

# TEXAS ETHICS COMMISSION

## CAMPAIGN FINANCE GUIDE FOR CANDIDATES AND OFFICEHOLDERS WHO FILE WITH THE TEXAS ETHICS COMMISSION



**This guide is for candidates for and officeholders holding the following positions:**

- **statewide elective offices other than judicial offices;**
- **legislative offices;**
- **multi-county district attorney; and**
- **seats on the State Board of Education.**

Note: The Texas Ethics Commission makes available a CAMPAIGN FINANCE GUIDE FOR CANDIDATES AND OFFICEHOLDERS WHO FILE WITH LOCAL FILING AUTHORITIES and a CAMPAIGN FINANCE GUIDE FOR JUDICIAL CANDIDATES AND OFFICEHOLDERS as well as a CAMPAIGN FINANCE GUIDE FOR POLITICAL COMMITTEES and a CAMPAIGN FINANCE GUIDE FOR POLITICAL PARTIES.

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**CAMPAIGN FINANCE GUIDE FOR CANDIDATES  
AND OFFICEHOLDERS WHO FILE WITH THE  
TEXAS ETHICS COMMISSION**

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## **INTRODUCTION**

This guide is a summary of the reporting requirements and other regulations set out in title 15 of the Texas Election Code (chs. 251 – 258) and in the rules adopted by the Texas Ethics Commission.

### **CANDIDATES**

This guide applies to all *candidates* for:

- Governor, Lieutenant Governor, Attorney General, Comptroller, Treasurer, Land Commissioner, Agriculture Commissioner, and Railroad Commissioner;
- The State Legislature;
- The State Board of Education; and
- District attorney from a multi-county district.

Candidates for the offices listed above file campaign finance reports with the Texas Ethics Commission.

### **OFFICEHOLDERS**

An officeholder in one of the offices listed above and the secretary of state are also subject to regulation under title 15. An officeholder who has a campaign treasurer appointment on file with the Ethics Commission is a “candidate” for purposes of title 15 and is subject to all the regulations applicable to candidates. An officeholder who does not have a campaign treasurer appointment on file is subject only to the regulations applicable to officeholders. Officeholders in the offices listed above and the secretary of state file reports of contributions and expenditures with the Ethics Commission.

Most of the requirements discussed in this guide apply both to candidates (individuals who have a campaign treasurer appointment on file) and to officeholders who do not have a campaign treasurer appointment on file. The guide will indicate whether a particular requirement applies to individuals who have campaign treasurer appointments on file, to officeholders who do not have a campaign treasurer on file, or to both.

### **JUDICIAL CANDIDATES AND OFFICEHOLDERS**

Candidates for and officeholders in most judicial offices are subject to various restrictions that do not apply to other candidates and officeholders. Those candidates and officeholders should review the CAMPAIGN FINANCE GUIDE FOR JUDICIAL CANDIDATES AND OFFICEHOLDERS and the POLITICAL ADVERTISING GUIDE which are available on the commission’s website.

**Nonjudicial Officeholder Seeking Judicial Office.** Pursuant to Ethics Advisory Opinion No. 465 (2005), a nonjudicial officeholder who becomes a judicial candidate is required to file two campaign finance reports, one reporting nonjudicial activity and the other reporting judicial activity. Alternatively, a nonjudicial officeholder who becomes a judicial candidate may select to file a single report that includes both candidate and officeholder activity if the activity is clearly and properly reported. *See* the CAMPAIGN FINANCE GUIDE FOR JUDICIAL CANDIDATES AND OFFICEHOLDERS for more information.

## **LOCAL CANDIDATES AND OFFICEHOLDERS**

Candidates who do not file with the Ethics Commission should review the Ethics Commission's CAMPAIGN FINANCE GUIDE FOR CANDIDATES AND OFFICEHOLDERS WHO FILE WITH LOCAL FILING AUTHORITIES, which is available on the commission's website.

## **FEDERAL OFFICES**

This guide does not apply to candidates for federal offices. Candidates for federal offices should contact the Federal Elections Commission. The FEC's toll-free number is (800) 424-9530. The FEC's website is at <http://www.fec.gov>.

## **POLITICAL COMMITTEES (PACS)**

Often a candidate or officeholder chooses to establish a specific-purpose political committee. A political committee is subject to its own *separate* filing requirements. Establishing a specific-purpose political committee does not relieve a candidate or officeholder of the obligation to file as an individual. For more information about political committees, see the Ethics Commission's CAMPAIGN FINANCE GUIDE FOR POLITICAL COMMITTEES.

## **FINANCIAL DISCLOSURE STATEMENTS**

In addition to campaign finance reports, candidates and officeholders must file an annual personal financial statement with the Ethics Commission in accordance with chapter 572 of the Government Code. For more information, see the Ethics Commission's brochure titled PERSONAL FINANCIAL STATEMENTS.

## **FEDERAL INCOME TAX**

This pamphlet does not address the federal tax implications of campaign finance. Questions regarding federal tax law should be directed to the Internal Revenue Service.

## **TEXAS ETHICS COMMISSION**

If you have a question about how title 15 applies to you, you may call the Ethics Commission for assistance.

The Ethics Commission has authority to impose fines for violations of title 15. Fines are automatic for failure to file required reports and for filing required reports late. If you have evidence of other possible violations of title 15, you may file a sworn complaint with the Ethics Commission.

The Ethics Commission's mailing address is P.O. Box 12070, Austin, Texas 78711. The phone number is (512) 463-5800. The Ethics Commission's website is at <http://www.ethics.state.tx.us>.

## **APPOINTING A CAMPAIGN TREASURER**

If you plan to run for a public office in Texas (except for a federal office), you must file an APPOINTMENT OF A CAMPAIGN TREASURER BY A CANDIDATE (FORM CTA) with the proper filing authority when you become a candidate even if you do not intend to accept campaign contributions or make campaign expenditures. A “candidate” is a person who knowingly and willingly takes affirmative action for the purpose of gaining nomination or election to public office or for the purpose of satisfying financial obligations incurred by the person in connection with the campaign for nomination or election. Examples of affirmative action include:

- (A) the filing of a campaign treasurer appointment, except that the filing does not constitute candidacy or an announcement of candidacy for purposes of the automatic resignation provisions of Article XVI, Section 65, or Article XI, Section 11, of the Texas Constitution;
- (B) the filing of an application for a place on the ballot;
- (C) the filing of an application for nomination by convention;
- (D) the filing of a declaration of intent to become an independent candidate or a declaration of write-in candidacy;
- (E) the making of a public announcement of a definite intent to run for public office in a particular election, regardless of whether the specific office is mentioned in the announcement;
- (F) before a public announcement of intent, the making of a statement of definite intent to run for public office and the soliciting of support by letter or other mode of communication;
- (G) the soliciting or accepting of a campaign contribution or the making of a campaign expenditure; and
- (H) the seeking of the nomination of an executive committee of a political party to fill a vacancy.

### **NO CAMPAIGN CONTRIBUTIONS OR EXPENDITURES WITHOUT TREASURER APPOINTMENT ON FILE**

Additionally, the law provides that you must file a campaign treasurer appointment form with the proper filing authority before you may accept a campaign contribution or make or authorize a campaign expenditure, including an expenditure from your personal funds. A filing fee paid to a filing authority to qualify for a place on a ballot is a campaign expenditure that may not be made before filing a campaign treasurer appointment form with the proper filing authority.

### **APPOINTING TREASURER TRIGGERS REPORTING DUTIES**

After a candidate has filed a form appointing a campaign treasurer, the candidate is responsible for filing periodic reports of contributions and expenditures. Filing reports is the responsibility of the candidate, not the campaign treasurer. Even if a candidate loses an election, he or she must continue

filing reports until he or she files a final report. See “Ending Filing Obligations” in this guide. (An officeholder who files a final report, and thereby terminates his or her campaign treasurer appointment, is still required to file reports as an officeholder.)

## **QUALIFICATIONS OF CAMPAIGN TREASURER**

A person is ineligible for appointment as a campaign treasurer if the person is the campaign treasurer of a political committee that has outstanding filing obligations (including outstanding penalties). This prohibition does not apply if the committee in connection with which the ineligibility arose has not accepted more than \$5,000 in political contributions or made more than \$5,000 in political expenditures in any semiannual reporting period. A person who violates this prohibition is liable for a civil penalty not to exceed three times the amount of political contributions accepted or political expenditures made in violation of this provision.

## **DUTIES OF CAMPAIGN TREASURER**

A candidate’s campaign treasurer has no legal duties.

**Note:** The campaign treasurer of a *political committee* is legally responsible for filing reports.

## **EFFECTIVE DATE OF APPOINTMENT**

A campaign treasurer appointment is effective when filed. A hand-delivered appointment takes effect on the date of delivery. A mailed appointment takes effect on the date of the postmark.

## **CODE OF FAIR CAMPAIGN PRACTICES**

The Ethics Commission sends to each individual who files a campaign treasurer appointment a form containing a Code of Fair Campaign Practices. A candidate may pledge to follow the principles and practices set out in the Code by signing the form and filing it with the Ethics Commission.

## **APPOINTMENT BY OFFICEHOLDER**

If an officeholder files an appointment of campaign treasurer after a period in which he or she did not have a campaign treasurer appointment on file, the officeholder must file a report of contributions and expenditures no later than 15 days after filing the appointment of campaign treasurer. See “15th Day After Appointment of Campaign Treasurer by Officeholder” in this guide. An officeholder who *changes* campaign treasurer is not required to file this report.

**Note:** An officeholder who has a campaign treasurer appointment on file is a candidate for purposes of title 15.

## **FILING FOR A PLACE ON THE BALLOT**

Filing a campaign treasurer appointment and filing for a place on the ballot are two completely separate actions. The Secretary of State can provide information about filing for a place on the ballot. The Secretary of State’s phone numbers are (512) 463-5650 and (800) 252-8683.

## **CHANGING TREASURERS**

A candidate may change campaign treasurers at any time by filing an amended appointment of campaign treasurer. Filing an appointment of a new campaign treasurer automatically terminates the appointment of the old campaign treasurer.

## **TRANSFERRING APPOINTMENT TO A DIFFERENT FILING AUTHORITY**

If a candidate has a campaign treasurer appointment on file with the Ethics Commission and wishes to accept campaign contributions or make campaign expenditures in connection with a candidacy for a local office that would require filing with a local filing authority, the candidate must file a new campaign treasurer appointment and a copy of the old campaign treasurer appointment (certified by the Ethics Commission) with the local filing authority. The candidate should also provide written notice to the Ethics Commission that in the future reports will be filed with another authority.

## **TERMINATING A CAMPAIGN TREASURER APPOINTMENT**

A candidate may terminate a campaign treasurer appointment by filing an amended appointment of campaign treasurer naming a different campaign treasurer or by filing a final report.

A campaign treasurer may terminate his or her own appointment by notifying both the candidate and the Ethics Commission in writing. The termination is effective on the date the candidate receives the notice or on the date the Ethics Commission receives the notice, whichever is later.

## **DECIDING NOT TO RUN**

A campaign treasurer appointment does not simply expire. An individual who has a campaign treasurer appointment on file must file reports of contributions and expenditures until he or she files a final report with the Ethics Commission. *See* “Ending Filing Obligations” in this guide.

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### ***Things to Remember***

- If you plan to run for a public office in Texas (except for a federal office), you must file an APPOINTMENT OF A CAMPAIGN TREASURER BY A CANDIDATE (FORM CTA) with the proper filing authority when you become a candidate even if you do not intend to accept campaign contributions or make campaign expenditures.
- A person may not accept a campaign contribution or make a campaign expenditure unless the person has a campaign treasurer appointment on file with the Texas Ethics Commission.
- A person who has a campaign treasurer appointment on file is a candidate for filing purposes and is responsible for filing periodic reports of contributions and expenditures with the Ethics Commission.
- The candidate, not the candidate’s campaign treasurer, is responsible for filing periodic reports of contributions and expenditures.
- Filing a campaign treasurer appointment has nothing to do with getting on the ballot. The Secretary of State can provide information about getting on the ballot.



## POLITICAL CONTRIBUTIONS AND EXPENDITURES

Title 15 regulates political contributions and political expenditures. There are two types of political contributions: campaign contributions and officeholder contributions. Similarly, there are two kinds of political expenditures: campaign expenditures and officeholder expenditures.

### CAMPAIGN CONTRIBUTIONS

A person makes a campaign contribution if the person provides or promises something of value with the intent that it be used in connection with a campaign. A contribution of goods or services is an “in-kind” campaign contribution. A loan is considered to be a contribution unless it is from an incorporated financial institution that has been in business for more than a year. You must report all loans made for campaign purposes, including loans that are not “contributions.”

- Donations to a candidate at a fund-raiser are campaign contributions.
- The provision of office space to a candidate is an “in-kind” campaign contribution.
- A promise to give a candidate money is a campaign contribution.
- An item donated to be auctioned at a fund-raiser is an “in-kind” campaign contribution. The purchase of the item at the auction is also a contribution.
- A campaign volunteer is making a contribution in the form of personal services. (Contributions of personal services may not be required to be reported. See “Contributions of Personal Services” in this guide.)

**Note:** An individual may not accept a campaign contribution if he or she does not have a campaign treasurer appointment on file with the Ethics Commission.

### CAMPAIGN EXPENDITURES

A campaign expenditure is a payment or an agreement to make a payment in connection with a campaign for an elective office.

- Paying a filing fee with an application for a place on the ballot is a campaign expenditure.
- Purchasing stationery for fund-raising letters is a campaign expenditure.
- Renting a field to hold a campaign rally is a campaign expenditure.
- Paying people to put up yard signs in connection with an election is a campaign expenditure.

**Note:** An individual may not make a campaign expenditure unless he or she has a campaign treasurer appointment on file with the Ethics Commission.

### OFFICEHOLDER CONTRIBUTIONS

The provision of or a promise to provide goods or services to an officeholder that is intended to defray expenses in connection with an officeholder’s duties or activities is an officeholder contribution if the expenses are not reimbursable with public money. A contribution of goods or services is an “in-kind” officeholder contribution.

An officeholder is not required to have a campaign treasurer appointment on file to accept officeholder contributions. An officeholder who does not have a campaign treasurer on file may not accept campaign contributions.

### **OFFICEHOLDER EXPENDITURES**

A payment or agreement to pay certain expenses in connection with an officeholder's duties or activities is an officeholder expenditure if the expenses are not reimbursable with public money.

An officeholder is not required to have a campaign treasurer appointment on file to make officeholder expenditures. An officeholder who does not have a campaign treasurer appointment on file may not make *campaign* expenditures.

### **CAMPAIGN EXPENDITURES BY OFFICEHOLDER**

An officeholder who has a campaign treasurer appointment on file may accept both campaign contributions and officeholder contributions and may make both campaign expenditures and officeholder expenditures. On a report, there is no need for an officeholder who is a candidate to distinguish between campaign contributions and officeholder contributions or between campaign expenditures and officeholder expenditures. Both campaign contributions and officeholder contributions are reported as "political contributions," and both campaign expenditures and officeholder expenditures are reported as "political expenditures."

An officeholder who does not have a campaign treasurer on file may accept officeholder contributions and make officeholder expenditures but may not accept campaign contributions or make campaign expenditures.

### **PERMISSIBLE USE OF POLITICAL CONTRIBUTIONS**

An individual may use officeholder contributions for campaign purposes if the individual has a campaign treasurer appointment on file. An officeholder may use campaign contributions for officeholder purposes at any time. Candidates and officeholders may not convert political contributions to personal use. *See* "Important Campaign Finance Restrictions" in this guide.

### **USE OF POLITICAL FUNDS TO RENT OR PURCHASE REAL PROPERTY**

A candidate or officeholder is prohibited from using political funds to purchase real property or to pay the interest on or principal of a note for the purchase of real property.

A candidate or officeholder may not knowingly make or authorize a payment from political funds for the rental or purchase of real property from: (1) a person related to the candidate or officeholder within the second degree of consanguinity or affinity as determined under Chapter 573, Government Code; or (2) a business in which the candidate or officeholder (or a person related to the candidate or officeholder within the second degree of consanguinity or affinity) has a participating interest of more than 10 percent, holds a position on the governing body, or serves as an officer. Elec. Code § 253.038 (a-1). This restriction applies to a payment made from political funds on or after September 1, 2007, without regard to whether the payment was made under a lease or other agreement entered into before that date.

## ACCEPTING CONTRIBUTIONS

A candidate or officeholder must report contributions that he or she has *accepted*. Receipt is different from acceptance. A decision to *accept* a contribution must be made by the end of the reporting period during which the contribution is received. (A decision to accept a contribution made during the period covered by a special session report must be made by the third day after the contribution is received.)

**Failure to make a determination about acceptance or refusal.** If a candidate or officeholder fails to make a timely determination to accept or refuse a contribution by the deadline, the contribution is considered to have been accepted.

**Returning refused contributions.** If a candidate or officeholder receives a political contribution but does not accept it, he or she must return the contribution not later than the 30th day after the end of the reporting period in which the contribution was received. Otherwise, the contribution is considered to have been accepted.

## REIMBURSEMENT FOR POLITICAL EXPENDITURES FROM PERSONAL FUNDS

If a candidate or officeholder makes political expenditures from personal funds, he or she may use political contributions to reimburse himself or herself if the expenditures are properly reported either on the reporting schedule for loans or on the reporting schedule for political expenditures from personal funds. In order for a candidate or officeholder to use political contributions to reimburse his or her personal funds, the political expenditure from personal funds must be reported on the report covering the period in which the expenditures are made. *A filed report may not be later corrected to indicate an intention to reimburse personal funds from political contributions.*

If a candidate or officeholder deposits personal funds in an account in which political contributions are held as permitted by section 253.0351(c) of the Election Code, the deposited amount must be reported as a loan and reimbursements to the candidate or officeholder may not exceed the amount reported as a loan. See “Campaign Expenditures from Personal Funds” in this guide for additional information.

## SEPARATE ACCOUNT REQUIRED

A candidate or officeholder must keep political contributions in one or more accounts that are separate from any other account maintained by the candidate or officeholder. (There is no requirement to keep campaign contributions in a separate account from officeholder contributions.)

## INFORMATION REQUIRED ON REPORTS

### CONTRIBUTIONS

A report must disclose all political contributions accepted during the reporting period. If a contributor contributes \$50 or less during the reporting period, contributions from that contributor may be disclosed as part of a lump sum. For other contributions, a filer must disclose the name and address of the contributor, the date of the contribution, and, for in-kind contributions, the nature and value of the contribution.

For contributions accepted on or after January 1, 2004, candidates for and holders of statewide executive-branch offices and legislative offices are required to disclose an individual contributor's principal occupation or job title and the full name of the contributor's employer if, during the reporting period, the filer has accepted contributions aggregating \$500 from the individual.

## **PLEDGES**

Promises to transfer money, goods, services, or other things of value are contributions. If a filer accepts such a promise, he or she must report it (along with the information required for other contributions) on the reporting schedule for "pledges." Once a pledge has been reported, it is *not* re-reported upon receipt.

**Note:** A pledge is not a contribution unless it has been accepted.

**Example 1:** In June a supporter promises that he will give Juan Garcia \$1,000 in the last week before the November election. Juan accepts his promise. Juan must report the pledge on his July 15 report. (**Note:** Once he reports the \$1,000 pledge, his reporting obligation for that pledge is complete. He does not report the actual receipt of the pledge. Also, if he never receives the \$1,000, he does not amend his report to delete the entry for the pledge.)

**Example 2:** At a party, an acquaintance says to Juan, "I'd like to give you some money; call me at my office." Juan agrees to call. At this point, Juan has accepted nothing and has nothing to report. Juan has not agreed to accept money; he has merely agreed to call.

## **LOANS**

Loans made for campaign or officeholder purposes are reportable. A filer must report the amount of a loan, the date the loan is made, the interest rate, the maturity date, the type of collateral, and the name and address of the lender. The filer must also report the name, address, principal occupation, and employer of any guarantor and the amount guaranteed by the guarantor. (Detailed information is not required if a particular lender lent \$50 or less during a reporting period.) If a candidate or officeholder deposits personal funds in an account in which political contributions are held as permitted by section 253.0351(c) of the Election Code, the deposited amount must be reported as a loan. *See* "Campaign Expenditures from Personal Funds" in this guide for additional information.

**Note:** A loan from an incorporated financial institution that has been in business for more than one year is not a contribution. Other loans are considered to be contributions. This distinction is important because of the prohibition on contributions from banks and certain other financial institutions. *See* "Important Campaign Finance Restrictions" in this guide. All loans are reported on the same schedule, regardless of whether they are contributions.

## **CONTRIBUTIONS OF PERSONAL SERVICES**

A political contribution consisting of an individual's personal services is not required to be reported if the individual receives no compensation *from any source* for the services.

## CONTRIBUTIONS OF PERSONAL TRAVEL

A political contribution consisting of personal travel expense incurred by an individual is not required to be reported if the individual receives no reimbursement for the expense.

## CONTRIBUTIONS FROM OUT-OF-STATE POLITICAL COMMITTEES

There are restrictions on contributions from out-of-state political committees. The fact that a political committee has a mailing address outside of Texas does not mean that the committee is an out-of-state political committee for purposes of these restrictions. A political committee that has a campaign treasurer appointment on file in Texas is not an out-of-state political committee for purposes of these restrictions.

**Contributions over \$500 in a reporting period.** Before *accepting* more than \$500 in a reporting period from an out-of-state committee, a candidate or officeholder must obtain either (1) a written statement, certified by an officer of the out-of-state political committee, listing the full name and address of each person who contributed more than \$100 to the out-of-state political committee during the 12 months immediately preceding the contribution, *or* (2) a copy of the out-of-state political committee's statement of organization filed as required by law with the Federal Election Commission and certified by an officer of the out-of-state committee.

This documentation must be included with the report of contributions and expenditures for the period in which the contribution was received.

**Contributions of \$500 or less in a reporting period.** For contributions of \$500 or less from an out-of-state committee in a reporting period, there is no requirement to obtain documentation *before accepting* the contribution or contributions. But there is a requirement to include certain documentation with the report of the contribution or contributions. The report must include *either* (1) a copy of the out-of-state political committee's statement of organization filed as required by law with the Federal Election Commission and certified by an officer of the out-of-state committee, *or* (2) the committee's name, address, and phone number; the name of the person appointing the committee's campaign treasurer; and the name, address, and phone number of the committee's campaign treasurer.

## EXPENDITURES

A filer must report any campaign expenditure (regardless of whether it is made from political contributions or from personal funds) and any political expenditure (campaign or officeholder) from political contributions (regardless of whether the expenditure is a political expenditure). If the total expenditures to a particular payee do not exceed \$100 during the reporting period, a filer may report those expenditures as part of a lump sum. Otherwise, a filer must report the date of an expenditure, the name and address of the person to whom the expenditure is made, and the purpose of the expenditure.

## **CAMPAIGN EXPENDITURES FROM PERSONAL FUNDS**

A candidate must report all campaign expenditures, whether made from political contributions or from personal funds. In order to use political contributions to reimburse himself or herself for campaign expenditures from personal funds, the candidate must properly report the expenditures either on the reporting schedule for loans or on the reporting schedule for political expenditures from personal funds. If the candidate does not indicate the intention to seek reimbursement on that report, he or she may not later correct the report to permit reimbursement.

If a candidate or officeholder deposits personal funds in an account in which political contributions are held as permitted by section 253.0351(c) of the Election Code, the deposited amount must be reported as a loan on Schedule E. Political expenditures made from that loan, and any subsequent expenditures to reimburse the candidate or officeholder, must be reported on Schedule F. The reimbursement may not exceed the amount reported as a loan. Any unexpended funds from such a loan are required to be included in the total amount of political contributions maintained as of the last day of the reporting period. Note: Personal funds deposited in an account in which political contributions are held are subject to the personal use restrictions.

## **OFFICEHOLDER EXPENDITURES FROM PERSONAL FUNDS**

An officeholder is not required to report *officeholder expenditures* made from personal funds unless he or she intends to be reimbursed from political contributions. This rule applies regardless of whether an officeholder has an appointment of campaign treasurer on file.

In order for an officeholder to use political contributions to reimburse an officeholder expenditure from personal funds, the officeholder must properly report the expenditures either on the reporting schedule for loans or on the reporting schedule for political expenditures from personal funds. If the officeholder does not indicate the intention to seek reimbursement, he or she may not later correct the report to permit reimbursement.

If a candidate or officeholder deposits personal funds in an account in which political contributions are held as permitted by section 253.0351(c) of the Election Code, the deposited amount must be reported as a loan on Schedule E. Political expenditures made from that loan, and any subsequent expenditures to reimburse the candidate or officeholder, must be reported on Schedule F. The reimbursement may not exceed the amount reported as a loan. Any unexpended funds from such a loan are required to be included in the total amount of political contributions maintained as of the last day of the reporting period. Note: Personal funds deposited in an account in which political contributions are held are subject to the personal use restrictions.

## **DIRECT EXPENDITURES**

A direct campaign expenditure is “a campaign expenditure that does not constitute a campaign contribution by the person making the expenditure.” As a practical matter, a direct campaign expenditure is an expenditure to support a candidate incurred without the candidate’s prior consent or approval.

If a candidate or officeholder makes a direct campaign expenditure to support *another* candidate or officeholder, the expenditure must be included on the reporting schedule for political expenditures, and the report must indicate that the expenditure was a direct campaign expenditure.

### **SUPPORTING POLITICAL COMMITTEES**

A political committee that accepts political contributions or makes political contributions on behalf of a candidate or officeholder is required to give the candidate or officeholder notice of that fact. The candidate or officeholder must report the receipt of such a notice on the report covering the period in which he or she receives the notice.

### **PAYMENTS TO A BUSINESS OF THE CANDIDATE OR OFFICEHOLDER**

A candidate or officeholder is required to report payments from political funds to a business in which the candidate or officeholder has a participating interest of more than 10 percent; a position on the governing body of the business; *or* a position as an officer of a business.

A candidate or officeholder may not make a payment to such a business if the payment is for personal services rendered by the candidate or officeholder or by the spouse or dependent child of the candidate or officeholder. (Nor may a candidate or officeholder use political contributions to pay directly for such personal services.) Other payments to such a business are permissible only if the payment does not exceed the amount necessary to reimburse the business for actual expenditures made by the business. *See generally* Ethics Advisory Opinion No. 35 (1992).

A candidate or officeholder may not make or authorize a payment from political funds for the rental or purchase of real property from such a business. *See* “Use of Political Funds to Rent or Purchase Real Property” in this guide.

### **INTEREST EARNED, OTHER CREDITS/GAINS/REFUNDS, AND PURCHASE OF INVESTMENTS**

For reports due on or after September 28, 2011, a candidate or officeholder is required to disclose information regarding the following types of activity from political contributions:

- any credit, interest, rebate, refund, reimbursement, or return of a deposit fee resulting from the use of a political contribution or an asset purchased with a political contribution, the amount of which exceeds \$100;
- any proceeds of the sale of an asset purchased with a political contribution, the amount of which exceeds \$100;
- any other gain from a political contribution, the amount of which exceeds \$100; and
- any investment purchased with a political contribution, the amount of which exceeds \$100.

A candidate or officeholder must use Schedule K to report such information. Although you are not required to do so, you may also report any credit/gain/refund, interest, or investment that does not exceed \$100 in the period on this schedule. (Previously, this was an optional schedule because a candidate or officeholder was not required to report this information.) A candidate or officeholder may not use interest and other income from political contributions for personal purposes. Political expenditures made from such income must be reported on the expenditures schedule.

### **TOTAL POLITICAL CONTRIBUTIONS MAINTAINED**

The law requires you to disclose the total amount of political contributions accepted, including interest or other income on those contributions, maintained in one or more accounts in which political contributions are deposited as of the last day of the reporting period. The “total amount of political contributions maintained” includes: the total amount of political contributions maintained in one or more accounts, including the balance on deposit in banks, savings and loan institutions and other depository institutions and the present value of any investments that can be readily converted to cash, such as certificates of deposit, money market accounts, stocks, bonds, treasury bills, etc.

The total amount of political contributions maintained does NOT include personal funds that the filer intends to use for political expenditures, *unless* the personal funds have been disclosed as a loan to your campaign and deposited into an account in which political contributions are held as permitted by section 253.0351(c) of the Election Code. Any unexpended funds from such a loan are required to be included in the total amount of political contributions maintained as of the last day of the reporting period. Note: Personal funds deposited in an account in which political contributions are held are subject to the personal use restrictions.

### **TIME OF ACCEPTING CONTRIBUTION**

A filer must report the date he or she *accepts* a political contribution. The date of receipt may be different from the date of acceptance. *See* “Accepting Contributions” in this guide.

### **TIME OF MAKING EXPENDITURE**

For reporting purposes, an expenditure is made when the amount of the expenditure is readily determinable, not when payment is actually made. If a filer cannot determine the amount of an expenditure until a periodic bill, the date of the expenditure is the date the bill is received.

**Credit Card Expenditures.** For purposes of 30 day and 8 day pre-election reports, the date of an expenditure made by a credit card is the date of the purchase, not the date of the credit card bill. For purposes of other reports, the date of an expenditure made by a credit card is the date of receipt of the credit card statement that includes the expenditure.



## **OTHER REPORTING REQUIREMENTS**

### **ELECTRONIC FILING**

Candidates and officeholders who file with the Ethics Commission must file reports electronically unless the filer is entitled to claim the exemption from electronic filing. To claim an exemption from electronic filing, a filer must meet *all* of the following requirements: 1) neither the filer, an agent of the filer, nor a person with whom the filer contracts uses computer equipment to keep the current records of political contributions, political expenditures, or persons making political contributions to the filer; 2) the filer does not accept more than \$20,000 in political contributions in any calendar year; and 3) the filer does not make more than \$20,000 in political expenditures in any calendar year.

With *each* report filed on paper, a filer must include an affidavit swearing that he or she is entitled to an exemption from electronic filing. The exemption affidavit form is available on the Ethics Commission's website at <http://www.ethics.state.tx.us>.

### **PAPER FORMS**

Copies of paper forms are available at <http://www.ethics.state.tx.us> on the Ethics Commission website.

### **ONE REPORT FOR A CANDIDATE WHO IS ALSO AN OFFICEHOLDER**

An individual who is both a candidate and an officeholder files one report for each reporting period and is not required to distinguish between campaign activity and officeholder activity.

### **SIGNATURE**

The candidate or officeholder, not the campaign treasurer, must sign reports.

### **FILING DEADLINES**

Filing schedules are available at <http://www.ethics.state.tx.us> on the Ethics Commission website.

### **PERIODS COVERED BY REPORTS**

Each report covers activity during a specific time period. Generally, a report picks up where the last report left off. For a candidate's first report, the beginning date will be the date the campaign treasurer appointment was filed. For an officeholder who is appointed to an elective office and who did not have a campaign treasurer appointment on file at the time of the appointment, the beginning date for the first report will be the date the officeholder took office. Generally, there should not be gaps between the periods covered or an overlap of time periods. See "Required Reports" at in this guide for information about filing deadlines and periods covered by reports.

## DEADLINE ON WEEKEND OR HOLIDAY

If the due date for a report falls on a Saturday, Sunday, or legal holiday, the report is due on the next regular business day.

## TIMELINESS OF FILING BY MAIL OR OTHER CARRIER

For most reporting deadlines, a document is considered timely filed if it is properly addressed with postage or handling charges prepaid and bears a postmark or receipt mark of a common or contract carrier indicating a time on or before the deadline.

**Pre-Election Reports.** A report due 30 days before an election and a report due 8 days before an election must be *received* by the Ethics Commission no later than the report due date to be considered filed on time.

## RETENTION OF RECORDS USED FOR REPORTS

A filer must keep records of all information used to prepare a report of contributions and expenditures, including, for example, receipts or ledgers of contributions and expenditures. A filer must maintain the records for two years after the deadline for the report.

## REQUIRED REPORTS

### SEMIANNUAL REPORTS

Every candidate and every officeholder is required to file reports of contributions and expenditures by January 15 and July 15 of each year. The reports filed on these dates are known as semiannual reports.

Candidates and officeholders must file semiannual reports even if there is no activity to report for the period covered.

### REPORTS DUE BEFORE AN ELECTION

**Personal Financial Statement.** A candidate for office as an elected officer must file a financial statement within 40 days after the regular deadline for filing an application for a place on the ballot in the March primary election. If the date for filing for ballot access or filing a declaration of write-in candidacy falls after the regular filing deadline for candidates in the primary election, the deadline may vary. Please contact the Ethics Commission to determine the deadline. A candidate for office as an elected officer in a special election must file 5 days before the election.

**30 Days And 8 Days Before An Election.** An *opposed* candidate in an upcoming election must file reports of contributions and expenditures 30 days and 8 days before the election. Each of these pre-election reports must be *received* by the Ethics Commission no later than the report due date. (A person who has elected modified reporting and who remains eligible for modified reporting is not required to file these reports. See “Modified Reporting” below.)

An opposed candidate is a candidate who has an opponent whose name is printed on the ballot. If a candidate's only opposition is a write-in candidate, that candidate is considered unopposed for filing purposes. (**Note:** A write-in candidate who accepts political contributions or makes political expenditures is subject to the reporting requirements discussed in this guide.)

The report that is due 30 days before the election covers the period that begins on the first day after the period covered by the last required report and ends the 40th day before the election. If this is a filer's first required report, the period covered by the report begins on the day the filer filed a campaign treasurer appointment.

The report that is due 8 days before the election covers the period that begins on the first day after the period covered by the last required report and ends on the 10th day before the election.

**8 Days Before A Runoff Election.** A candidate in a runoff must file a report 8 days before the runoff election. A runoff report must be *received* by the Ethics Commission no later than the report due date. (A candidate who has elected modified reporting and who remains eligible for modified reporting is not required to file this report. See "Modified Reporting" below.) This report covers a period that begins either the first day after the period covered by the last required report or the day the filer filed a campaign treasurer appointment (if this is the filer's first report of contributions and expenditures).

The period covered by the runoff report ends the 10th day before the runoff election.

## **MODIFIED REPORTING**

On the campaign treasurer appointment form, there is an option to choose modified reporting for the next election cycle. Modified reporting excuses an opposed candidate from filing reports 30 days and 8 days before an election and 8 days before a runoff. An opposed candidate is eligible for modified reporting only if the candidate does not intend to exceed either \$500 in contributions or \$500 in expenditures in connection with an election.

If an opposed candidate selects modified reporting but exceeds a threshold before the 30th day before the election, the candidate must file reports 30 days and 8 days before the election.

If an opposed candidate selects modified reporting but exceeds the \$500 threshold for contributions or expenditures after the 30th day before the election, the filer must file a report within 48 hours of exceeding the threshold. (The filer must meet this deadline even if it falls on a weekend or a holiday.) At that point, the filer is no longer eligible for modified reporting and must file according to the regular filing schedule.

A selection to file on the modified reporting schedule lasts for an entire election cycle. In other words, the selection is valid for a primary, a primary runoff, and a general election (as long as the candidate does not exceed one of the \$500 thresholds). A candidate must submit an amended campaign treasurer appointment (FORM ACTA) to select modified reporting for a different election cycle.

## **“15TH DAY AFTER APPOINTMENT OF CAMPAIGN TREASURER BY AN OFFICEHOLDER” REPORT**

An officeholder must file a report after filing a campaign treasurer appointment. (A report is not required after a *change* in campaign treasurers.) This report of contributions and expenditures is due no later than 15 days after the campaign treasurer appointment was filed. This report is required even if there is no activity to report. The report must cover the period that begins the day after the period covered by the last required report. The period ends on the day before the campaign treasurer appointment was filed. (**Note:** A person who is *appointed* to elective office may not have filed any previous reports. In that case, the beginning date for the report due 15 days after the campaign treasurer appointment is the date the officeholder took office.)

## **SPECIAL PRE-ELECTION REPORTS**

Special pre-election reports (formerly known as telegram reports) are filed by opposed candidates who file with the Ethics Commission and who accept a contribution or contributions from a single source that in the aggregate exceed \$1,000 during the period beginning the 9th day before the election and ending at noon on the day before the election.

A special pre-election report must be filed electronically, unless otherwise exempted from electronic filing. A special pre-election report filed electronically must be *received* by the commission no later than midnight of the first business day after the contribution is accepted. A special pre-election report that is filed on paper must be *received* by the commission no later than 5 p.m. of the first business day after the contribution is accepted. A special pre-election report that is exempt from the electronic filing requirement does not have to be on a form prescribed by the Ethics Commission. It may be on regular stationery. Any information reported on a special pre-election report must also be reported on the next contribution and expenditure report. *This is the only instance in which information must be reported twice.*

A special pre-election report must include the amount of the contribution(s), the full name and address of the contributor(s), and the date(s) of the contribution(s).

## **SPECIAL SESSION REPORT**

This report is filed after a special legislative session called by the governor. All statewide candidates and officeholders and members of and candidates for the legislature who *receive contributions* during the time period covered by the special session report are required to file a special session report. (Statewide officeholders and members of the legislature may not accept political contributions during a regular legislative session. This restriction does not apply during a special session.) The report must be filed no later than 30 days after the date of final adjournment and must cover the period beginning on the date the governor signs the proclamation calling the special session and ending on the date of final adjournment of the special session.

A special session report is required only if the filer accepted contributions during the period covered by the report. (This is an exception from the general rule that a report is required even if there is no activity to report.)

If a person required to file the report due 30 days after a special legislative session is required to file *another* report *not later than the 10th day after* the special session report is due, then the person does not have to file the special session report.

## **FINAL REPORT**

See “Ending Filing Obligations” in this guide.

## **ANNUAL REPORT OF UNEXPENDED CONTRIBUTIONS**

See “Ending Filing Obligations” in this guide.

## **REPORT OF FINAL DISPOSITION OF UNEXPENDED CONTRIBUTIONS**

See “Ending Filing Obligations” in this guide.

### ***Things to Remember***

- An officeholder must file semiannual reports for any period during which he or she is an officeholder, regardless of whether the officeholder has a campaign treasurer on file.
- An opposed candidate in an election must file reports of contributions and expenditures 30 days and 8 days before the election, unless the candidate has selected (and remains eligible for) modified reporting. A report due 30 days before an election and a report due 8 days before an election must be *received* by the appropriate filing authority no later than the report due date.
- An *unopposed* candidate is not required to file reports 30 days before an election, 8 days before an election, or special pre-election reports, but is required to file semiannual reports.
- A candidate who selects modified reporting must file semiannual reports.
- A filer who selects modified reporting for one election cycle will be required to file on the regular reporting schedule for the next election cycle unless the filer submits an amended campaign treasurer appointment selecting modified reporting for the next election cycle.
- A special pre-election report must be filed electronically unless otherwise exempted from the electronic filing requirement.
- Any information reported on a special pre-election report must be reported again on the next report of contributions and expenditures.

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## **ENDING FILING OBLIGATIONS**

### **FINAL REPORT**

If a filer expects to accept no further political contributions and to make no further political expenditures and if the filer expects to take no further action to get elected to a public office, the filer

may file a final report. Filing a final report terminates a filer's campaign treasurer appointment and relieves the filer from any additional filing obligations *as a candidate*. (Note: A candidate who does not have a campaign treasurer appointment on file is still required to file a personal financial statement in accordance with chapter 572 of the Government Code. See "Personal Financial Statement" in this guide.) If the filer is an officeholder, the filer will still be subject to the filing requirements applicable to officeholders. A filer who is not an officeholder at the time of filing a final report *and* who has surplus political funds or assets will be required to file annual reports of unexpended contributions and a report of final disposition of unexpended contributions. See "Annual Report of Unexpended Contributions" below and "Report of Final Disposition of Unexpended Contributions" in this guide.

A filer who intends to continue accepting contributions to pay campaign debts should *not* terminate his or her campaign treasurer appointment. An individual must have a campaign treasurer appointment on file to accept contributions to offset campaign debts or to pay campaign debts.

Terminating a campaign treasurer appointment does not relieve a filer of responsibility for any delinquent reports or outstanding civil penalties.

## **ANNUAL REPORT OF UNEXPENDED CONTRIBUTIONS**

The following individuals must file annual reports of unexpended contributions:

- a former officeholder who did not have a campaign treasurer appointment on file at the time of leaving office and who retained any of the following after filing his or her last report: political contributions, interest or other income from political contributions, or assets purchased with political contributions or interest or other income from political contributions.
- a former candidate (a person who previously had a campaign treasurer appointment on file) who was not an officeholder at the time of filing a final report and who retained any of the following at the time of filing a final report: political contributions, interest or other income from political contributions, or assets purchased with political contributions.

Annual reports are due not earlier than January 1 and not later than January 15 of each year. An annual report (FORM C/OH-UC) must contain the following information: (1) information about expenditures from or disposition of surplus funds or assets; (2) the amount of interest or other income earned on surplus funds during the previous year; and (3) the total amount of surplus funds and assets at the end of the previous year.

The obligation to file annual reports ends when the former candidate or officeholder files a report of final disposition of unexpended contributions.

## **REPORT OF FINAL DISPOSITION OF UNEXPENDED CONTRIBUTIONS**

A former candidate or former officeholder who has disposed of all surplus funds and assets must file a report of final disposition of unexpended contributions. This report may be filed as soon as all funds have been disposed of.

A former candidate or former officeholder has six years from the date of filing a final report or leaving office (whichever is later) to dispose of surplus funds and assets. The latest possible date for filing a report of unexpended contributions is 30 days after the end of that six-year period.

At the end of the six-year period, a former candidate or officeholder *must* dispose of surplus assets or funds in one of the following ways:

- The former candidate or officeholder may give them to the political party with which he or she was affiliated when last on the ballot;
- The former candidate or officeholder may contribute them to a candidate or a political committee. (This triggers a requirement to file a report of the contribution.);
- The former candidate or officeholder may give them to the comptroller for deposit in the state treasury to be used to finance primary elections;
- The former candidate or officeholder may give them to one or more contributors, but the total returned to any person may not exceed the aggregate amount accepted from that person during the last two years during which the former candidate or officeholder accepted political contributions;
- The former candidate or officeholder may give them to certain charitable organizations; or
- The former candidate or officeholder may give them to a public or private post-secondary educational institution or an institution of higher education as defined by section 61.003(8), Education Code, for the purpose of assisting or creating a scholarship program.

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***Things to Remember***

- Anyone who has an appointment of campaign treasurer on file with the Ethics Commission is required to file periodic reports of campaign contributions and expenditures.
- An individual who expects no further campaign activity may file a final report and thereby terminate his or her campaign treasurer appointment. (Note: A candidate who does not have a campaign treasurer appointment on file is still required to file a personal financial statement in accordance with chapter 572 of the Government Code. See “Personal Financial Statement” in this guide.)

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**PENALTIES FOR VIOLATIONS OF FILING REQUIREMENTS**

A person who files a report late or fails to file a report is subject to a late-filing penalty. The late-filing penalty in connection with most reports is \$500. For a report due eight days before an election or for the first semiannual report due after a primary or general election, the late filing penalty is \$500 for the first day the report is late and \$100 a day for each day thereafter that the report is late.

Also, any citizen may file a criminal complaint with the district attorney, a civil complaint with the Ethics Commission, or a civil action against a candidate or officeholder for violations of title 15. Any penalty stemming from such complaints would be assessed against *the candidate or officeholder*, not the campaign treasurer.

## **IMPORTANT CAMPAIGN FINANCE RESTRICTIONS**

Chapter 253 of the Election Code contains a number of restrictions regarding the acceptance and use of political contributions, including the following:

1. An individual may not accept a campaign contribution or make a campaign expenditure (including a campaign expenditure from personal funds) without a campaign treasurer appointment on file. Elec. Code § 253.031. An officeholder may accept officeholder contributions and make officeholder expenditures regardless of whether he or she has a campaign treasurer appointment on file.
2. Members of the legislature and most statewide officers may not accept political contributions during a period that begins 30 days before a regular legislative session convenes and ends 20 days after final adjournment. Elec. Code § 253.034.
3. Political contributions from labor organizations and from most corporations are prohibited. Elec. Code § 253.091, *et seq.* Partnerships that include one or more corporate partners are subject to the prohibition.
4. Certain documentation must be obtained in order to accept contributions from an out-of-state political committee. Elec. Code § 253.032. *See* “Contributions From Out-of-State Political Committees” in this guide.
5. Contributions in the Capitol and the Capitol Extension are prohibited. Effective September 1, 2009, contributions in a courthouse are also prohibited. Elec. Code § 253.039.
6. Cash contributions of more than \$100 in the aggregate from one contributor in a reporting period are prohibited. (Here “cash” means coins and currency, not checks.) Elec. Code § 253.033.
7. The use of political contributions to purchase real property is prohibited. There is also a restriction on the use of political funds to rent or purchase real property from a person related to the candidate or officeholder within the second degree of consanguinity or affinity or from a business in which the candidate or officeholder or such a relative has a participating interest of more than 10 percent, holds a position on the governing body, or serves as an officer. Elec. Code § 253.038.
8. Texas law does not allow anonymous contributions. Also, reports must disclose the actual source of a contribution, not an intermediary. Elec. Code § 253.001.
9. Personal use of political contributions is prohibited. Elec. Code § 253.035.



10. A candidate or officeholder may not use political contributions to pay for personal services rendered by the candidate or officeholder or by the spouse, or dependent children of the candidate or officeholder. There are also restrictions of a candidate's or officeholder's use of political contributions to make payments to a business in which the candidate or officeholder holds a participating interest of more than 10 percent, a position on the governing body of the business, or a position as an officer of the business. *See* Ethics Advisory Opinion No. 35 (1992) (regarding the combined effect of this prohibition and the prohibition on corporate contributions). Elec. Code § 253.041.
11. There are restrictions on the use of political contributions to reimburse personal funds for political expenditures from personal funds. Elec. Code §§ 253.035(h), 253.0351. *See* "Reimbursement For Political Expenditures From Personal Funds" in this guide. There are also caps on the amounts for which certain candidates and officeholders may reimburse personal funds from political contributions. Elec. Code §§ 253.042, 253.162.
12. Federal law generally prohibits the acceptance of contributions from foreign sources. Contact the Federal Election Commission at (800) 424-9530 or go to the FEC's website at <http://www.fec.gov> for more detailed information.
13. The law requires that certain information be disclosed on most political advertising. For more information, see the Ethics Commission's brochure titled "POLITICAL ADVERTISING: What You Need To Know" which is available on the commission's website at <http://www.ethics.state.tx.us>.
14. A candidate or officeholder must keep political contributions in one or more accounts that are separate from any other account maintained by the candidate or officeholder. (There is no requirement to keep campaign contributions in a separate account from officeholder contributions.)