# Campaign Finance Disclosure Training

**FOR CANDIDATES**

**2016**

# Introduction

- **The Michigan Campaign Finance Act (MCFA) provides for public disclosure of the funds spent and received to support or oppose candidates and ballot issues**
- Candidate and other committee types are required to register and file campaign statements with the appropriate filing official
- This session will introduce you to the disclosure requirements for candidate committees

# TOPICS

- MCFA Committee Types
- MCFA Definition of a Candidate
- How/Where to File the Statement of Organization
  - Late fees
- The Reporting Waiver
- Campaign Statement Types and Due Dates
  - Late fees
- Who Can Contribute?
  - Limits
  - Election Cycles
- MERTS/E-filing
- What's in a Campaign Statement?
- Notices from the filing official
- Duties of the SOS
- Treasurer Responsibilities
- Tips for Successful Reporting

Candidate Committee State and Local

Political/Independent Committees (PAC)

Ballot Question Committee

Political Party Committee

# MCFA Committee Types

# When Do I Become a Candidate?

- If you:
  - File a fee, affidavit or nominating petition OR
  - Are your party's certified nominee OR
  - Receive a contribution, make an expenditure or authorize someone else to do so on your behalf OR
  - Hold office and are the subject of a recall vote OR
  - Hold an elective office and can seek re-election
- …..Then **you are a candidate**. MCL 169.203

# Exceptions:

- A precinct delegate
- A person running for federal (U.S.) office
- Candidates for Indian tribal government or a private organization (labor union)
- A school board candidate where the district has less than 2400 pupils *and*
  - *Spends/receives less than $1000 for election*
  - *Contribution limits apply as do identification requirements*

# Determine Your Filing Official

**Local Office: County Clerk's Office**

**State and Judicial Offices: Bureau of Elections**

# What's Next?

- File your Statement of Organization
- Read the Candidate Manual
- Get to know your dates and deadlines
- Get familiar the MCFA
- Familiarize yourself with MERTS well ***before*** filing deadlines

Links:

- Statement of Organization
- Candidate Manual
  - Appendices
- Dates and Deadlines
- Michigan Campaign Finance Act
- www.mertsplus.com

# Where do I File My Statement of Organization?

**State level candidates file with the Bureau of Elections:**

- Governor/Lt. Governor
- Attorney General
- State Senator
- State Representative
- State Board of Ed.
- University Board (UofM, MSU, WSU)
- Justice of the Supreme Court
- ALL Judicial Candidates
  - Court of Appeals
  - Circuit Court
  - District Court
  - Probate Court
  - Municipal Court

# Where do I File My Statement of Organization?

**ALL County, City, and Township offices file with their county**

- County Clerk/Register of Deeds
- Sheriff
- Treasurer
- Prosecuting Attorney
- Road Commissioner
- Drain Commissioner
- Surveyor
- City/Township Clerk
- School Board

# When is the Statement of Organization due?

The Statement of Organization (SofO) is due within 20 days after meeting the definition of a candidate

Example: A person meets the definition of a candidate on **May 1st**:

- **The Formation date may be as late as May 11th**
- **The SofO may be filed no later than on or before May 21st**

# Are There Fines for Filing the SofO Late?

**<u>YES!</u>** - The fee for filing a Statement of Organization late accrues at $10/business day to a maximum of $300.00

# What is the Reporting Waiver?

## Section 169.224 (5, 6)

Exempts Committees who do not anticipate spending/receiving over $1000.00 per election from filing campaign statements

You must answer Yes to Item 10 in order for the waiver to be honored

Financial activity must still be recorded and tracked

The waiver does **not** exempt committees from filing:

- **The original SofO**
- **Late Contribution Reports**

# Reporting Waiver (cont.)

## When the Reporting Waiver is Lost

Once a committee spends/receives over $1000.00, the next campaign statement is required.

The $1000.00 threshold includes debts owed, balances from previous elections and all contributions both direct and in-kind

Candidate contributions (direct and in-kind) apply to $1000.00 threshold

## How to regain the Reporting Waiver

The reporting waiver may be obtained again if the committee requests it on an amended SofO

The Committee must:

Submit an Amended SofO with Yes selected in item 10

Amended SofO must have appropriate signatures

Committees ending balance must be less than $1000.00

Committees debts and obligations must be under $1000.00

# What Statements are Owed?

- Do you have a reporting waiver? If the answer is yes, no reports are owed unless you spend or receive over $1000.00
- If the answer is no, consider the following questions:
  - Are you on the ballot this year?
    - If yes, you owe the **Pre and Post Election Statements** for the election(s) you are on the ballot for and the **Annual Statement** for that year
    - If you are NOT on the ballot you will owe the following statements:
      - **July Quarterly: Close of books July 20, DUE July 25**
      - **October Quarterly: Close of books October 20, DUE October 25th**
      - **Annual Statement: Close of books December 31, Due January 31**

# Annual Statement Exceptions:

- Incumbent Judges/Justices
- An officeholder whose salary is less than $100/month
- A committee who has an active reporting waiver
- A committee who filed a campaign statement between December 1st and December 31st

# Campaign Statements: Filing On Paper

## Timely Filing of Pre/Post Statements

## MCL 169.216(9)

**Pre Election/Convention Statements are Timely if:**

- Mailed by certified/registered or overnight **AND**
- Postmarked 2 days **before** the filing deadline
- Pre Election Statements mailed by any other means MUST be received on or before the filing deadline

**Post Election and Annual Statements are timely if:**

- Mailed by certified/registered or overnight **AND**
- Postmarked **on or before** the filing deadline
- Post Election/Annual Statements mailed by any other means MUST be received on or before the filing deadline

# Are There Fines for Filing Campaign Statements Late?

- **YES!! Avoid late fees by filing on time!**

**Annual Statements**:

- Committees with financial activity **less than** $10k Late fee of $25/business day – Maximum $500.00
- Committees with financial activity **more than** $10k Late fee of $50/business day – Maximum $1000.00

**Pre and Post Election Statements**:

- Committees with financial activity **less than** 10k in last 2 years:$25/business day –Maximum $500.00
- Committees with financial activity **more than** 10k in last 2 years:
  - Day 1-3: $25/business day
  - Day 4-10: $50/business day
  - Day 11-16: $100/business day
  - Maximum $1000.00

Late Filing Fee Chart available in Appendix E and outlines fee assessment for all report types

# What is a Late Contribution Report?

A late contribution is a contribution from the same contributor with a cumulative of $500 or more between the 15th and 3rd day before an election

Section 32 of the MCFA requires that late contributions be reported within 48 hours of the date the contribution was received. The contribution is also reported on the subsequent campaign statement

Late Contribution Report form (paper)

e-IDR (electronic; state level)

# Will I be Fined if I don't File My Late Contributions?

**YES!! Avoid late fees by filing on time!**

**Fee Schedule:**

- Late filing fees shall not exceed the lesser of the following:
- The Total amount of omitted contributions - or –
- $2,000.00 to be assessed as follows
  - $25.00/business days 1-3
  - $50.00/business days 3-10
  - $100.00/business days 11-26

# Who Can Contribute to My Campaign?

You may receive money from legal sources to support your campaign. Legal sources include:

- Yourself (the candidate) and your *immediate family (unlimitedly)
- Individuals (contribution limit)
- Independent and Political Committees (contribution limit)
- Political Party Committees (contribution limit)
- Other Candidate Committees may purchase fundraiser tickets up to $100/calendar year

***MCFA Definition of Immediate Family**: *"Immediate family"* means any child residing in a candidate's household, the candidate's spouse, or any individual claimed by that candidate or that candidate's spouse as a dependent for federal income tax purposes" (MCL 169.208)

# What is a Contribution Limit?

A contribution limit is the amount of money a candidate is allowed to receive from a contributor based on the office the candidate is running for and the Election Cycle of the candidate

# What is an Election Cycle?

**General election**: election cycle begins the day following the last general election in which the office appeared on the ballot and ends on the day of the next general election in which the office appears on the ballot.

**Special election**: election cycle begins the day the special general election is called or the date the office becomes vacant (which ever is earlier) and ends on the day of the special general election.

# What is the Electronic Filing Requirement?

The Michigan Campaign Finance Act (MCL 169.218) requires that state level committees that spend or receive **$5,000.00** or more in a calendar year file electronically

If a committee anticipates spending or receiving **$5,000.00** or more in a calendar year they are required to file electronically

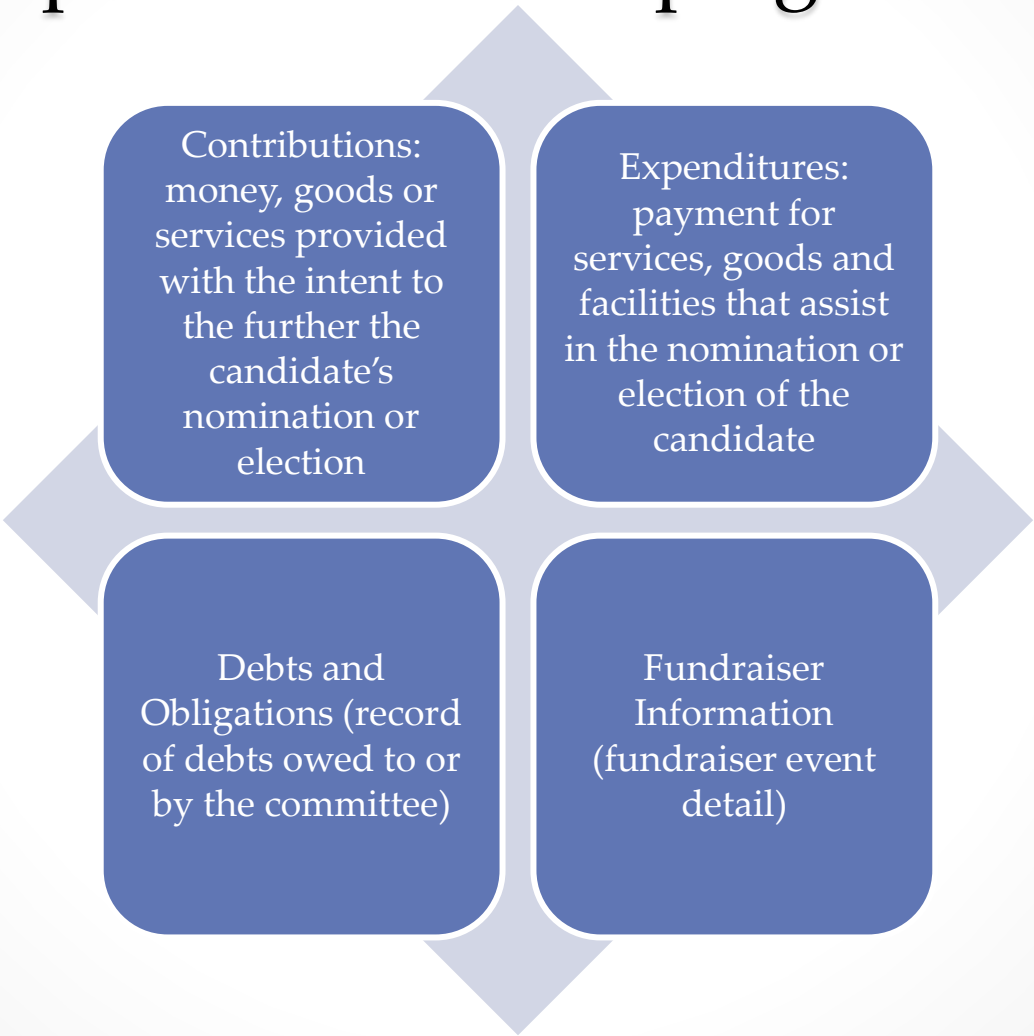
# What do I Use to File Electronically?

The state provides a software free of charge to state level and judicial committees for electronic filing call the Michigan Electronic Reporting and Tracking System (MERTS)

It is HIGHLY recommended to complete the online training or scheduling a Lansing training to become familiar with the software well before the committee's first filing is due

For more information and to download MERTS, visit www.mertsplus.com

# What's reported in a Campaign Statement?



# Cover Page & Summary Page

**Cover Page: provides information about the committee such as:**

- Committee ID number/ Committee Name
- Coverage Period
- Candidate's name, address and county of residence
- Committees mailing address
- Treasurers name and address
- Designated Record Keeper (if applies) name and address
- Type of Statement
- Candidate and Treasurer signatures

**Summary Page: Provides a snapshot of the entire statement including:**

- Total contributions and expenditures for coverage period (column I)
- Total cumulative contributions and expenditures for election cycle (column II)
- Balance statement (first statement always begins with $0)

# Contributions, Other Receipts & Schedules

### Itemized (Direct) Contribution :

- Money contributed to the campaign by cash or written instrument.
- Reported on Schedule 1A
- **Note: All contributions over $20.00 must be by written instrument (check, money order, debit, credit)**

### In-Kind Contribution :

- A donation of goods or services to the campaign
- Counts toward contribution limit
- Reported on Schedule 1-IK

### Loan as a Contribution

- A committee may accept loans from legal sources
- Loans count toward contribution limit until paid off
- Must be reported on Schedule 1A or 1-IK as appropriate

### Other Receipt:

- Money NOT intended to further the nomination or election of the candidate such as bank interest or refunds
- Reported on Schedule 1A-1

# What Information do I Gather from Contributors?

Required information:

- Name
- Address
- Amount
- Date of receipt

Is the contribution over $100 or the cumulative for that contributor over $100?

- If the answer is YES, then request the contributor's occupation, employer name and the address of their place of business

# Contribution Exceptions

Committees should track, but do not have to report the following:

- A volunteer's personal services that aren't reimbursed
- A volunteer's travel and lodging up to $500/year
- A volunteer's donation of food and beverages up to **$1000.00/year**
- A contribution that is returned to the contributor within 30 days.

# Prohibited Contributions

## MCL 169.230

| A candidate committee may ***not*** keep a contribution from the following: | Procedure: |
| --- | --- |
| • Labor Unions<br>• Corporations<br>• Domestic Dependent Sovereigns (Indian Tribes)<br>• Public Body Funds or use of Public Facilities (Section 57)<br>• Detroit Casino and Supplier Licensees<br>• Foreign Nationals (Federal Prohibition)<br>• Candidate to Candidate (up to $100 fundraiser allowed per year)<br>• Anonymous (Must be donated to charity)<br>• Cash over $20<br>• Excess<br>• Earmarked | • Return the contribution<br>• If funds were deposited the receipt and return must be disclosed on the next campaign statement. A copy of the letter and the check returning the contribution is required.<br>• Funds not deposited and returned within 30 days do not need to be reported. |

# Expenditure Types and Schedules

| Itemized (Direct) Expenditure: | In-Kind Expenditure: | Incidental Office Disbursement | Get Out the Vote (GOTV) |
|---|---|---|---|
| • Money spent from committee account for goods, services and facilities intended to further the nomination or election of the candidate<br>• Written instrument is required for expenditures over $50.00<br>• Receipts must be obtained for each expenditure<br>• Reported on schedule 1B | • Goods, services and facilities donated at no cost<br>• Items purchased on behalf of another committee (not candidate)<br>• Reported on Schedule 1B-IK | • Office holders only<br>• Used for expenses incidental to holding office (office rent, constituent meetings)<br>• Not used for election related purposes<br>• Reported on Schedule 1C | • Election day expenses<br>• Busing Voters to the polls<br>• Slate cards<br>• Poll workers, watchers & challengers<br>• Reported on Schedule 1B-G |

# What Information Should I Gather for Expenses?

## Required Information

- Name of payee
- Amount of payment
- Address of payee
- Date of payment
- Purpose (be specific)

# Prohibited Expenditures

A candidate committee may **not**:

- lend funds to another Candidate Committee;
- lend funds to the candidate or to any other person;
- make an expenditure to or on behalf of another Candidate Committee; or
- purchase ads in other candidates' program books.

# Memo Itemization of Expenditure

- **Required when committee makes an expenditure to a person that pays more than $50 to another party on behalf of the committee**
  - **Vendors, consultants, campaign workers**
  - **Credit card payments**
  - **Reimbursement**
  - **Independent Contractors (Appendix L)**

| | | | |
|---|---|---|---|
| Expenditure # 4<br>Name: DOWNTOWN CONSULTANTS<br>Address: 123 LINCOLN BLVD<br>RIVERTOWN MI 40000<br>☐ Fund Raiser | Purpose: FIRM HIRED TO DO TV ADS<br>Expenditure Code CN<br>☐ Check box if this expenditure is payment of debt or obligation reported on previous statement. | 12/01/2000<br>Memo - itemization below | 500.00 |
| Expenditure # 5<br>Name: WJMI TV<br>Address: 123 TELEVISION WAY<br>ELMDALE MI 40000<br>☐ Fund Raiser | Purpose: SUB VENDOR/TV AD<br>Expenditure Code BA<br>☐ Check box if this expenditure is payment of debt or obligation reported on previous statement. | 12/01/2000<br>Memo - itemization | (400.00) |

# Debts and Obligations

Contributions as loans are reported on schedule 1E as well as on the appropriate contribution schedule

Payments to loans are Reported on this schedule as well as on the expenditure schedule

Required information:

- Date debt was incurred and original amount
- Name and address of person debt is owed to
- Any payments to previous debt

# Designation of Contributions to Pay Off Debt

Can I pay off debt from last cycle with contributions from the current cycle?

Yes. Under the following conditions:

- The designation is made in writing;
- The contributor did not reach the applicable contribution limit in the designated cycle
- The designated contribution does not exceed the Candidate Committee's debts from the designated cycle

# Fund Raisers

Fundraising event means an event such as a dinner, reception, auction or similar event where contributions are solicited by purchase of a ticket, donation or purchase of goods or services.

- Fund raiser events are reported on schedule 1F
- All contributions and expenditures for a fund raising event must be reported in detail on the appropriate schedules
- Joint fundraisers have specific rules that are outlined in Appendix F of the candidate manual.

**NOTE: NO GAMBLING OR EVENTS THAT REQUIRE LICENSING**

# How do I Dissolve My Committee?

Committees with an active reporting waiver may file for dissolution using the Single Page Dissolution Statement

Committees without a reporting waiver must file a Dissolution Statement

To be eligible for dissolution a committee must:

- Have no assets
- No outstanding debt
- No outstanding fees or filings owed to the filing official

**APPENDIX W OF THE CANDIDATE MANUAL COVERS DISSOLUTION AND DISPOSITION OF UNEXPENDED FUNDS**

# IDENTIFICATION REQUIREMENTS

- Section 47 of the MCFA requires that all printed matter, radio or television paid advertisement that refers to an election, candidate or ballot question have an identification statement
- Printed matter- “Paid for by (committee name, address)
- Robo calls: prerecorded messages shall contain name, phone number, address or other contact for person paying for the message
- Mass mailings: Any mailing by U.S. mail or facsimile of 500 or more pieces of identical or similar nature within any 30 day period
- Radio or television- Must identify person sponsoring the ad; as required by the FCC
- Independent Expenditures- “Not authorized by any candidate”
- Committee types aside from candidate must also read or say “paid for with regulated funds”
- **EXAMPLE: Paid for with regulated funds by ABC PAC, 123 Main St. Lansing, MI 48918**

# Identification Requirement Exemptions

Appendix J has a list of items that are exempt from the identification requirement rule:

| | | |
|---|---|---|
| Aerial Banners | Frisbees | Pens |
| Ashtrays | Glasses | Pinwheels |
| Badges & Badge Holders | Golf Balls | Plastic Tableware |
| Balloons | Golf Tees | Pocket Protectors |
| Bingo Chips | Hats | Pot Holders |
| Brushes | Horns | Refrigerator Magnets |
| Bumper Stickers (4″ X 15″ Or Smaller) | Ice Scrapers | Ribbons |
| Buttons | Jar Lid Grippers (5″ Or Smaller) | Shoe Horns |
| Campaign Stickers (3″ X 1 ½″ Or Smaller) | Key Rings | Staple Removers |
| Candy Wrappers (1 ½″ X 2 ½″ Or Smaller) | Knives | Sun Glasses |
| Cigarette Lighters | Labels | Sun Visors |
| Cloth Pot Holders | Lapel Pins/Stickers | Sweatshirts |
| Clothes Pins | Magnifying Glasses | Swizzle Sticks |
| Clothing | Matchbooks | T-Shirts |
| Coasters | Nail Clippers | TV Scroll Advertisement |
| Combs | Nail Files | Whistles |
| Cups | Noisemakers | Wooden Nickels (Approx. Size of a 5-Cent Coin) |
| Drinking Glasses | Paper & Plastic Cups | Wooden Rulers (12″ Or Smaller) |
| Earrings | Paper & Plastic Plates | Yo-Yo's |
| Emery Boards | Paper Weights | |
| Envelopes | Pencils | |
| Erasers | Pendants | |
| Fortune Cookie Messages ½″ X 2″ Or Smaller) | Pennants | |

# Notices, Fees and Referrals

Failure to File – Committees are notified within 4 business days when required filings are not submitted. Refer to AG/County Prosecutor between 9th and 12th Business Day following the deadline

Late Fees – Notify committees when a statement is not filed on time based on the schedules provided under the Campaign Finance Act

- Unpaid fees are referred to the State/County Treasurer for collection
- Fees may be appealed for "good cause"

Error or Omission – Committees are notified when clarifications or corrections are needed to a Campaign Statement. Lack of response to an Error or Omission is referred to the Attorney General between the 9th and 12th business day following the deadline.

# Good Cause Waivers

## MCL 169.215 (f)

A person may request a waiver of late filing fees for "Good Cause" as defined below:

- The incapacitating physical illness, hospitalization, accident involvement, death, or incapacitation for medical reasons of a person required to file, a person whose participation is essential to the preparation of the statement or report, or a member of the immediate family of these persons.
- Other unique, unintentional factors beyond the filer's control not stemming from a negligent act or non-action so that a reasonably prudent person would excuse the filing on a temporary basis. These factors include the loss or unavailability of records due to a fire, flood, theft, or similar reason and difficulties related to the transmission of the filing to the filing official, such as exceptionally bad weather or strikes involving transportation systems.

# CAMPAIGN FINANCE COMPLAINTS

## MCL 169.215 (5)

**All** complaints alleging violations of the Campaign Finance Act are filed with the SOS

All complaints may be submitted on the required form and must include all required information

Anonymous complaints are not accepted

All parties will be given written notification with regard to the disposition of the complaint

Questions regarding complaint process will be directed to the Bureau of Elections

# Declaratory Rulings & Interpretive Statements

Interested parties may request clarification of the MCFA via Declaratory Rulings. Interpretive Statements are may be issued in some cases.

Declaratory rulings are binding on all parties and carry the force of law (formal)

Interpretive Statements provide interpretation of the law (informal)

The Bureau of Elections provides response to requests. Time frames are outlined in any committee manual.

Rulings to date are available on our web site

# Treasurer Responsibilities

As outlined in MCL 169.222:

- **The treasurer assumes legal responsibility for the committee**
- **The treasurer is responsible for keeping accounts, records, bills, receipts and electronic files for 5 years**
- **Authorizes contributions received and expenditures made by the committee**
- **Timely filing**
- **Respond to Notices of Error or Omission and Late Filing Fee notices**
- **Must sign original copy and all amended copies of the Statement of Organization**

**A treasurer or other individual designated as responsible for the committee's record keeping, report preparation, or report filing who knowingly violates this section is subject to a civil fine of not more than $1,000.00.**

# Selecting a Treasurer

## Important things to consider:

- Availability to perform duties in a timely fashion
- Experience (have they ever acted as treasurer for another committee?)
- Knowledge of the MCFA or a willingness to become familiar with the law
- Proficient at recording and tracking financial activity and balancing accounts (checkbook)
- Technical skills: should be able to navigate the internet and have basic knowledge of computer software

# Tips for Successful Reporting

Read the Candidate Manual

Record and track ALL financial activity of the committee, even if you have a Reporting Waiver. The law requires you to report the date of receipt. That date is when the treasurer or committee designee receives the contribution.

Become familiar with filing materials on our web site

If you are using MERTS- get efficient training well before filing deadlines

File on time! Mark your calendars with important dates to remember (filing deadlines). You can avoid fees by using certified mail when filing on paper.

Understand Late Contribution Reporting and the penalties for not filing them.

Keep your Statement of Organization information up to date. We send mail and e-mail to the addresses we have on file. Follow us on Twitter @michCFR

Candidate/treasurer communication must be optimum to avoid mistakes. Consider entering into a written agreement so that there is a clear understanding of each person's responsibility.

Pick your committee members (treasurer, record keeper) carefully.

# THANK YOU

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