

PENNSYLVANIA

CAMPAIGN FINANCE AND BALLOT MEASURE GUIDE

These resources are current as of 3/3/08: We do our best to periodically update these resources and welcome any comments or questions regarding new developments in the law. Please email us at advocacy@afj.org.

Some information presented in this resource may have been modified by the Supreme Court decision in Citizens United v. FEC (January 21, 2010), particularly with respect to state laws prohibiting independent expenditures or electioneering communications by corporations. Please visit AFJ's [Citizens United: What Now?](#) section of our website for additional information.

This guide summarizes key aspects of state campaign finance law and regulations. It is not intended to provide legal advice or to serve as a substitute for legal advice

In some jurisdictions, city and/or county regulations may also apply to certain political activities. Check with the appropriate local jurisdiction before undertaking any activity.

CONTRIBUTION LIMITS AND SOURCE RESTRICTIONS

	To Candidates			To Committees		
	Statewide and Legislative	Philadelphia	Other Local	Political Committees	Parties	Ballot Measures
From:						
Individuals	Unlimited	\$2,500 ¹ per calendar year	Unlimited	Unlimited	Unlimited	Unlimited

¹ If one candidate for any particular office contributes more than \$250,000 of his or her personal funds to his or her campaign, then the contribution limits to all other candidates for that office are doubled. Phil. City Code § 20-1002(6).

PACs	Unlimited	\$10,000 ¹ per calendar year	Unlimited	Unlimited	Unlimited	Unlimited
Partnerships	Unlimited	\$10,000 ¹ per calendar year	Unlimited	Unlimited	Unlimited	Unlimited
Corporations and unions	Prohibited	Prohibited	Prohibited	Prohibited	Prohibited	Unlimited

P.S. § 3253; Philadelphia City Code § 20-1002.

Aggregation:

- There are not aggregate limits for individuals or PACs under Pennsylvania or Philadelphia law. An individual or PAC may contribute an unlimited amount of money each year, distributed among any number of sources.

Legislative Session:

- The law imposes no timing restrictions on contributions. As a matter of legislative practice, contributions are not to be delivered on the floor of the legislative chamber while the House or the Senate is in session, but there is no prohibition on delivering contributions in a state office building.

Corporate Contributions:

- Corporations, labor unions and unincorporated associations may not use their general treasury funds for political contributions, unless the entity was formed primarily for political purposes. 25 P.S. § 3253(a).
- Corporations and labor organizations may sponsor a political committee and pay its administrative expenses, but all PAC funds to be used for political contributions or expenditures must be obtained from individuals. 25 P.S. § 3253(c).
- Conventional partnerships and limited liability companies may make contributions, but they may not use any funds belonging to a partner or member that is a corporation. 25 P.S. § 3253(d). A limited liability company that makes a contribution shall affirm to the recipient candidate or committee that the limited liability company is treated as a partnership for Federal tax purposes and that the contribution for the limited liability company does not contain corporate funds. *Id.*

Membership Communications:

- Corporate or union communications to stockholders and members “on any subject” are expressly permitted, and expenses related to them do not need to be reported. 25 P.S. § 3253(c).

COMMUNICATIONS

Issue Advocacy vs. Express Advocacy:

- The Pennsylvania Attorney General agreed to a Stipulated Judgment that construed the prohibition on corporate and union expenditures made in connection with a candidate's election or for any other political purpose to "apply only to spending for 'express advocacy' as that term is defined in *Buckley [v. Valeo]*," thus adopting the so-called "magic words" test from *Buckley v. Valeo* to determine whether a communication is issue advocacy permissible for corporations and unions, or whether it is express advocacy, which corporations and unions may not fund. *Center for Individual Freedom v. Thomas Corbett, Attorney General of the Commonwealth of Pennsylvania*, Civil Action No. 07-2792 (E.D. Pa.) (Stipulated Judgment entered August 18, 2007) (per Anita B. Brody, U.S.D.J.). However, when the Center for Individual Freedom sponsored television advertisements lauding the career of an incumbent judge seeking election to the state Supreme Court, with the advertisements broadcast in the week preceding the November 2007 election, both the Attorney General and the Secretary of the Commonwealth sued the Center for Individual Freedom arguing that although the advertisement omitted the so-called "magic words" it constituted express advocacy for the election of the candidate. The state court judge denied an injunction. Litigation is ongoing in the federal court between CFIF and the state officials concerning the effect of the Stipulated Judgment.

INDEPENDENT EXPENDITURES

- Expenditures are "independent" when made for the purpose of influencing an election and made without the cooperation, consultation, request or suggestion of any candidate, campaign or candidate's agent. 25 P.S. § 3241(e).
- Corporations and unions are prohibited from making independent expenditures from their general funds. See 25 P.S. § 3253(a).
- Reporting Schedule:
 - PACs report their independent expenditures as part of their regularly filed reports. The reporting schedule varies depending on the election dates of candidates supported by the PAC, as described below.

A person other than a PAC that makes independent expenditures totaling more than \$100 for or against a candidate or ballot question in a calendar year must disclose those activities on the reporting schedule applicable to PACs. 25 P.S. § 3246(g). The reporting form is

available at:

(<http://www.dos.state.pa.us/campaignfinance/cwp/view.asp?a=1343&q=447730&campaignfinanceNav=1>)

Independent expenditures of \$500 or more made within the last fourteen days before an election must be reported within 24 hours. 25 P.S. § 3248.. The requirement to report within 24 hours is triggered by a payment to support independent campaign activity, 25 P.S. § 3241(d)(“Definitions”—“expenditure”), and not by the manifestation of the campaign activity, such as the broadcast of independent advertisements. Each additional payment of \$500 or more that is not covered by the first report triggers a requirement to file an additional report within 24 hours. Reports as to statewide, legislative and judicial races may be made to the Department of State by “telegram, mailgram, overnight mail or facsimile transmission” (717-705-0721) or by email (ra-bcel@state.pa.us) or in person at 210 North Office Building, Harrisburg. Reports as to county and municipal races are made to the county board of elections.

- Disclaimers:

Disclaimers are required on independent expenditures for materials that are broadcast; mailed or published in a newspaper or magazine; billboards; and on all other general public political advertising. 25 P.S. § 3258. Disclaimers are not required on telephone calls, emails or websites. A proposed regulation under the Lobbying Disclosure statute would explicitly require a disclaimer that “clearly and conspicuously state[s] the name of the person who made or financed the communication” on “automated telephone calls” that constitute “indirect communications” (so-called “grassroots lobbying”) under that statute. Proposed Regulation § 55.1(o).

- The disclosure must identify the name of the PAC paying for the expenditure and the name of any affiliated corporation or organization. See 25 P.S. § 3258(a)(2). No particular wording is specified in the statute.

DISCLAIMERS

- Communications “expressly advocating the election or defeat of a candidate or ballot question” must disclose the name of the person who paid for the communication. A PAC must disclose the name of any affiliated or connected organization. 25 P.S. §3258(a). The state does not require that any specific wording be used.
 - The disclaimer is required for communications distributed through a broadcast station, newspaper, magazine, billboard, direct mail, or “any other type of general public political advertising.” *Id.* Disclaimers are not required on telephone calls, emails or websites.

A proposed regulation under the Lobbying Disclosure statute would explicitly require a disclaimer (“clearly and conspicuously state the name of the person who made or finance the communication”) as to “automated telephone calls” that constitute “indirect communications” (so-called “grassroots lobbying”) under that statute. Proposed Regulation § 55.1(o).

REGISTRATION AND REPORTING REQUIREMENTS

Registration as a Pennsylvania Political Committee:

- An entity must register as a political committee upon receiving contributions exceeding \$250 during a reporting period. Within 20 days of triggering the registration requirement, the PAC must file a registration statement with the appropriate election supervisor. 25 P.S. § 3244. The registration statement, Form DSEB-500, is available here. (<http://www.dos.state.pa.us/campaignfinance/cwp/view.asp?a=1343&q=447730&campaignfinanceNav=1>)
- The “appropriate supervisor” with whom to file reports is the Department of State for PACs related to state-level candidacies (statewide elective office, State Senate and State Representative, and Judges) and the county boards of elections for PACs related to county and municipal candidacies.

Out-of-State PACs:

The statute does not distinguish between in-state and out-of-state political committees. The Department of State takes the position that expenditures by an out-of-state political committee exceeding \$250 during a reporting period triggers a requirement to register in Pennsylvania as a PAC and thereafter to file detailed campaign finance reports on the same schedule required for in-state PACs.

- Because Pennsylvania has no contribution limits, some national corporations are believed to have organized separate Pennsylvania political committees, rather than use a multi-state committee.
- On an ad hoc basis, federal committees making contributions to Pennsylvania non-federal candidates have been permitted to file in Pennsylvania a registration statement on the Pennsylvania form and copies of their most appropriate (in terms of time frame) FEC reports, i.e., the FEC report(s) for the time period(s) in which contributions were made to Pennsylvania non-federal candidates.

POLITICAL COMMITTEE RECORD KEEPING AND ADMINISTRATION

PAC Administration

Bank Account:

- A Pennsylvania political committee does not need to have an in-state bank account.

Treasurer:

- The state does not impose any special requirements on a PAC's treasurer; the treasurer may be anyone. However, a lobbyist may not serve as the treasurer or chairman of a "candidates's political committee or a candidate's political action committee if the candidate is seeking a Statewide office or the office of Senator or Representative in the General Assembly." 65 Pa. C.S. § 1307-A(a).

Affiliated Organizations:

- A corporation or unincorporated association may pay to establish and administer an affiliated PAC, including paying the fundraising costs of that PAC. 25 P.S. § 3253(c). The corporation or association may pay to raise money from members and nonmembers alike. These costs do not need to be reported as a contribution to the PAC.

PAC Reporting

- The extent of information required to be reported regarding a contributor depends on the aggregate amount that the donor contributed during a reporting period.
 - Contributions aggregating \$50 or less during a reporting period need not be itemized.
 - Contributions from a donor aggregating \$50.01 to \$250 during a reporting period must be reported with the full name and mailing address of the contributor.
 - Contributions from a donor aggregating more than \$250 during a reporting period must be reported with the contributor's full name and mailing address, occupation, employer, and principal place of business. Although these requirements were not strictly enforced prior to 2000, there has recently been increasing scrutiny of the reports and efforts to require compliance.
25 P.S. § 3246(b).
- All expenditures, regardless of amount, must be itemized, including the name of the person to whom it was made, and its purpose. 25 P.S. § 3246(b)(4).
- A PAC does not need to report expenses paid on its behalf by an affiliated corporation or association.

Filing Schedule:

A PAC's reporting schedule is determined by its expenditures, but all PACs must file an annual report until it terminates its registration. Reporting calendars are available here.

(<http://www.dos.state.pa.us/campaignfinance/cwp/view.asp?a=1343&q=447737&campaignfinanceNav=|>)

- Annual report: All PACs must file an annual report by January 31, regardless of their activity, disclosing all expenditures from January 1 to December 31 of the prior year, and itemizing all donors whose contributions aggregated more than \$50 during that period. See 25 P.S. § 3247.
- 6th Tuesday pre-election report: A PAC that has made a contribution or expenditure to influence the election of a statewide candidate must file a report by the sixth Tuesday before the candidate's election. This report must disclose all activity as of 50 days before the election. 25 P.S. § 3246(d).
 - For the 2008 election, the statewide candidates on the ballot are Attorney General, Auditor General, and State Treasurer. The 6th Tuesday pre-primary report is due March 11, 2008, complete as of March 3. The 6th Tuesday pre-general election report is due September 23, complete as of September 15.
- Second Friday pre-election report: A PAC that has made a contribution or expenditure to influence the election of any candidate (statewide, legislative or local), must file a report by the second Friday prior to the candidate's election, complete as of 15 days before the election. 25 P.S. § 3246(d).
 - For the 2008 election, the 2nd Friday pre-primary report is due April 11, 2008 complete as of April 7, and the 2nd Friday pre-general election report is due October 24, complete as of October 20.

24-Hour "Late contribution" and Independent Expenditure reports:

Contributions and pledges of \$500 or more, and independent expenditures of \$500 or more, must be reported within 24 hours of the receipt or expenditure if they are received in the final 14 days before an election. The report must be filed by overnight mail, fax, or in person. 25 P.S. § 3248. Twenty-four hour reports to the Department of State (as to statewide, legislative and judicial candidates) can also be filed by email (ra-bcel@state.pa.us)

- Post-election report: A PAC that has made a contribution or expenditure to influence an election must file a post-election report no later than 30 days after the election, complete as of 20 days after the election. 25 P.S. § 3246(e).

Filing:

- The state's reporting forms are available here.
(<http://www.dos.state.pa.us/campaignfinance/cwp/view.asp?a=1343&q=447730&campaignfinanceNav=|>)
- Reports are searchable on the Pennsylvania Department of State here.
(<http://www.campaignfinance.state.pa.us/CFHome.aspx>)
- Electronic filing:
 - At the state level, electronic filing is optional. While encouraged, it is not required. The online filing system is available here.
(http://www.dos.state.pa.us/cf_onlinefiling/cwp/view.asp?a=3&q=441353)
 - The City of Philadelphia requires electronic filing for reports related to City elective office. Reports are posted for Internet access both by the Department of State and by the City of Philadelphia. Reports posted by the City of Philadelphia are searchable.

Terminating a PAC.

- A political committee may file a termination statement after ceasing its operations and either returning all unexpended funds pro rata to its contributors (which is so burdensome as rarely to be done) or by contributing its remaining funds to another political committee; Pennsylvania does not permit a charitable disposition of residual political committee funds. 25 P.S. §3250.
- Until a political committee files a termination statement, its treasurer is required to file annual reports. *Id.*

ENFORCEMENT AND PENALTIES

- Late filing fees of \$10 per day, up to a maximum of \$250 for a single late report, are imposed on a treasurer or candidate that fails to meet the filing deadlines; the late filing fees are the personal obligation of the delinquent filer and cannot be paid by the political committee. 25 P.S. § 3252(a).
 - Especially egregious instances of failures to file reports are occasionally referred for criminal prosecution.

BALLOT MEASURES

- Ballot-measure political committees are subject to the same registration and filing requirements as other political committees. Independent expenditures relating to a ballot measure are subject to the same requirements. Because Pennsylvania has no citizen-petition procedure to initiate a ballot measure, most ballot-measure committees are organized to support or oppose judges who are standing for retention in a “yes” or “no” referendum following an initial 10-year term.

PHILADELPHIA CAMPAIGN FINANCE ORDINANCES

- Unlike the state, Philadelphia imposes contribution limits on individuals and PACs. The limits apply to all City elective offices: Mayor, District Attorney, City Controller, Register of Wills, Sheriff, Clerk of Court, city Commissioner or City Council.
 - Individual limits: \$2,500 per candidate in a calendar year.
 - PAC and partnership limits: \$10,000 per candidate in a calendar year.Philadelphia City Code §§ 20-1002(1), (2).
- If a candidate for a particular office makes contributions totaling \$250,000 or more to his or her campaign from his or her own personal resources, the limits applicable to all other candidates for that office will be doubled. § 20-1002(6).
- Campaign reports must be filed electronically, on the same schedule required by the state. § 20-1006(1).
- Enforcement powers are granted to the City Board of Ethics. § 20-1006(4).
- During 2006, the City's power to enact campaign contribution limits was challenged in the Pennsylvania Supreme Court, which on December 28, 2007, sustained the City's power.
- Under a different ordinance, codified as Philadelphia City Code Chapter 17-1400, individuals and business entities can be barred from receiving City non-bid contracts or other City financial benefits through their participation in soliciting contributions.

CONTACT INFORMATION FOR STATE AND LOCAL AGENCIES

The website of the Pennsylvania Department of State (www.dos.state.pa.us) provides access to the forms required to register political committees and file campaign finance reports. The Department also posts the names of vendors whose software is approved for the filing of electronic reports.

General inquiries: (717) 787-5280.
Office of Chief Counsel: (717) 783-0736.
FAX: (717) 787-0251

Website: <http://www.dos.state.pa.us/campaignfinance/site/default.asp>

Pennsylvania Department of State
210 North Office Building
Harrisburg, PA 17120

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FOR FURTHER ASSISTANCE

For assistance regarding these resources or for more information about federal law, please contact our attorney one-on-one counseling service:

**Email: Advocacy@afj.org
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(675-6229)**

For assistance regarding state law in Pennsylvania, please contact:

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