



# Georgia Campaign Finance and Ballot Measure Guide

These resources are current as of 2/28/19. We do our best to periodically update these resources and welcome any comments or questions regarding new developments in the law.

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**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.**

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# OVERVIEW

## Georgia Elections Generally

The Georgia Government Transparency and Campaign Finance Commission (the “Commission”) administers and enforces the laws regulating state and local elections in Georgia. The Commission also promulgates rules within the scope of the Georgia Government Transparency and Campaign Finance Act (the “Act”) and regulates the conduct of public officials and lobbyists.

Elections for the Georgia House of Representatives are held every even-numbered year. Georgia representatives serve two-year terms. *Ga. Const. art III, § II, para. V.*

Elections for the Georgia State Senate are likewise held every even-numbered year. Georgia senators serve two-year terms. *Id.*

Georgia elects statewide executive officers every four years. Governors are limited to two consecutive terms of four years. *Ga. Const. art V, et seq.*

Statewide executive offices are as follows:

- Governor
- Lieutenant Governor
- Secretary of State
- Attorney General
- Labor Commissioner
- State School Superintendent
- Commissioner of Agriculture
- Commissioner of Insurance
- Public Service Commission
  - Five members elected at the district level

Georgia superior court and state court judges are elected on a nonpartisan basis for a term of four years. *Ga. Const. art VI, § VII, para I.*

All justices of the Supreme Court and judges of the Court of Appeals are likewise elected on a nonpartisan basis; however these judges serve for a term of six years. *Id.*

**Nonprofits may work on ballot measures, and the registration and reporting requirements are addressed on page 18.**

## Important Definitions and Georgia-Specific Distinctions

An “Election cycle” is the period from the day following the date of an election or

appointment of a person to elective public office through and including the date of the next election to the same public office. The term is not universal- it is applied separately for each elective office. *O.C.G.A. § 21-5-3(10)*.

An "election year" is the calendar year during which a regular or special election to fill an office is held. The term is applied separately for each elective office. *O.C.G.A. § 21-5-3(11)*.

A "Political Action Committee" ("PAC") is a committee, club, association, partnership, corporation, labor union, or other group of persons that receives donations aggregating in excess of \$1,000 during a calendar year, then distributes those funds as contributions to one or more campaign committees. *O.C.G.A. § 21-5-3(20)*, *O.C.G.A. § 21-5-30.2(a)(4)*

In Georgia, an independent expenditure only PAC is referred to as an Independent Committee. *O.C.G.A. § 21-5-3(15)*.

One organization may operate as both a PAC and Independent Committee so long as that organization uses separate accounting and reporting structures for its independent expenditures and campaign contributions. See *GA Gov't Transparency and Campaign Finance Comm'n Advisory Ops. 2001-32, 2010-02, 2010-05, 2015-02, and 2017-05*.

An "Independent Expenditure" is an expenditure for a communication which expressly advocates the election or defeat of a clearly identified candidate that is made independently of any candidate's campaign. Independent, in Georgia, means that the expenditure was not made with the cooperation, consent of, in consultation with, or at the request or suggestion of a candidate, agent, or authorized committee. *Ga. Comp. R. & Regs. 189-2-.01(12)*, and *Ga. Comp. R. & Regs. 189-3-.01(9)(f)*.

In Georgia, express advocacy consists of "communications containing express words of advocacy of election or defeat, such as 'vote for', 'elect', 'cast your ballot for', 'Smith for Congress', 'vote against', 'defeat', 'reject.'" This test is commonly referred to as the "Buckley" or "magic words" test. *GA Gov't Transparency and Campaign Finance Comm'n Advisory Ops. 2001-32, 2010-5, and 2017-05 citing Buckley v. Valeo, 424 U.S. 1, 44 (1976)*.

# CONTRIBUTION LIMITS AND SOURCE RESTRICTIONS

	To Candidates		To Committees			To Ballot Committees
From	Governor/Statewide	Legislative and Local Candidates	PACs <sup>1</sup>	Independent Committees <sup>2</sup>	Parties	
Individuals	\$6,600 per primary and per general \$3,900 per primary runoff and per general runoff	\$2,600 per primary and per general \$1,400 per primary runoff and per general runoff	No Limit	No Limit	No Limit	No Limit
PACs <sup>1</sup>	\$6,600 per primary and per general \$3,900 per primary runoff and per general runoff	\$2,600 per primary and per general \$1,400 per primary runoff and per general runoff	No Limit	No Limit	No Limit	No Limit
Independent Committees <sup>2</sup>	Prohibited	Prohibited	No Limit <sup>3</sup>	No Limit	No Limit	Prohibited <sup>3</sup>
Corporations <sup>4</sup>	\$6,600 per primary and per general \$3,900 per primary runoff and per general runoff	\$2,600 per primary and per general \$1,400 per primary runoff and per general runoff	No Limit	No Limit	No Limit	No Limit
Party Committee	\$6,600 per primary and per general \$3,900 per primary runoff and per general runoff	\$2,600 per primary and per general \$1,400 per primary runoff and per general runoff	No Limit	No Limit	No Limit	No Limit

<sup>1</sup> In this Guide, the term "PAC" refers to contribution-only political committees.

<sup>2</sup> An "Independent Committee" is a political organization commonly referred to as an independent expenditure only political action committee.

<sup>3</sup> Georgia law does not require Independent Committees or PACs to organize as two distinct legal entities to make independent expenditures as well as contributions, which can make several transaction types shown above irrelevant. For additional information, see Hybrid Organizations below.

<sup>4</sup> See discussion of corporate contributions below for additional information on corporate political activity.

The Commission may raise or lower maximum contribution limits by \$100 increments based on inflation or deflation. The Commission publishes applicable contribution limits on the Commission's web site, <http://ethics.ga.gov/contribution-limits/>. *O.C.G.A. § 21-5-41(k) and Ga. Comp. R. & Regs. 189-1-.07.*

Note: Contribution limitations do not apply to contributions or expenditures made by a political party in support of a party ticket or group of named candidates. *O.C.G.A. § 21-5-41(j).*

## Contributions and Expenditures Generally

- A "Contribution" is defined as anything of value conveyed or transferred for the purpose of influencing an election. Personal services performed by volunteers are excluded from this definition. *O.C.G.A. § 21-5-3(7)*.
- In-kind contributions are deemed "contributions" as the term is used in the Georgia Government Transparency and Campaign Finance Act, are aggregated with other contributions by the same contributor, and cannot exceed maximum contribution limits. *Ga. Comp. R. & Regs. 189-06-.07(2)*.
- An "Expenditure" is anything of value spent for the purpose of influencing an election. Volunteer work is excluded from this definition. *O.C.G.A. § 21-5-3(12)*.

## Contribution Restrictions

### No Aggregate Limit on Individuals

- There is no limit on the total an individual may contribute for political purposes generally as long as all contributions to each individual candidate are within the limits above. Individuals may have to register with the Commission and file regular disclosure reports if certain requirements are met. See discussion on registration and reporting requirements below. *See also O.C.G.A. § 21-5-34(e)*.

### Legislative Session Prohibitions

- Statewide executive officers and members of the Georgia General Assembly (Georgia state representatives and senators) cannot seek or accept contributions or pledges to contribute during legislative session. *O.C.G.A. § 21-5-35*.

### Regulated Entities

- A regulated entity may not contribute to an elected executive officer regulating that entity, or to a candidate for an office regulating that entity. *O.C.G.A. § 21-5-30.1*.
- A "Regulated Entity" is:
  - a person, corporation, or other entity that is required by law to be licensed by an elected executive officer or a board under the jurisdiction of an elected executive officer;
  - a person, corporation, or other entity that leases property owned by or for a state agency;
  - any person who engages in a business or profession that is regulated by an elected executive officer or by a board under the jurisdiction of an elected executive officer;
  - any public utility regulated by the Public Service Commission; or

- a PAC or other person “acting on behalf of” any of the above regulated entities.
  - “Acting on behalf of” occurs when a person, PAC, or other entity acts under the direction or control of the regulated entity, was established by the regulated entity and receives administrative or logistical support of any kind from that entity, or there is coordination between the regulated entity and the individual, PAC, or entity that makes the contribution. *O.C.G.A. § 21-5-30.1, Ga. Gov’t Transparency & Campaign Finance Comm’n Advisory Ops. 2009-02, 2010-01, and 2010-04.*

### **Affiliated Committees and Corporations**

- Contributions from “Affiliated Corporations” are aggregated. If two or more affiliated corporations contribute to a candidate or committee the combined amount may not exceed the maximum individual contribution limit. *O.C.G.A. § 21-5-41(c)*.
  - “Affiliated Corporations” are:
    - parent, subsidiary, or sister business entities;
    - business entities that share common ownership or control; or
    - business entities that exert control over another business entity. *O.C.G.A. § 21-5-40(2)*.
- Contributions from “Affiliated Committees” are aggregated. If two or more affiliated committees contribute to a candidate or committee the combined amount may not exceed the maximum individual contribution limit. *O.C.G.A. § 21-5-41(c)*.
  - “Affiliated Committees” are:
    - two or more political committees that are established, financed, maintained, or controlled by the same business entity, labor organization, person, or group of persons;
    - parent, subsidiary, branch, division, department, or local unit of another committee; or
    - a separate segregated fund. *O.C.G.A. § 21-5-40(1)*.

### **Contributions from Partnerships**

- Contributions from partnerships are deemed to have been made pro rata by the partners as individuals, as well as from the partnership as a whole, unless the partnership agreement explicitly directs allocation among the partners. *O.C.G.A. § 21-5-41(f)*.

### **Anonymous Contributions**

- Making and accepting anonymous contributions are prohibited. *O.C.G.A. § 21-5-30(e), Ga. Comp. R. & Regs. 189-6-.12.*



## In-Kind Contributions and Expenditures

### In-Kind Contributions

- An in-kind contribution refers to any item of value other than money received by a candidate or any committee. *Ga. Comp. R. & Regs. 189-06-.07(1)*.
- In-kind contributions are deemed "contributions" as the term is used in the Georgia Government Transparency and Campaign Finance Act, are aggregated with other contributions by the same contributor, and cannot exceed maximum contribution limits. *Ga. Comp. R. & Regs. 189-06-.07(2)*.
- Personal services performed by volunteers are excluded from the definition of a contribution. *O.C.G.A. § 21-5-3(7)*.

### In-Kind Expenditures

- An in-kind expenditure is an expenditure of any good or service for which a candidate or campaign committee did not extend payment to an end-recipient for the goods or services provided, but for which the campaign received the use and/or benefit of said goods or services. *Ga. Comp. R. & Regs. 189-2-.01(11)*.
- Personal services performed by volunteers are excluded from the definition of an expenditure. *O.C.G.A. § 21-5-3(12)*.
- A communication that is made with the cooperation or consent of, or in consultation with, or at the request or suggestion of a candidate, candidate's campaign, or any of her agents is considered an in-kind expenditure and subject to contribution limits. *Ga. Comp. R. & Regs. 189-3-.01(9)(f)*.
  - For example, printing campaign signs for a candidate is in-kind expenditure because signs are speech in the form of "express advocacy" and that speech is coordinated with a candidate in the printing and distribution of the signs. *See Ga. Gov't Transparency & Campaign Finance Comm'n Advisory Op. 2017-05*.

## PAC Contributions and Expenditures

- A "Political Action Committee" ("PAC") is a committee, club, association, partnership, corporation, labor union, or other group of persons that receives donations aggregating in excess of \$1,000 during a calendar year, then distributes those funds as contributions to one or more campaign committees. *O.C.G.A. § 21-5-3(20), O.C.G.A. § 21-5-30.2(a)(4)*.
- A PAC can also be a special account an organization sets up specifically to donate to candidates. *See "Separate Segregated Funds" below. O.C.G.A. § 21-5-3(20)(B)*.
- PACs need to register on an annual basis, but only if the PAC has made more than \$25,000 in contributions and/or expenditures (in the aggregate) in a calendar year to Georgia candidates. *See "PAC Registration" below. O.C.G.A. § 21-5-34(e)*.
- Once the registration threshold has been reached, a PAC must file regular, periodic disclosures with the Commission. *See "PAC Reporting" below; O.C.G.A. § 21-5-34(e), Ga. Comp. R. & Regs. 189-3-.01 et seq.*

## Independent Committee Expenditures

- An “Independent Committee” is an organization, or separate fund within an organization that expends funds either for the purpose of affecting the outcome of an election for any elected office or to advocate the election or defeat of any particular candidate. These expenditures must be made independently of a candidate or candidates. *O.C.G.A. § 21-5-3(15), GA Gov’t Transparency and Campaign Finance Comm’n Advisory Ops. 2001-32, 2010-02, 2010-05, 2015-02, and 2017-05.*
- Independent Committees are not restricted by campaign contribution limits- they may accept contributions in an unlimited amount. *Ga. Comp. R. & Regs. 189-3-.01(9)(f).*
- Independent Committees may make unlimited expenditures so long as the expenditures are independent. *Ga. Comp. R. & Regs. 189-3-.01(9)(f), Ga. Gov’t Transparency & Campaign Finance Comm’n Advisory Op. 2017-05.*
  - An “Independent Expenditure” is an expenditure for a communication which expressly advocates the election or defeat of a clearly identified candidate that is made independently of any candidate’s campaign. Independent, in Georgia, means that the expenditure was not made with the cooperation, consent of, in consultation with, or at the request or suggestion of a candidate, agent, or authorized committee. *Ga. Comp. R. & Regs. 189-3-.01(9)(f), Ga. Comp. R. & Regs. 189-2-.01(12).*
- Independent Committees must register on an annual basis. Independent Committees must register prior to accepting contributions or making expenditures. See “*Independent Committee Registration*” below, *O.C.G.A. § 21-5-34(f)(1).*
- Once the registration threshold has been reached, an Independent Committee must file regular, periodic disclosures with the Commission. See “*Independent Committee Reporting*” below, *O.C.G.A. § 21-5-34(f)(2).*

## Hybrid Organizations

- As noted above, PACs may make *direct contributions* to one or more candidates for public office, and Independent Committees make *independent expenditures*. Georgia law, however, does not require the two committees to exist as separate entities.
- One organization may operate both a PAC and Independent Committee, so long as that organization uses separate accounting and reporting structures for its independent expenditures and campaign contributions. See *Ga. Gov’t Transparency & Campaign Finance Comm’n Advisory Ops. 2010-02 and 2015-02.*
  - Georgia PACs and Independent Committees have separate registration thresholds, disclosure requirements, and reporting calendars. Therefore, the PAC and the Independent Committee

arms of the organization must follow the registration and disclosure rules that correspond to the appropriate activity. *Id.*

- The three exceptions to the PAC registration and reporting requirements contained in O.C.G.A. § 21-5-34(e)(1)-(3) are not modified- should an Independent Committee operate a contribution only separate segregated fund, that separate segregated fund will not have to register as a PAC until it reaches the \$25,000 threshold outlined above and in the “PAC Registration” and “PAC Reporting” sections below. *Ga. Gov’t Transparency & Campaign Finance Comm’n Advisory Op. 2015-02.*

### **Separate Segregated Funds and Connected Organizations**

- A “Connected Organization” is any organization (that is not already a PAC) that directly or indirectly establishes or administers a PAC. *O.C.G.A. § 21-5-3(6).*
- An organization can be considered a connected organization if it provides more than 40 percent of all contributions to a PAC in a calendar year. *Id.*
- The name of a PAC must include the name of its connected organization. *O.C.G.A. § 21-5-12(a).*
- A “Separate Segregated Fund” is a fund that is created by a business entity, labor organization, membership organization, cooperative, or PAC that is established, administered, and used for political purposes. *O.C.G.A. § 21-5-40(7).*
- As noted above, organizations create separate segregated funds so they may accommodate different political activities while complying with registration, reporting, and conduct requirements that mandate separation. *See Ga. Gov’t Transparency & Campaign Finance Comm’n Advisory Ops. 2010-02 and 2015-02.*
- The name of a separate segregated fund must include the name of its connected organization. *O.C.G.A. § 21-5-12(b).*

### **Corporate Contributions and Expenditures**

- Corporations may contribute to candidates, PACs, party committees, and independent committees in connection with Georgia elections. *O.C.G.A. § 21-5-42, Ga. Gov’t Transparency & Campaign Finance Comm’n Advisory Op. 2010-02.*
- Corporations are, however, included in the Georgia Government Transparency and Campaign Finance Act’s definition of “Person” and are subject to certain registration and disclosure requirements. *O.C.G.A. § 21-5-34, O.C.G.A. § 21-5-3(19), O.C.G.A. § 21-5-34(e).*
- Corporations may contribute unlimited amounts to Independent Committees, or make unlimited independent expenditures. *O.C.G.A. § 21-5-34(e), Ga. Comp. R. & Regs. 189-3-.01(9)(f), Ga. Gov’t Transparency & Campaign Finance Comm’n Advisory Ops. 2010-02 and 2017-05.*

- If a corporation makes independent expenditures without using an Independent Committee, the corporation must file campaign finance reports and register as an Independent Committee. *Ga. Gov't Transparency & Campaign Finance Comm'n Advisory Op. 2010-02.*

## Endorsements

- An endorsement of a candidate is permitted so long as it is not accompanied by a coordinated expenditure that exceeds maximum campaign contribution limits.

# COMMUNICATIONS

## Member Communications

- Georgia law does not include an exception for political communications to members of an organization. Accordingly, any express advocacy communication that requires an expenditure of funds, or use of staff time, must either be an independent expenditure or a coordinated communication that does not exceed maximum campaign contribution limits. Applicable disclosure rules apply.

## Issue Advocacy vs. Express Advocacy

- Georgia uses the "Buckley" or "magic words" test to determine whether speech is express advocacy. *GA Gov't Transparency and Campaign Finance Comm'n Advisory Ops. 2001-32, 2010-5, and 2017-05 citing Buckley v. Valeo, 424 U.S. 1, 44 (1976).*
  - Specifically, communications that contain words of advocacy, such as 'vote for', 'elect', 'cast your ballot for', 'Smith for Congress', 'vote against', 'defeat', and 'reject' are considered express advocacy and are subject to regulation. *Id.*
- Persons, PACs, or independent committees which make expenditures solely to engage in issue discussion when there is no specific mention of a candidate or identifiable reference to a candidate are not required to disclose such expenditures. *GA Gov't Transparency and Campaign Finance Comm'n Advisory Op. 2010-02.*
  - *While* communications that do not constitute express advocacy are not subject to regulation, an organization that engages in issue advocacy should evaluate whether its advocacy may be subject to lobbying regulations for other reasons. *See separate Bolder Advocacy guide on Lobbying in Georgia.*

## Independent Expenditures

- An "Independent Expenditure" is an expenditure for a communication that expressly advocates the election or defeat of a clearly identified candidate

that is made independently of any candidate's campaign. *Ga. Comp. R. & Regs. 189-2-.01(12)*.

- Independent, in Georgia, means that the expenditure was not made with the cooperation, consent of, in consultation with, or at the request or suggestion of a candidate, agent, or authorized committee. *Ga. Comp. R. & Regs. 189-3-.01(9)(f)*.
- Expenditures that are controlled by, coordinated with, or made in consultation with a candidate are considered in-kind contributions to a candidate and are subject to campaign contribution limits. Communication of strategic information does not have to be explicit, suggestion or conveyance of subjectively suggestive signals may also be considered coordination. *GA Gov't Transparency and Campaign Finance Comm'n Advisory Op. 2017-05, citing FEC v. Colo. Republican Fed. Campaign Comm., 533 U.S. 431, 442, 446 (2001) (US Supreme Court hold that the effect of coordination between candidates and outside supporters fundamentally transformed the expenditure, noting a "wink or nod" often will be "as useful to the candidate as cash.")*.
- For more information on what organizations can make independent expenditures, see the "Independent Committee Expenditures," "Hybrid Organizations," and "Corporate Contributions and Expenditures" sections above.
- For information on disclosing independent expenditures, see "Independent Committee Disclosure Requirements" below.

## Disclaimers

- Disclaimers are required when an independent committee makes an expenditure for the purpose of financing any communication intended to affect the outcome of an election. *O.C.G.A. § 21-5-34(f)(3)*.
  - The disclaimer must "clearly state" that it has been financed by such independent committee- Georgia law does not provide further detail on content or presentation. *Id.*
- If applicable, solicitations for contributions must include a separate and distinct disclaimer that contributions are not tax deductible as charitable contributions.
- All advertising pertaining to referendums shall identify the principal officer of such campaign committee by listing or stating the name and title of the principal officer. *O.C.G.A. § 21-5-34(a)(2)(A)*.

# COORDINATION

## Coordination Generally

- An independent expenditure "must not be made with the cooperation or consent of, or in consultation with, or at the request or suggestion of any

candidate or any of his or her agents or authorized committees.” *Ga. Comp. R. & Regs. 189-3-.01(9)(f)*.

- As is the case on the federal level, coordinated expenditures are considered campaign contributions and must be reported as such. *Ga. Comp. R. & Regs. 189-3-.01(9)(f)*, *GA Gov’t Transparency and Campaign Finance Comm’n Advisory Op. 2017-05*.
  - This means that a candidate can break campaign finance law by coordinating expenditures if those expenditures exceed maximum contribution limits.
  - Candidates may also break campaign finance law if the expenditures were coordinated but not disclosed as contributions.

### **Coordination- Communications**

- With respect to communications, coordination occurs when: *GA Gov’t Transparency and Campaign Finance Comm’n Advisory Op. 2017-05*.
  - A party makes an expenditure (*See “Contributions and Expenditures Generally” above*)
  - That contains express advocacy (*See “Issue Advocacy vs. Express Advocacy” above*)
  - That is coordinated via:
    - consultation with;
    - cooperation with;
    - with the consent of; or
    - at the request or suggestion of

### **Coordination – Other Expenditures**

- With respect other expenditures, coordination occurs when strategic, non-public information is conveyed with a candidate or her campaign committee. *Id.*
  - Communication of strategic information does not have to be explicit, suggestion or conveyance of subjectively suggestive signals may also be considered coordination. *Id.*

## **REGISTRATION AND REPORTING REQUIREMENTS**

### **Political Action Committees (“PACs”)**

#### **Registration**

- PACs need to register on an annual basis but are not required to register

until the PAC has made more than \$25,000 of contributions and/or expenditures (in the aggregate) in a calendar year to two or more Georgia candidates. *O.C.G.A. § 21-5-34(e), Ga. Comp. R. & Regs. 189-4-.01(1)-(2).*

- A PAC must register with the Commission by faxing, mailing, or hand delivering a Form RO to the Commission. (*Registration Form for a Campaign Committee Other than Candidate – available online at [http://ethics.ga.gov/wp-content/uploads/2017/09/Current\\_FORMRO.pdf](http://ethics.ga.gov/wp-content/uploads/2017/09/Current_FORMRO.pdf)*)
- Individuals responsible for submitting disclosure reports must also file an Electronic Filing Access Code Application (“PIN Application”) for access the Commission’s online disclosure reporting portal. This form must be mailed or hand delivered. The Pin Application is available online at [http://ethics.ga.gov/wp-content/uploads/2017/09/Current\\_CFC-PIN-APP.pdf](http://ethics.ga.gov/wp-content/uploads/2017/09/Current_CFC-PIN-APP.pdf). *O.C.G.A. § 21-5-34.1(a)(1)(A), Ga. Comp. R. & Regs. 189-1-.10.*
  - Once Access is granted the Commission will send the applicant an email with a unique ID, password, and link to the online filing portal.

### **Disclosure Reporting**

- All reports must be submitted electronically through the Commission’s online portal. *O.C.G.A. § 21-5-34.1(a)(1)(A), Ga. Comp. R. & Regs. 189-1-.10. Filing a PIN Application form gives authorized filers access to the online portal. See the “Registration” section above for a link to the PIN Application form.*
- Contributions: PACs must disclose the following information for all contributions over \$100.00, including contributions of lesser amounts when the aggregate amount from a contributor exceeds \$100.00 in a calendar year: *O.C.G.A. § 21-5-34(b) et seq., Ga. Comp. R. & Regs. 189-3-.01 et seq.*
  - For contributions by any individual list: *O.C.G.A. § 21-5-34(b)(1)(a), Ga. Comp. R. & Regs. 189-3-.01(1)(a) et seq.*
    - the individual’s name in alphabetical order by last name;
    - the individual’s occupation;
    - the complete mailing address of the individual;
    - the amount of the contribution;
    - the date of receipt of the contribution,
    - the individual’s employer; and,
    - the election for which the contribution has been accepted and allocated.
  - For contributions by any corporation, labor union, political action committee, or other organization or entity list: *O.C.G.A. § 21-5-34(b)(1)(E), Ga. Comp. R. & Regs. 189-3-.01(1)(b) et seq.*
    - the contributor’s name in alphabetical order;
    - the contributor’s complete mailing address;



- the corporate, labor union, or other affiliation of any political action committee if applicable;
  - the amount of the contribution,
  - the date of receipt of the contribution; and,
  - the election for which the contribution has been accepted and allocated.
- When a contribution consists of a loan, advance, or other extension of credit, the report must also list: *O.C.G.A. § 21-5-34(b)(1)(C), Ga. Comp. R. & Regs. 189-3-.01(1)(c) et seq.*
  - The name of the lending institution or party making the loan, advance, or extension of credit;
  - The names, mailing addresses, occupations, and places of employment of all persons having any liability for the repayment of the loan, advance, or extension of credit; and,
  - The fiduciary relationship, any such person has with the lending institution or party making the loan, advance, or extension of credit.
- Common source contributions of \$100.00 or Less: *Ga. Comp. R. & Regs. 189-3-.01(2).*
  - Amount, date of receipt, election for which the contribution made and allocated, name and mailing address of the contributor. *Id.*
    - Unless otherwise reported individually, separate contributions of \$100.00 or less which are knowingly received from a common source (members of the same family, firm, or partnership, or employees of the same company, firm, corporation or other association or group are considered a common source) must be aggregated and listed on campaign contribution disclosure reports. *Comp. R. & Regs. 189-3-.01(2)(a).*
    - The purchase of tickets for not more than \$25.00 each and for attendance at a fundraising event by members of the same family, firm, or partnership or employees of the same person shall not be considered to be contributions from a common source except to the extent that tickets are purchased as a block. *O.C.G.A. § 21-5-34(b)(1)(c), Ga. Comp. R. & Regs. 189-3-.01(2)(b).*
- Expenditures: Expenditures of more than \$100.00, including expenditures of lesser amounts when the aggregate amount to a recipient is more than \$100.00 for the calendar year in which the report is filed, must be listed on each disclosure report as follows: *O.C.G.A. § 21-5-34(b)(1)(b), Ga. Comp. R. & Regs. 189-3-.01(3) et seq.*
  - the name of each recipient in alphabetical order by last name or by company name;
  - the complete mailing address of the recipient;
  - if recipient is an individual, list the occupation and place of



- employment;
- the amount of the expenditure;
- the general purpose of the expenditure with such detail as shows the expenditure is for a purpose lawfully authorized for campaign funds; and,
- the date of the expenditure.

### **Disclosure Reporting Schedule**

- Timing: Once a PAC crosses the registration threshold it must file disclosure reports on the same schedule as the candidates it supports. *O.C.G.A. § 21-5-34(e)*, for candidate schedule, see *O.C.G.A. § 21-5-34(c) et seq.*
- Usual Statewide Schedule:
  - In each nonelection year:
    - January 31
    - June 30
  - In each election year:
    - January 31,
    - March 31,
    - June 30,
    - September 30,
    - October 25,
    - December 31,
    - 6 days before any run-off primary or election in which a candidate the PAC supports is listed on the ballot.
  - If a candidate the PAC supports is a candidate in a special primary or special primary runoff:
    - 15 days prior to the special primary, and
    - 6 days prior to the special primary runoff
  - If a candidate the PAC supports is a candidate in a special election or special election runoff:
    - 15 days prior to the special election, and
    - 6 days prior to the special election runoff.
  - Two Business Day Reports: During the period of time between the last report due prior to the date of any election and the date of such election, all contributions and expenditures of \$1,000.00 or more shall be reported within two business days of receipt and also reported on the next succeeding regularly scheduled campaign contribution disclosure report.

## Independent Committees

### Registration

- Independent committees must register prior to accepting contributions or making expenditures for the purpose of affecting the outcome of an election. *O.C.G.A. § 21-5-34(f)(1).*
- Independent Committees register by faxing, mailing, or hand delivering a Form RO to the Commission. (*Registration Form for a Campaign Committee Other than Candidate – available online at [http://ethics.ga.gov/wp-content/uploads/2017/09/Current\\_FORMRO.pdf](http://ethics.ga.gov/wp-content/uploads/2017/09/Current_FORMRO.pdf)*)
- Individuals responsible for submitting disclosure reports must also file an Electronic Filing Access Code Application (“PIN Application”) for access the Commission’s online disclosure reporting portal. This form must be mailed or hand delivered. The Pin Application is available online at [http://ethics.ga.gov/wp-content/uploads/2017/09/Current\\_CFC-PIN-APP.pdf](http://ethics.ga.gov/wp-content/uploads/2017/09/Current_CFC-PIN-APP.pdf). *O.C.G.A. § 21-5-34.1(a)(1)(A), Ga. Comp. R. & Regs. 189-1-.10.*
  - Once Access is granted the Commission will send the applicant an email with a unique ID, password, and link to the online filing portal.

### Disclosure Reporting

- All reports must be submitted electronically through the Commission’s online portal. *O.C.G.A. § 21-5-34.1(a)(1)(A), Ga. Comp. R. & Regs. 189-1-.10. Filing a PIN Application gives authorized filers access to the online portal. See the “Registration” section above for a link to the PIN Application form.*
- Contributions: Independent Committees must disclose the following information for all contributions over \$100.00: *O.C.G.A. § 21-5-34(f)(2)(A).*
  - amount of the contribution
  - date of receipt,
  - if the contribution is made by an individual, the disclosure must include the individual’s:
    - name,
    - mailing address,
    - occupation, and
    - employer.
  - If the contribution is from a corporation, partnership, or business entity, the entity’s:
    - name,
    - mailing address.
  - if the contribution is from a from a PAC, candidate, campaign committee, or another independent committee, the disclosure must include the donor organization’s:
    - name,

- mailing address,
  - affiliation to any corporation(s), labor union(s), or association(s).
- Expenditures: Expenditures of more than \$100.00, including expenditures of lesser amounts when the aggregate amount to a recipient is more than \$100.00 for the calendar year in which the report is filed, must be listed on each disclosure report as follows: *O.C.G.A. § 21-5-34(f)(2)(B)*.
  - amount;
  - date of receipt;
  - general purpose of the expenditure;
  - name of candidate or candidates, if any, on behalf of whom, or in support or opposition to whom, the expenditure was made; and
  - If the expenditure is made to an individual, the disclosure must also include the individual's:
    - name;
    - mailing address;
    - occupation; and
    - employer.
  - If the expenditure is made to a business entity, the disclosure must include the organization's:
    - name; and
    - mailing address.
- Total expenditures: Periodic disclosures must also include: *O.C.G.A. § 21-5-34(f)(2)(C)*.
  - all expenditures made during the applicable reporting year; or
  - if the disclosure is the first report of a reporting year, it must list the total expenditures made during the period covered by the report; and
  - subsequent reports shall list:
    - the total expenditures made during the period covered by the report;
    - the cumulative total of expenditures made during the reporting year; and
    - the committee's net balance on hand.

### **Disclosure Reporting Schedule**

- Timing: Once an Independent Committee registers with the Commission it must file periodic disclosure reports on the following schedule: *O.C.G.A. § 21-5-34(f)(1) et seq.*
  - In every year in which the Independent Committee makes expenditures or accepts contributions, including non-election years:
    - June 30,
    - December 31.
  - Election years:

- On the first day of each of the two calendar months preceding any election the committee makes expenditures for
- Two weeks prior to the date of such election.
- Two Business Day Reports: During the period of time between the last report due prior to the date of any election and the date of such election, all contributions and expenditures of \$1,000.00 or more shall be reported within two business days of receipt and also reported on the next succeeding regularly scheduled campaign contribution disclosure report.

## Recordkeeping and Administration

- PACs must keep campaign records and document all contributions and expenditures, even before the \$25,000 filing threshold is reached.
- Both PACs and Independent Committees are required to retain records for three years. *O.C.G.A. § 21-5-32(c)*.
- Statute of limitations: any action alleging a violation of the Act must commence: *O.C.G.A. § 21-5-13*.
  - within three years after the date the first report containing the alleged violation was filed; unless
  - the alleged violation involves a candidate elected to serve/seeking to serve a term of four or more years.

## Termination

- Registration for PACs, Independent Committees, Corporations (if applicable) and Campaign Committees (All Ballot Measures referenced below) expire at the end of each calendar year. *Ga. Comp. R. & Regs. 189-4-.01(5)*.
  - *If an organization intends to remain active it must continue filing regular disclosure reports in the next calendar year.*
- PACs, Independent Committees, Corporations (if applicable) and Campaign Committees (All Ballot Measures referenced below) may terminate at any time so long as the following requirements are met: *Ga. Comp. R. & Regs. 189-4-.01(4)*.
  - *The entity maintains a zero balance in its campaign account; and*
  - *Has no debts; and*
  - *Will receive no future contributions; and*
  - *Will make no future expenditures.*
- Upon termination the committee must identify one person responsible for maintaining campaign records. *Id.*

# BALLOT MEASURES

## Constitutional Amendments, Ballot Questions, and Referendums

### Statewide Constitutional Amendments, Ballot Questions, and Referendums Generally

- Persons or committees that accept contributions or make expenditures designed to bring about the approval or rejection by the voters of any proposed constitutional amendment, a statewide referendum, or a proposed question which is to appear on the ballot are considered "Campaign Committees" under Georgia law. *O.C.G.A. § 21-5-3(2)*.
- Campaign Committees, as the term is used the paragraph above, must register with the Commission prior to accepting contributions. Campaign Committees register with the Commission by faxing, mailing, or hand delivering a Form RO to the Commission. (*Registration Form for a Campaign Committee Other than Candidate – available online at [http://ethics.ga.gov/wp-content/uploads/2017/09/Current\\_FORMRO.pdf](http://ethics.ga.gov/wp-content/uploads/2017/09/Current_FORMRO.pdf)*) *O.C.G.A. § 21-5-34(a)(2)(A), Ga. Comp. R. & Regs. 189-4-.01*.
- A Campaign Committee cannot accept contributions if there is a vacancy in the office of chairperson and a treasurer. *O.C.G.A. § 21-5-30(b)*.
- Contributions may only be used to influence voters on the specific issue the Campaign Committee was created to advocate for or against. *O.C.G.A. § 21-5-33(d)(1)*.
  - Excess contributions can only be distributed to IRS 501(c) organizations or returned to contributors on a pro-rata basis. *O.C.G.A. § 21-5-33(d)(2)*.
- Campaign Committees (as the term is used in this section) must electronically sign and file disclosure reports. See "Disclosure Reporting" section for content requirements, See "Disclosure Schedule" sections below for timing. *O.C.G.A. § 21-5-34(a)(1)(A), O.C.G.A. § 34(a)(2)(B)*.
- Disclaimers: All advertising shall identify the principal officer of such campaign committee by listing or stating the name and title of the principal officer. *O.C.G.A. § 21-5-34(a)(2)(A)*.

### County and Municipal Ballot Questions

- See "Statewide Constitutional Amendments, Ballot Questions, and Referendums Generally" above.
- Committees in support or opposition of county or municipal ballot questions must register and file campaign disclosure reports with the county election superintendent (county ballot questions) or the municipal clerk (municipal ballot questions). *O.C.G.A. § 21-5-34(a)(2)(A), Ga. Comp. R. & Regs. 189-4-.01*.
- State and local ballot question campaign committees must register prior to receiving contributions, however they do not have to file disclosure reports unless the committee receives total contributions in excess of \$500.00 or

makes expenditures in excess of \$500.00. *O.C.G.A. § 21-5-34(a)(2)(A), O.C.G.A. § 21-5-34(a)(3), Ga. Comp. R. & Regs. 189-3-.01(9)(e).*

### **Disclosure Schedule for Constitutional Amendments and Statewide Referendums**

- Campaign committees that accept contributions or make expenditures designed to bring about the approval or rejection by the voters of a proposed constitutional amendment or a statewide referendum must file disclosure reports according to the following schedule: *O.C.G.A. § 21-5-34(h), Ga. Comp. R. & Regs. 189-3-.01(9)(d).*
  - 75 days prior to the date of the election;
  - 45 days prior to the election;
  - 15 days prior to the date of the election; and
  - A final report prior to December 31 of the election year.

### **Disclosure Schedule for Ballot Questions- All Levels**

- Campaign committees that accept contributions or make expenditures designed to bring about the approval or rejection by the voters of a state, county, or municipal ballot question must file disclosure reports according to the following schedule: *O.C.G.A. § 21-5-34(a)(2)(B).*
  - 15 days prior to the date of the election; and
  - a final report shall be filed prior to December 31 of the election year.

## **Recall Campaigns**

### **Recall Campaigns Generally**

- This Guide will not address recall campaign initiation, or petition procedure. For more information reference *O.C.G.A. § 21-4-1 et seq.*
- Campaign Committees that support or oppose the recall of a public officer are subject to the same filing requirements that apply to a candidate for the office the public officer occupies. *O.C.G.A. § 21-5-34(a)(1)(A).*
  - Candidates must file a Declaration of Intent (“DOI”) with the Commission (statewide, Georgia General Assembly, Court of Appeals and Supreme Court), the applicable county election superintendent (county offices), or the municipal clerk or equivalent (municipal offices) before accepting contributions or making expenditures. *O.C.G.A. § 25-5-30(g).* To download the Commission’s fillable form visit [http://ethics.ga.gov/wp-content/uploads/2017/09/Current\\_FormDOI.pdf](http://ethics.ga.gov/wp-content/uploads/2017/09/Current_FormDOI.pdf)
- A Campaign Committee cannot accept contributions if there is a vacancy in the office of chairperson and a treasurer. *O.C.G.A. § 21-5-30(b).*
- Contributions may only be used to defray the cost of influencing the recall electorate. *O.C.G.A. § 21-5-33(b)(1).*
  - Excess contributions can only be distributed to IRS 501(c) organizations, returned to contributors on a pro-rata basis, transferred

to national, state, and local political parties or candidates. *O.C.G.A. § 21-5-33(b)(2)*.

- Recall campaign treasurers or chairpersons must electronically sign and file disclosure reports. See "Disclosure Reporting" section for content requirements, See "Disclosure Schedule" sections below for timing. *O.C.G.A. § 21-5-34(a)(1)(A)*, *O.C.G.A. § 21-5-34(a)(2)(B)*.
- Disclaimers: All advertising shall identify the principal officer of such recall campaign committee by listing or stating the name and title of the principal officer. *O.C.G.A. § 21-5-34(a)(2)(A)*.

### **Disclosure Schedule for Recall Campaigns**

- Any campaign committee which accepts contributions or makes expenditures designed to bring about the recall of a public officer or to oppose the recall of a public officer must file disclosure reports on the following schedule: *O.C.G.A. § 21-5-34(g)*, *Ga. Comp. R. & Regs. 189-3-.01(9)(c)*.
  - An initial report shall be filed within 15 days after the date when the official recall petition forms were issued to sponsors;
  - A second report shall be filed 45 days after the filing of the initial report;
  - A third report shall be filed within 20 days after the election superintendent certifies legal sufficiency or insufficiency of a recall petition; and
  - A final report shall be filed:
    - prior to December 31 of the year in which the recall election is held, or
    - if the recall election is not held, a final report must be filed prior to December 31 of any year that the campaign committee accepts contributions or makes expenditures.

### **Contents of Disclosure Reports – Constitutional Amendments, Ballot Questions, Referendums, and Recall Campaigns at all levels**

- All reports that must be submitted to the Commission must be filed electronically through the Commission's online portal. *O.C.G.A. § 21-5-34.1(a)(1)(A)*, *Ga. Comp. R. & Regs. 189-1-.10*. *Filing a PIN Application form gives authorized filers access to the online portal. See the "Registration" section above for a link to the PIN Application form.*
  - Check with the county election superintendent or the municipal clerk (if applicable) for local registration procedures.
- Contributions: Campaign Committees must disclose the following information for all contributions over \$100.00, including contributions of lesser amounts when the aggregate amount from a contributor exceeds \$100.00 in a calendar year: *O.C.G.A. § 21-5-34(b) et seq.*, *Ga. Comp. R. & Regs. 189-3-.01 et seq.*

- For contributions by any individual list: *O.C.G.A. § 21-5-34(b)(1)(a), Ga. Comp. R. & Regs. 189-3-.01(1)(a) et seq.*
  - the individual's name in alphabetical order by last name;
  - the individual's occupation;
  - the complete mailing address of the individual;
  - the amount of the contribution;
  - the date of receipt of the contribution,
  - the individual's employer; and
  - the election for which the contribution has been accepted and allocated.
- For contributions by any corporation, labor union, political action committee, or other organization or entity list: *O.C.G.A. § 21-5-34(b)(1)(E), Ga. Comp. R. & Regs. 189-3-.01(1)(b) et seq.*
  - the contributor's name in alphabetical order;
  - the contributor's complete mailing address;
  - the corporate, labor union, or other affiliation of any political action committee if applicable;
  - the amount of the contribution;
  - the date of receipt of the contribution; and
  - the election for which the contribution has been accepted and allocated.
- When a contribution consists of a loan, advance, or other extension of credit, the report must also list: *O.C.G.A. § 21-5-34(b)(1)(C), Ga. Comp. R. & Regs. 189-3-.01(1)(c) et seq.*
  - The name of the lending institution or party making the loan, advance, or extension of credit;
  - The names, mailing addresses, occupations, and places of employment of all persons having any liability for the repayment of the loan, advance, or extension of credit; and
  - The fiduciary relationship, any such person has with the lending institution or party making the loan, advance, or extension of credit.
- Common source contributions of \$100.00 or Less. *Ga. Comp. R. & Regs. 189-3-.01(2).*
  - Amount, date of receipt, election for which the contribution made and allocated, name and mailing address of the contributor. *Id.*
    - Unless otherwise reported individually, separate contributions of \$100.00 or less which are knowingly received from a common source (members of the same family, firm, or partnership, or employees of the same company, firm, corporation or other association or group are considered a common source) must be aggregated and listed on campaign contribution disclosure reports.



*Comp. R. & Regs. 189-3-.01(2)(a).*

- The purchase of tickets for not more than \$25.00 each and for attendance at a fundraising event by members of the same family, firm, or partnership or employees of the same person shall not be considered to be contributions from a common source except to the extent that tickets are purchased as a block. *O.C.G.A. § 21-5-34(b)(1)(c), Ga. Comp. R. & Regs. 189-3-.01(2)(b).*
- Expenditures: Expenditures of more than \$100.00, including expenditures of lesser amounts when the aggregate amount to a recipient is more than \$100.00 for the calendar year in which the report is filed, must be listed on each disclosure report as follows: *O.C.G.A. § 21-5-34(b)(1)(b), Ga. Comp. R. & Regs. 189-3-.01(3) et seq.*
  - the name of each recipient in alphabetical order by last name or by company name;
  - the complete mailing address of the recipient;
  - if recipient is an individual, list the occupation and place of employment;
  - the amount of the expenditure;
  - the general purpose of the expenditure with such detail as shows the expenditure is for a purpose lawfully authorized for campaign funds; and
  - the date of the expenditure.

## ENFORCEMENT AND PENALTIES

### Initiation of Investigations

- The cases considered by the Commission are initiated in two ways: 1) through the filing of sworn, written complaints alleging a violation of the Act; 2) through the Commission filing its form of complaint referred to as a probable cause matter. *Ga. Comp. R. & Regs. 189-2-.03, Ga. Comp. R. & Regs. 189-2-.04.*

### Investigations

- Whenever an individual or campaign committee has failed to file or has failed to properly file any required report or document, has omitted information required by law, or has included false or misleading information on a document, Commission staff will: *O.C.G.A. § 21-5-7.1, Ga. Comp. R. & Regs. 189-2-.07(1)-(3).*
  - determine if technical defects apply, and if so give written notice to the party and provide 30 days to fix the issue; or *O.C.G.A. § 21-5-7.1(2), Ga. Comp. R. & Regs. 189-2-.03(2).*
  - initiate an investigation and begin an enforcement action. *Ga. Comp. R. & Regs. 189-2-.07(1)-(3).*

- Commission staff may issue an Administrative Subpoena to obtain relevant documents or the attendance of a witness. *O.C.G.A. § 21-5-6(5), Ga. Comp. R. & Regs. 189-2-.07(2)*.
- All matters not administratively dismissed or solely containing technical defects shall be scheduled for hearing before the Commission. *O.C.G.A. § 21-5-6(10), Ga. Comp. R. & Regs. 189-2-.05*.

## Disposition of Cases

- After completion of appropriate proceedings, the Commission or its duly appointed officer may: *O.C.G.A. § 21-5-6(10)-(16), Ga. Comp. R. & Regs. 189-2-.08(1)*.
  - dismiss the case if no violation is found;
  - issue a compliance order requiring the offending party to undertake an action to cure the offense;
  - issue an order, including a consent order, finding one or more violations of law and impose civil penalties as provided by law, including but not limited to:
    - Assessment of civil penalties in a dollar amount not to exceed the maximum authorized per violation times the number of violations found; and (*See "Penalties" below*).
    - Order the filing or amending of any delinquent or deficient document or report within a certain time period with copies to be filed with the Commission;
    - Order other actions as necessary to bring about compliance with the law, including prohibiting the actual or threatened commission of any conduct constituting a violation.

## Penalties

- Penalties: The Commission has authority to issue an order directing the violator: *O.C.G.A. § 21-5-6(14)*.
  - to cease and desist from violating the Act;
  - to make public complete statements containing the information required by this chapter (to refile and correct the reports at issue;
  - to pay a civil penalty of:
    - up to \$1000 per violation (for first violation)
    - up to \$10,000 per violation (for 2nd violation)
    - Up to \$25,000 per violation (for 3rd or subsequent violation)
- In the event that a criminal violation is detected, the Commission has authority to refer cases to the appropriate law enforcement authority for further investigation and prosecution. *O.C.G.A. § 21-5-6(11)*.
- Any knowing failure to comply or knowing violation of this chapter constitutes a misdemeanor. *O.C.G.A. § 21-5-9*.
- All of the reports filed with the Commission must be verified and, as such, knowingly filing a false official document under oath with an agency of the state can constitute a felony, punishable by 1-5 years of imprisonment and/or up to a \$1,000 fine. *O.C.G.A. § 16-10-20, O.C.G.A. § 16-10-71*.

# CONTACT INFORMATION FOR STATE AND LOCAL AGENCIES

## **Georgia Government Transparency and Campaign Finance Commission**

200 Piedmont Avenue SE  
Suite 1416, West Tower  
Atlanta, Georgia 30334

Telephone: (404) 463-1980  
Fax: (404) 463-1988  
Commission Email: [gaethics@ethics.ga.gov](mailto:gaethics@ethics.ga.gov)  
Website: <http://ethics.ga.gov/>

Executive  
Director

Written by Andrew J. Thompson, Thompson Law, PC  
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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](mailto:advocacy@afj.org) Telephone: 1-866-NPLOBBY (675-6229)

For assistance regarding state law in Georgia, please contact:

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229 Peachtree Street NE  
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