is a public employee. A public employee may not serve as the treasurer of any political committee since such a position would involve the solicitation and/or receipt of contributions for a political purpose, which is prohibited by law. (See *Public Employees, Buildings and Resources* on page 11).

CPF M 102: Campaign Finance Report

Every ballot question committee is required to complete and file Form CPF M 102 with the city or town clerk or election commission on or before each reporting date as discussed in

the next section, **Filing Deadlines**. The committee treasurer signs this report under the penalties of perjury and is responsible for the accuracy of each of the reports. The following information should be filed on or with Form CPF M 102:

- o **Schedule A - Receipts**: An alphabetical listing of all contributions and other receipts in excess of \$50 in a reporting period, including the date the contribution was received and the address of the contributor, which, if the contributor is an individual, must be his or her residential address. Receipts of \$50 and under may be added together on Line 10 and included in total receipts on Line 11. However, complete information, including date, name, address and amount must be kept by the committee regardless of the amount of the contribution. If the contribution is \$200 or more, or if the individual's total contributions are \$200 or more in the calendar year, the occupation and employer of the contributor must also be disclosed.
- o **Schedule B - Expenditures**: An alphabetical listing of all disbursements in excess of \$50 with the amount and date of payment, the name and address of the payee and the purpose of the expenditure. Amounts of \$50 or less may be totaled on Line 13 and included in total expenditures on Line 14.
- o **Schedule C - In-Kind Contributions**: An alphabetical listing of all contributions of anything of value other than money worth in excess of \$50 in a calendar year. This listing includes the date, the name and residential address of the contributor and a description of the contribution. The occupation and employer of any contributor of \$200 or more, whether it is in money, in-kind goods or services, or a combination of both, is also required. In-kind contributions valued at \$50 or less may be added together on Line 16 and included in the total of all in-kind contributions for the period on Line 17. In-kind contributions do not include volunteers' personal services or the exercise of ordinary hospitality.

- o Schedule D - Liabilities: An alphabetical listing of all outstanding unpaid obligations, including loans, as of the last day of the reporting period, regardless of when the liability was incurred. Included are the amount, the date the liability was incurred, the name and address to whom it is due and the purpose of the liability. Liabilities are carried over from each report to the successive report until they are satisfied.

- o Schedule E - Disclosure of Assets Statement: A listing of all assets acquired or disposed of during that calendar year which have a useful life of more than one year, would be depreciable in a normal business environment, and have a cost/value of \$1,000 or more at the time of acquisition. This schedule is filed only once each year with the Form CPF M 102, due on or before January 20, or upon dissolution of the committee.

All of the above information is summarized on the front page of Form CPF M 102. Detailed instructions for completing Form CPF M 102 are available from OCPF or your local election official.

Records of all receipts and expenditures must be maintained by the committee for all of its activities, regardless of amount. Treasurers of all political committees are required by law to preserve detailed accounts, vouchers and receipts for six years from the date of the relevant election.

Filing Deadlines

Municipal ballot question committees are required by statute to file periodic campaign finance reports (Form CPF M 102). **These reports must be filed whether or not money has been raised or expended during the reporting period and wheth-**

er or not the question has passed or failed. Reports are due to the city or town clerk or election commission by the close of business on the day the report is due. **The treasurer of the committee is personally liable for a \$25 per day late fine imposed for each day a report is late.** The following is the schedule for filing reports:

- o Pre-Election Report: Due on or before the 8th day preceding the city or town election at which the question is on the ballot, complete from the day following the ending date of the last report filed through 10 days before the due date. (If the question is on the general election ballot in a city, no report is due before the preliminary election.) The activity period is from the day following the date of the last municipal election through 10 days before the due date.

- o 30 Day After Election Report (Town Elections and Special Elections in Cities): Due on or before the 30th day following any town election or a special election in a city, complete from the day following the ending date of the pre-election report through 10 days before the due date. A committee may designate this as a final report if the committee has no cash balance, assets or outstanding liabilities and is shutting down.

- o Year-End Report: Due on or before January 20, complete from the day following the ending date of the last report filed through December 31, for any existing ballot question committee.

Dissolution of a Committee

In most instances a ballot question committees must dissolve once a final determination regarding the adoption or rejection of the question has been made by the voters. Committees must

file a report showing no cash balance, liabilities or assets in order to be able to dissolve.

M.G.L. Chapter 55, Section 18 requires that all residual funds from ballot question committee accounts be donated to one of the following: (1) the Commonwealth of Massachusetts General Fund, (2) the general fund of a city or town, (3) a scholarship fund, or (4) a charitable or religious organization. Donations to scholarship funds and charities are subject to certain restrictions. Contact OCPF for more information.

Receipts and Expenditures

The laws regarding ballot question committees are primarily disclosure laws and do not, generally, place limitations on contributions to such committees.

- o *Individuals* may contribute to ballot question committees in any amount.
- o *Corporations*, including business, professional and not-for-profit corporations, may contribute to ballot question committees without limitation. Any corporation that has expended any money or anything of value, or promised to do so, in order to influence or affect the vote on any question submitted to voters at a city or town election must file Form CPF M 22 (Report of Ballot Question Expenditures by Corporation or Organization) with the city or town clerk or election commission of the municipality in which the election was held. Form CPF M 22 is filed on the same schedule set forth for municipal ballot question committees earlier in this guide. **Form CPF M 22 is not required for monetary or in-kind contributions made directly to ballot question committees.**
- o Partnerships and other unincorporated businesses may also contribute to ballot question committees without limitation,

and file a Form CPF M 22 to disclose all ballot question expenditures that are made separate from a ballot question committee. A ballot question committee receiving contributions from an unincorporated business must disclose those contributions as having been received from the individual partner along with the name of the D/B/A or unincorporated business. **Form CPF M 22 is not required for monetary or in-kind contributions made directly to ballot question committees.**

- o A sole proprietor may also contribute to ballot question committees. A ballot question committee receiving contributions from a sole proprietor must disclose those contributions as having been received from the individual proprietor along with the name of the D/B/A or unincorporated business. **A sole proprietor who makes expenditures independent from a ballot question committee in support or opposition to a ballot question would be required to file a Form CPF M 22.**
- o *Organizations and other groups* may contribute to ballot question committees without limitation. Groups (such as an association, trust, school PTO or other civic group) that have expended any money or any valuable thing, or promised to do so, in order to influence or affect the vote on any question submitted to the voters must file Form CPF M 22 (Report of Ballot Question Expenditures by Corporation or Organization) with the local election official on the same filing schedule set forth for municipal ballot question committees. **Form CPF M 22 is not required for monetary or in-kind contributions made directly to ballot question committees.**
- o **Individuals who spend money or incur liabilities of \$250 or more to directly support or oppose a ballot question will file a Form CPF M 22 with the local election official.** The reports are due with the city or town clerk as follows:

1. The eighth day preceding a preliminary or primary, complete through the 18th day prior to the preliminary.
2. The eighth day preceding a city or town election, complete through the 18th day prior to the election.
3. In city elections: on Jan. 20 in the following year, complete as of Dec. 31.
4. In towns: 30 days following an election.

No filings are due if expenditures were not made during the reporting period covered.

The requirement to file a Form CPF M 22 does not include the disclosure of direct contributions that individuals make to organized ballot question committees, since the ballot question committee reports the receipts on its campaign finance reports.

- o Committees organized on behalf of *candidates for statewide constitutional office* are prohibited from making contributions to a ballot question committee. Other candidate committees may contribute without limit to ballot question committees, provided the contribution enhances the political future of the candidate.
- o Each contributor must furnish the committee with his or her name and residential address at the time the contribution is made.
- o A committee must disclose the name and address of each contributor of more than \$50 in a calendar year. If an individual gives \$200 or more in a calendar year, the committee must also ask once at the time of solicitation and, if necessary, in one written follow-up request for the contributor's occupation and employer. A copy of the written request must be kept as part of the committee's records. If a contributor still does not provide the information after the two requests, the committee has complied with the law and may keep the contribution.

- o A city, town or other governmental unit may not give, pay, expend or contribute money or anything of value to a ballot question committee, or promise to do so, nor may a city, town or other governmental unit make expenditures or use public resources to promote or oppose any question that appears on a state or municipal ballot. If, however, a city, town or other governmental unit has made such a contribution or expenditure, its treasurer must file Form CPF 22A (Report of Governmental Treasurer) with the local election official.

- o Any contribution exceeding \$50 in the aggregate during a calendar year must be made by check. Cash, money orders, cashier's checks, bank checks, payroll deductions, etc. are prohibited in any amounts greater than \$50 in the aggregate per contributor per calendar year. Contributions may be made by credit card; however, candidates and committees should contact OCPF for its regulations concerning the process.

- o A ballot question committee may make expenditures only for the enhancement of the principle for which the committee was organized (e.g., a specific ballot question or questions), provided such expenditures are not primarily for anyone's personal use. Expenditures may be made to reimburse an agent of the committee for expenses paid out of pocket for the benefit of, and with the authorization of, the committee, provided that disclosure is made of the original expenditure.

- o No person who is authorized to make expenditures on behalf of a ballot question committee can sign a committee check payable to himself or herself.

Public Employees, Buildings and Resources

OCPF administers Sections 13-17 of M.G.L. Chapter 55, which concern political activity involving public employees, buildings and other resources that are publicly funded. These laws were designed to: protect public employees from being coerced into providing political contributions or services as a condition of their employment; protect individuals doing business with the public sector from being coerced into providing political contributions or services; and separate governmental activity from political campaign activity.

OCPF has published a *Guide to Political Activity for State, County and Municipal Employees*, which is available upon request. The following is a summary of the limitations on the political finance activities of public employees and the use of public buildings and resources in campaigns:

- o No state, county, city or town employee employed for compensation, other than an elected official, may directly or indirectly solicit or receive any contribution or anything of value for any political purpose.
- o If a person is both a public employee and an elected official, the prohibitions against soliciting or receiving political contributions would still apply to him or her.
- o No person may solicit or receive campaign contributions in a building occupied for any state, county or municipal purpose.
- o No person in the public service may be compelled to make a political contribution or to render any political service, and no public official or employee may be prejudiced in his or her employment for failure to make a political contribution or be rewarded for making a political contribution.

- o A political committee may not solicit or receive a contribution on behalf of a candidate who is public employee if the contributor has an interest in any particular matter in which the employee participates or which is the subject of his official responsibility.
- o No public resource may be expended or utilized in order to promote or oppose the nomination or election of any candidate to public office or to promote or oppose any ballot question placed before the voters. Examples of public resources include: paid staff time of public employees, office equipment, vehicles, buildings and supplies.

In some cases, agency policy or the conflict-of-interest law, M.G.L. Chapter 268A, may establish additional standards for political activity by public employees. Public employees should consult the State Ethics Commission (617-371-9500) as well as their supervisors or agency heads.

Seeking Guidance from OCPF

OCPF welcomes inquiries regarding campaign finance activities. The office issues written advice, including advisory opinions and guidance letters, to individuals based on written requests describing specific facts and circumstances. OCPF can issue opinions only on prospective activities. If you have any questions concerning advisory opinions, please contact the office. You may also obtain informal, oral advice by calling the office at the numbers listed in the front of this brochure.

In addition to issuing specific written advice, OCPF occasionally issues interpretive bulletins and memoranda setting guidelines on a variety of subjects. These documents are available from OCPF and may be helpful in assisting candidates, committees and other organizations.

Filing a Complaint

Individuals with information concerning possible violations of the campaign finance laws may call or write OCPF. If you have reason to believe that a violation has occurred, you may file a complaint. The office reviews all matters brought to its attention, regardless of the source of the complaint. The identity of complainants is kept confidential.

OCPF cannot comment on any matter that is under review or investigation. Consequently, an individual making a complaint will not receive periodic information on the status of the complaint. The complainant will receive notice, however, of any public disposition of a case.

Frequently Asked Questions

Q: *What is the difference between a ballot question committee and a political action committee?*

A: While they are frequently confused with each other, ballot question committees and PACs differ in several ways. A ballot question committee is organized to favor or oppose a specific question submitted to voters at an election. A PAC is organized to influence the nomination or election of candidates, not the adoption of a ballot question. A ballot question committee must dissolve after the final resolution of the question, while a PAC may continue in existence indefinitely. Finally, a ballot question committee may not contribute to a PAC, but a PAC may contribute to a ballot question committee.

Q: *How much may I contribute to a municipal ballot question committee?*

A: An individual may contribute, in his or her own name, to a ballot question committee in any amount.

Q: *How would I change some information on the previously filed Form CPF M 101 BQ (Statement of Organization)?*

A: Any changes to the originally filed Form CPF M 101 BQ must be made within 10 days of the actual change. For most changes, a letter of amendment clearly stating the change from the previously filed Form CPF M 101 BQ may be filed with your city or town clerk or election commission. The sole exception to this is in the case of a change of treasurer, for which the treasurer must file a Form CPF M T 101 (Change of Treasurer) with his or her local election official. No funds may be raised or spent by the committee until the new treasurer is appointed.

Q: *May the treasurer and chairman of a ballot question committee be the same person?*

A: Yes, unless such person is a public employee. A public employee cannot be a treasurer of any political committee.

Q: *What tax identification number should I give to the bank when opening an account for the committee?*

A: Political committees should consult the Internal Revenue Service for information on how to obtain a federal tax identification number. In addition, you should contact the Massachusetts Department of Revenue for information on any state tax requirements that may be applicable.

Q: *Who may be authorized to sign checks on the account?*

A: The treasurer of the committee may authorize one or more individuals to act on the treasurer's behalf. However, those persons must abide by all requirements of M.G.L. Chapter 55 and must provide the treasurer with a detailed account of all actions taken on his or her behalf on demand or, in any event, within three business days. No person who is authorized to sign checks on behalf of the ballot question committee can sign a committee check payable to himself or herself.

Q: *May a corporation contribute to a municipal ballot question committee?*

A: Yes, and it may do so in any amount. The ballot question committee discloses the contribution.

Q: *I am an appointed public employee. May I ask a friend or neighbor to contribute to a ballot question committee?*

A: No. Section 13 prohibits such solicitation at all times.

Q: *What are the restrictions on the use of public resources to support or oppose a ballot question?*

A: The Massachusetts Supreme Judicial Court ruled in *Anderson v. City of Boston* (1978) that the campaign finance law prohibits cities, towns and other governmental units from using their resources or facilities to influence the vote on a ballot question. However, certain policy-making officials may, within limitation, act or speak on ballot questions in their official capacities. Officials should contact OCPF for more information.

Q: *May an organization other than a political committee (such as a school PTO or other grass roots civic group) make a contribution or expend money to influence a question appearing on a ballot?*

A: Yes. Such contributions and expenditures are allowed without limitation. If a direct expenditure is made separate from any ballot question committee, the group making the expenditure files with the city or town clerk Form CPF M 22 (Report of Ballot Question Expenditures by Corporation or Organization), disclosing its expenditures made to influence the question. Such expenditures must come out of the organization's general revenues: if a group raises funds specifically for the purpose of spending the money on a ballot question, it is acting as a ballot question committee and therefore must register as such with the local election official.

Q: *We are organizing a ballot question committee to promote an advisory question that will ask voters of a legislative district to instruct their senator or representative to vote a certain way. Where do we register the committee? Where*

do corporations and organizations report any expenditures concerning the question?

- A. All activity concerning such a question is reported to OCPF, not the local election official, on a schedule that is different from that followed by local committees and organizations. Contact OCPF for more information.

- Q. Our ballot question committee is depositing five \$500 contributions within 18 days of the election. Do we need to disclose those large, late contributions prior to the election?**
- A. No. The requirement to disclose contributions of \$500 or more within 18 days of an election applies only to ballot question committees that file with OCPF.

- Q. I want to personally spend money to support or oppose a question on our municipal ballot. Do I have a filing requirement?**
- A. Yes. Individuals who spend money or incur liabilities of \$250 or more to directly support or oppose a ballot question will file a Form CPF M 22 with the local election official.

Campaign Finance Guides available from OCPF:

Statewide, County and Other “Depository” Candidates
General Court (Legislative) Candidates
Candidates for Municipal Office
State Ballot Question Committees
Municipal Ballot Question Committees
Political Action Committees and People’s Committees
Ward, Town and City Political Party Committees
Public Employees, Public Resources and Political Activity
Local Election Officials

All OCPF guides are available online.

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