

# CAMPAIGN FINANCE DISCLOSURE TRAINING



CANDIDATE COMMITTEES

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# 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

# MCFA Committee Types

- Candidate Committees
  - State & Local
- PACs
  - Political, Independent, Caucus, & Independent Expenditure Committees (Super PACs)
- Ballot Question Committees
  - State & Local
- Political Party Committees
  - State, County, & District

# 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 to the Definition of a Candidate

- 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*

# Where to Start

- File your Statement of Organization
  - [Statement of Organization](#)
- Read the Candidate Committee Manual
  - [Candidate Manual](#)
    - [Appendices](#)
- Get to know your dates and deadlines
  - [Dates and Deadlines](#)
- Get familiar the MCFA
  - [Michigan Campaign Finance Act](#)
- Familiarize yourself with MERTS (state filers only) well *before* filing deadlines
  - [www.mertsplus.com](http://www.mertsplus.com)

# Determine Your Filing Official

- State & Judicial Level candidates file with the Bureau of Elections
  - Governor/Lt. Governor, Attorney General, State Senator, State Representative, State Board of Education, University Board (UofM, MSU, WSU), Justice of the Supreme Court, Court of Appeals, Circuit Court, District Court, Probate Court, & Municipal Court
- ALL County, City, and Township offices file with their County Clerk



# 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 1<sup>st</sup>

- The formation date on the statement can be up to 10 days later which in this case is May 11<sup>th</sup>
- The statement must be filed no later than 10 days from the formation date which in our example would be May 21<sup>st</sup>

# Are There Fines for Filing the SofO Late?

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

# The Reporting Waiver

## Section 169.224 (5, 6)

- The Reporting Waiver exempts Committees who do not anticipate spending/receiving over \$1000.00 per election from filing campaign statements
- You must answer Yes in the Reporting Waiver section of the SofO to request the waiver
- The committee's financial activity must still be recorded and tracked
- The waiver does not exempt committees from filing:
  - The original and amended copies of the 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, in-kind, and loans) apply to \$1000.00 threshold
- How to regain the Reporting Waiver
  - File an Amended SofO with Yes selected in the Reporting Waiver section
  - The committee's ending balance & debts and obligations must both be under \$1,000

# 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

# Who Can Contribute to My Campaign?

- The committee 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](#))

# Campaign Statements

- Committees disclose their campaign finance activity on campaign statements
- Campaign statements consist of a series of schedules that itemize the committee's contributions, other receipts, expenditures, debts and fund raisers held by the committee



# 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
- The MERTS software is not available to local candidates

# What do I Use to File Electronically?

- The state provides 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 attend a webinar 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](http://www.mertsplus.com)

# When do Candidates File Campaign Statements?

- Does the committee have a reporting waiver? If the answer is yes, no reports are owed unless you spend or receive over \$1000.00
- If you do not have a reporting waiver, consider the following questions:
  - Are you on the ballot this year?
    - If yes, the Pre and Post Election Statements are owed for the election(s) you are on the ballot for and the Annual Statement for that year
    - If no, the following statements are owed:
      - July Quarterly: Close of books July 20, DUE July 25
      - October Quarterly: Close of books October 20, DUE October 25<sup>th</sup>
      - 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 1<sup>st</sup> and December 31<sup>st</sup>

# Timely Filing of Campaign Statements

## MCL 169.216(9)

- July, October, Pre Election, & Convention Statements are Timely if:
  - Mailed by certified/registered or overnight **AND**
  - Postmarked 2 days **before** the filing deadline
  - Pre Election Statements delivered 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 delivered by any other means MUST be received on or before the filing deadline

# Cover Page & Summary Page

- The Cover Page provides information about the committee including the committee name, address, coverage period, type of statement, and Treasurer info
- The Summary Page shows the committee totals based on the schedules used along with a balance sheet

# Contributions/Loans & Other Receipts

- Itemized Direct Contributions
  - Money contributed/loaned to the campaign by cash or written instrument
  - Reported on Schedule [1A](#)
  - All contributions over \$20.00 must be by written instrument (check, money order, debit, credit)
- Other Receipts
  - Money NOT intended to further the nomination or election of the candidate such as bank interest or refunds
  - Reported on Schedule [1A-1](#)

# In-Kind Contributions & Loans

- In-Kind Contributions
  - A donation/loan of goods or services to the campaign
  - They do count towards a contributors contribution limit
  - Reported on Schedule [1-IK](#)
- Loans (Debts & Obligations)
  - A committee may accept loans from legal sources
  - Loans count toward contribution limit until paid off
  - Reported on Schedule [1-E](#) as well as the Direct Contribution or In-Kind Contribution Schedules as appropriate



# 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 are not reimbursed
  - A volunteer's travel and lodging up to \$500/year
  - A individual's donation of food and beverages up to **\$1000.00/year**
  - A contribution that has not been deposited into the committee's bank account and is returned to the contributor within 30 days.

# 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
  - There is no gambling or events that require licensing allowed at fund raisers.

# Direct & In-Kind Expenditures

- Direct Expenditures
  - Money spent from committee account for goods, services and facilities intended to further the nomination or election of the candidate
  - Written instrument is required for expenditures over \$50.00
  - Reported on schedule [1B](#)
- In-Kind Expenditures
  - Goods, services and facilities donated at no cost
  - Reported on Schedule [1B-1K](#)

# Incidental Office Disbursements & Get Out the Vote

- Incidental Office Disbursements
  - Used by office holders only
  - Used for expenses incidental to holding office (office rent, constituent meetings)
  - Not used for election related purposes
  - Reported on Schedule [1C](#)
- Get Out the Vote
  - Election day expenses - Busing voters to the polls, Slate Cards, Poll Workers
  - 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
  - Using the funds for personal non-campaign related expenses
  - Contributing to other committees without a tangible benefit to the candidate

# 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:
    - [Disposing of Debt From a Previous Election Cycle](#)



# Memo Itemization of Expenditure

- A Committee that contracts with an agent or an independent contractor to make expenditures on its behalf must disclose the expenditures made to and by the agent or independent contractor. This is done by **Memo Itemizing** the expenditure.
  - Vendors, consultants, campaign workers
  - Credit card payments
  - Reimbursements
  - Independent Contractors ([Appendix L](#))

# Memo Itemization of Expenditure Example

The Committee to Elect George Mabry hired the firm Primo Consultants to produce some TV ads. Primo Consultants then hired WFAK TV to run the ad on their station. The transactions should be reported in the following way:

ITEMIZED EXPENDITURES SCHEDULE 1B CANDIDATE COMMITTEE		1. Committee I. D. Number	5. Date	6. Amount
		999999-1		
		2. Committee Name	Committee to Elect George Mabry	
3. Name and address of person or vendor to whom paid	4. Purpose (Required Information)			
Expenditure #1 Name <b>Primo Consultants</b> Address <b>333 Saginaw Lansing MI 48999</b> <input type="checkbox"/> Fund Raiser	Purpose: <b>Hired to produce a TV ad</b> <input type="checkbox"/> Check box if this expenditure is payment of debt or obligation reported on previous statement	<b>08/25/17</b> Date		<b>\$ 5,000.00</b>
			Memo Itemization Below	
Expenditure #2 Name <b>WFAK TV</b> Address <b>567 Allegan Lansing MI 48999</b> <input type="checkbox"/> Fund Raiser	Purpose: <b>TV station running the ad</b> <input type="checkbox"/> Check box if this expenditure is payment of debt or obligation reported on previous statement	<b>08/26/17</b> Date		<b>\$ (3500.00)</b>
			(Memo Itemization)	

# Fines for Filing Campaign Statements Late

- 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 and July and October Statements:
  - Committees with financial activity **less than** 10k:
    - \$25/business day –Maximum \$500.00
  - Committees with financial activity **more than** 10k:
    - Day 1-3: \$25/business day
    - Day 4-10: \$50/business day
    - Day 11-16: \$100/business day
    - Maximum \$1000.00

# Late Contribution Reports

- A late contribution is a **contribution/loan** from the same contributor (both Direct and In-Kind) with a cumulative of \$500 or more between the 15<sup>th</sup> and 3<sup>rd</sup> day before an election. It begins the day after the close of books for the Pre-Election reporting period.
- [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 Post-Election Campaign Statement.
- It is very important that **contributions/loans** both Direct and In-Kind are accurately reported on the Post-Election Campaign Statement. If a mistake is made with the date and it appears that it is an unreported Late Contribution, a Late Filing Fee will be assessed. In order to get the fee waived, proof will have to be shown that the contribution was not received during the Late Contribution Reporting period otherwise the fee will remain owed.
- [e-IDR](#) (electronic; state level)
- [Late Contribution Report form](#) (paper)

# Late Contribution Reports Example

A candidate committee participates in a general election and is required to file late contributions from 10/20 - 11/1

- Contributor A gives \$600.00 on 10/20: A report is required within 48 hours with a cumulative of \$600.00
- Contributor B gives \$400.00 on 10/20: No report is required
- Contributor B gives \$ 50.00 on 10/21: No report is required
- Contributor B gives \$100.00 on 10/25: A report is required within 48 hours of this receipt with a cumulative of \$550.00
- Contributor B gives \$1000.00 on 10/31: A report is required within 48 hours of this receipt with a cumulative of \$1550.00

# Fines for Filing Late Contribution Reports Late

- 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

# 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
- **EXAMPLE: Paid for by The Committee to Elect Barry Kripke, 123 Main St. Lansing, MI 48918**
- Read [Appendix J](#) for more information

# Identification Requirement Exemptions

- [Appendix J](#) has a list of items that are exempt from the identification requirement rule:

Aerial Banners	Fortune Cookie Messages ½" X 2" Or Smaller)	Pendants
Ashtrays	Frisbees	Pennants
Badges & Badge Holders	Glasses	Pens
Balloons	Golf Tees	Pinwheels
Bingo Chips	Golf Balls	Plastic Tableware
Brushes	Hats	Pocket Protectors
Buttons	Horns	Pot Holders
Bumper Stickers (4" X 15" Or Smaller)	Ice Scrapers	Refrigerator Magnets
Campaign Stickers (3" X 1 ½" Or Smaller)	Jar Lid Grippers (5" Or Smaller)	Rubber wrist bracelets with dimensions up to 1" wide and 8.25" in diameter
Candy Wrappers (1 ½" X 2 ½" Or Smaller)	Key Rings	Ribbons
Cigarette Lighters	Knives	Sun Glasses
Cloth Pot Holders	Labels	Shoe Horns
Clothes Pins	Lapel Pins/Stickers	Staple Removers
Clothing	Magnifying Glasses	Yo-Yo's
Coasters	Matchbooks	
Combs	Nail Clippers	
Cups	Nail Files	
Drinking Glasses	Noisemakers	
Earrings	Paper & Plastic Cups	
Emery Boards	Paper & Plastic Plates	
Envelopes	Paper Weights	
Erasers	Pencils	



# Dissolving the Committee

- Committees with an active reporting waiver may file for dissolution using the [Single Page Dissolution Statement](#) or the filing official may automatically dissolve a Candidate Committee with a Reporting Waiver when an officeholder vacates office or an individual is defeated in the election
- 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](#)

# Notices, Fees and Referrals

- Failure to File – Committees are notified within 4 business days when required filings are not submitted. Reported to AG/County Prosecutor between 9<sup>th</sup> and 12<sup>th</sup> Business Day following the deadline
- Late Fees – Committees are notified 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 reported to the Attorney General between the 9<sup>th</sup> and 12<sup>th</sup> 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 [website](#)

# 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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