

PENNSYLVANIA



CAMPAIGN FINANCE AND BALLOT MEASURE GUIDE

These resources are current as of 2/16/2018: We do our best to periodically update these resources and welcome any comments or questions regarding new developments in the law. Please email us at advocacy@afj.org.

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

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

CONTRIBUTION LIMITS AND SOURCE RESTRICTIONS

	To Candidates			To Committees		
	Statewide and Legislative	Philadelphia and Pittsburgh	Other Local	Political Committees	Parties	Ballot Measures
From: Individuals	Unlimited	Phila.: \$3,000 ¹ per calendar year ² Pitt: \$2,700 per primary, general and special election ³	Unlimited	Unlimited	Unlimited	Unlimited
PACs	Unlimited	Phila: \$11,900 ¹ per calendar year ² Pitt: \$5,000 per primary, general and special election. ³	Unlimited	Unlimited	Unlimited	Unlimited
Partnerships and LLCs	Unlimited	Phi: \$11,900 ¹ per calendar year ² Pitt: \$2,700 per primary, general and special election. ³	Unlimited	Unlimited	Unlimited	Unlimited
Corporations and unions	Prohibited	Prohibited	Prohibited	Restricted*	Prohibited	Unlimited
Independent Expenditure PACs	Prohibited	Prohibited	Prohibited	Restricted*	Prohibited	Unlimited

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

*Corporations and unions may make independent expenditures and contribute to political committees so long as the recipient committee registers with the state as an “Independent Expenditure Committee” and does not make contributions to, or coordinate expenditures on behalf of candidates or political committees controlled by political parties. PA Dep. of State, Statement on *General Majority v. Aichele*, 2014. It is an open question whether IE PACs can give to other IE PACs, so long as neither PAC coordinates with candidates. Corporations and unions may also create segregated funds financed by *voluntary* contributions that, upon registering as Pennsylvania PACs can make unlimited contributions to candidates and committees. 25 P.S. §3253(c).

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

² Starting in 2008, these limits increase every four years, according to the consumer price index. Philadelphia Code § 20-1002(11); Current limits:

<http://www.phila.gov/ethicsboard/campaignfinance/Pages/FAQ.aspx>

³ In 2015 Pittsburgh enacted a new campaign finance ordinance which sets the contribution limits at the same level as the current limits set by the Federal Election Campaign Act. Pittsburgh Code §198.02. “For the purposes of the contribution limits set forth in [Section 198.02](#), primary and general elections shall be considered separate elections.” Pittsburgh Code §198.01.

Aggregation:

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

Legislative Session:

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

Corporate Contributions:

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

Membership Communications:

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

COMMUNICATIONS

Issue Advocacy vs. Express Advocacy:

- The Pennsylvania Attorney General agreed to a Stipulated Judgment that construed the prohibition on corporate and union expenditures made in connection with a candidate’s election or for any other political purpose to “apply only to spending for ‘express advocacy’ as that term is defined in *Buckley v. Valeo*,” thus adopting the so-called “magic words” test from *Buckley v. Valeo* to determine whether a communication is issue advocacy permissible for corporations and unions, or whether it is express

advocacy, which corporations and unions may not fund. *Center for Individual Freedom v. Thomas Corbett, Attorney General of the Commonwealth of Pennsylvania*, Civil Action No. 07-2792 (E.D. Pa.) (Stipulated Judgment entered August 18, 2007) (per Anita B. Brody, U.S.D.J.) (affirmed in *Ctr. For Individual Freedom v. Corbett, Civil Action*, No. 07-2792 (E.D. Pa., 2008) (per Anita B. Brody, U.S.D.J.), (holding that the stipulated agreement limits regulation to express advocacy as defined in *Buckley*, notwithstanding subsequent Supreme Court precedent that potentially expands the scope of permissible regulation)

INDEPENDENT EXPENDITURES

- Expenditures are “independent” when made for the purpose of influencing an election and made without the cooperation, consultation, request or suggestion of any candidate, campaign or candidate’s agent. 25 P.S. §3241(e).
- Corporations, labor unions and unincorporated associations may make independent expenditures by registering as an Independent Expenditure Committee. They may also make general treasury contributions to registered political committees so long as the committee does not make contributions to or coordinate expenditures on behalf of, candidates or political committees controlled by political parties (such as an Independent Expenditure Committee).
 - Note: Pennsylvania has not yet repealed the statute that prohibits corporations and labor unions from making independent expenditures. 25 P.S. § 3241(e). However, the Pennsylvania Department of State has issued two separate statements regarding the effect of *Citizens United*, which rendered this specific provision of the law unconstitutional and thus unenforceable. The first, in 2010 recognizes that Pennsylvania cannot constitutionally enforce the ban, and thus corporations, labor union and unincorporated associations may make independent expenditures, but reiterates that those expenditures must be reported if they aggregate in excess of \$100 during the calendar year. Pennsylvania Department of State, *Statement Regarding the Effect of the Supreme Court’s Decision in Citizens United v. FEC on Pennsylvania Law*, 2010.³ The second states that registered Political Committees may accept contributions from corporations and labor unions so long as the committee does not make contributions to, or coordinate expenditures on behalf of candidates or political committees

³ Available at <http://www.dos.pa.gov/VotingElections/CandidatesCommittees/CampaignFinance/Documents/Statement%20of%20citizens%20united%20vs.%20fec/DOS%20Statement%20on%20Citizens%20United%20Case%2003-10.pdf>

controlled by political parties; and that a political committee that wishes to accept such contributions may register with the Department of State as an Independent Expenditure Committee. Pennsylvania Department of State, *Statement Regarding the Effect of the Preliminary Injunction order in General Majority PAC v. Carol Aichele, et al., on Pennsylvania Law, 2014.*⁴

- Reporting Schedule:

PACs report their independent expenditures as part of their regularly filed reports. The reporting schedule varies depending on the election dates of candidates supported by the PAC, as described below. 25 P.S. §3246. Independent Expenditure PACs must follow the same schedule and rule for reporting as other PACs. *Statement Regarding General Majority PAC v. Aichele,*

- In addition to the regularly filed reports, independent expenditures of \$500 or more, made within 14 days of an election, trigger 24 hour reporting, as described below. 25. P.S. §3248.
- A person other than a PAC that makes independent expenditures totaling more than \$100 for or against a candidate or ballot question in a calendar year must disclose those activities on the same reporting schedule applicable to PACs. 25 P.S. §3246(g).

- Disclaimers:

Disclaimers are required on independent expenditures for materials that are broadcast; mailed or published in a newspaper or magazine; billboards; and on all other general public political advertising. Details below. 25 P.S. §3258.

DISCLAIMERS

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

⁴ Available at

<http://www.dos.pa.gov/VotingElections/CandidatesCommittees/CampaignFinance/Pages/Statement-on-General-Majority-PAC-V.-Aichele.aspx>

required for bumper stickers, pins pens, buttons and similar small items. 4 Pa. Code § 181.1(b).

- Disclaimers are not explicitly required for telephone calls, emails or websites. There is also no guidance on whether those types of communications constitute “general public political advertising.”
- Additionally, under the Lobbying Disclosure Act⁵, whenever any person makes an expenditure for a communication that encourages others to take action, the purpose or foreseeable effect of which is to directly influence legislative or administrative action, the communication must clearly and conspicuously state the name of the person who made or financed the communication. This applies to letter writing campaigns, mailings, telephone banks, print and electronic media, billboards, publications and educational campaigns on public issues, shall clearly state the name of the person who made or financed the expenditure for the communication.

REGISTRATION AND REPORTING REQUIREMENTS

Registration as a Pennsylvania Political Committee:

- An entity must register as a political committee upon receiving contributions exceeding \$250 during a reporting period. Within 20 days of triggering the registration requirement, the PAC must file a registration statement with the appropriate election supervisor. 25 P.S. §3244. The registration statement, Form DSEB-500, is available here. (http://www.dos.pa.gov/VotingElections/CandidatesCommittees/CampaignFinance/Documents/o5o_forms_online/dseb_500.pdf)
- The “appropriate supervisor” with whom to file reports is the Department of State for PACs related to state-level candidacies or issues (statewide elective office, State Senate and State Representative, and Judges) and the county boards of elections for PACs related to county and municipal candidacies. 25 P.S. § 3251.

Independent Expenditure PACs

- An IE PAC must also file a statement with the Department of State declaring its commitment not to make contributions to or to coordinate expenditures on behalf of, any candidate’s political committee or political committee controlled by a political party. Thus, IE PACs must fill out both Form DSEB-500 and Form DSEB-506 (Statement of Organization – Independent Expenditure Committee). Both forms are available here:

⁵ Available at <http://www.ethics.pa.gov/Lobbying-Law/The-Lobbying-Disclosure-Law/Pages/default.aspx>, §§ 13A03, 13A05(e).

Out-of-State PACs:

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

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

POLITICAL COMMITTEE RECORD KEEPING AND ADMINISTRATION

PAC Administration

Bank Account:

- A Pennsylvania political committee does not need to have an in-state bank account, but any bank, safety deposit or other repository used by the committee must be listed on the Statement of Registration. 25 P.S. §3244(b)(7).

Treasurer:

- The state does not impose any special requirements on a PAC's treasurer; the treasurer may be anyone. However, a lobbyist may not serve as the treasurer or chairman of a "candidates's political committee or a candidate's political action committee if the candidate is seeking a Statewide office or the office of Senator or Representative in the General Assembly." 65 Pa.C.S. §13A07(a).

Chairperson:

- Every political committee shall have a treasurer and a chairperson, who may not be the same individual. 25 P.S. § 3242(a).

Vacancies:

- No contribution or expenditure shall be accepted or made if there is a vacancy in the office of the treasurer or chairperson. 25 P.S. §3242(a).

Affiliated Organizations:

- A corporation or unincorporated association may pay to establish and administer an affiliated PAC, including paying the fundraising costs of that PAC. 25 P.S. § 3253(c). The corporation or association may pay to raise money from members and nonmembers alike. These costs do not need to be reported as a contribution to the PAC. However, affiliated or connected organizations must be disclosed in independent expenditure communications. 25 P.S. §3258(a).

PAC Reporting

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

Filing Schedule:

Regular Reporting:

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

<http://www.dos.pa.gov/VotingElections/CandidatesCommittees/CampaignFinance/Resources/Pages/Report-Filing-Deadlines.aspx>)

- Annual report: All PACs must file an annual report by January 31, regardless of their activity, disclosing all expenditures from January 1 to December 31 of the prior year, and itemizing all donors whose contributions aggregated more than \$50 during that period. See 25 P.S. §3247.
- Sixth Tuesday pre-election report: A PAC that has made a contribution or expenditure to influence the election of a statewide candidate must file a report by the sixth Tuesday before the candidate's election. This report must disclose all activity as of 50 days before the election. 25 P.S. §3246(d).
- Second Friday pre-election report: A PAC that has made a contribution or expenditure to influence the election of any candidate (statewide, legislative or local), must file a report by the second Friday prior to the candidate's election, complete as of 15 days before the election. 25 P.S. §3246(d).
- 30-Day post-election report: A PAC that has made a contribution or expenditure to influence an election must file a post-election report no later than 30 days after the election, complete as of 20 days after the election. 25 P.S. §3246(e).
- Form DSEB-502 is used for all regular reports when there was any contribution received, amount expended, or liability incurred, during the reporting period, that exceeded \$250. Form DSEB-503 is used for all regular reports where no contribution, expenditure or liability exceeded \$250. Both forms are available here:
<http://www.dos.pa.gov/VotingElections/CandidatesCommittees/FormsReports/Pages/default.aspx>

24-Hour Reporting:

- 24-Hour "Late contribution" and Independent Expenditure reports: Contributions and pledges of \$500 or more, and independent expenditures of \$500 or more, must be reported within 24 hours of the receipt or expenditure if they are received in the final 14 days before an election. For expenditures, the reporting requirement is triggered by the payment to support independent campaign activity and not by the manifestation of the campaign activity, such as the broadcast of an advertisement. Each additional contribution or expenditure of \$500 or more that is not covered by the first report triggers a requirement to file an additional report within 24 hours. 25 P.S. § 3248.
 - Reports can be filed online at <https://www.campaignfinanceonline.state.pa.us/pages/CFReportFiling.aspx>, by fax at 717-705-0721, or via e-mail at: ra-stcampaignfinance@pa.gov.

- 24-Hour Late Contribution reports are made using a special form which has not been assigned a form number. This form is available at <http://www.dos.pa.gov/VotingElections/CandidatesCommittees/CampaignFinance/Documents/24hrreports/reportingform.pdf>
- 24 Hour Late Independent Expenditure reports are made using form DSEB-505. Note: This is the same form that non-PACs use for any independent expenditure made before triggering the PAC registration requirement (i.e. any independent expenditure of over \$100, but aggregating under \$250 during the reporting period). This form is available at [http://www.dos.pa.gov/VotingElections/CandidatesCommittees/CampaignFinance/Documents/dseb_505\(2\)0410.pdf](http://www.dos.pa.gov/VotingElections/CandidatesCommittees/CampaignFinance/Documents/dseb_505(2)0410.pdf).

Filing:

- The state's reporting forms are available here. (<http://www.dos.pa.gov/VotingElections/CandidatesCommittees/FormsReports/Pages/default.aspx>)
- Reports are searchable on the Pennsylvania Department of State here. (<https://www.campaignfinanceonline.pa.gov/pages/CFReportSearch.aspx>)
- Electronic filing:
 - At the state level, electronic filing is optional. While encouraged, it is not required. The online filing system is available here. When you file an online report you must also mail a signed and notarized affidavit to the Department of State, to be received within 10 days of the filing deadline for the report you are submitting. (<https://www.campaignfinanceonline.state.pa.us/pages/CFReportFiling.aspx>)
 - Effective with the 2018 Election Cycle, the Department of the Commonwealth will be assessing late fees for online reports that are not complete with a notarized cover page. The Department allows ten (10) calendar days for the notarized cover page to be received in its office before the report is marked as late. In the event the notarized cover page is not received timely, a late fee will be assessed. All filers are encouraged to provide up-to-date contact information for email and print notifications from the Department. See Ten Day Enforcement Notice issued January 4, 2018 available at <http://www.dos.pa.gov/VotingElections/CandidatesCommittees/CampaignFinance/Documents/10%20Day%20Notice.pdf>

- The City of Philadelphia requires electronic filing for reports related to City elective office. Reports are posted for Internet access both by the Department of State and by the City of Philadelphia. Reports posted by the City of Philadelphia are searchable. General information on Campaign Finance Reporting, including searching the Campaign Finance Database can be found here: <http://www.phila.gov/records/CampaignFinance/CampaignFinance.html>; Instructions for electronic filing are here: <http://www.phila.gov/records/CampaignFinance/CreatingReports.html>
- The City of Pittsburgh does not have online reporting, but you can access reporting forms here: <http://pittsburghpa.gov/controller/campaign-finances/co-campaign-finances.html>
- Allegheny County maintains an online database of all campaign finance reports here: <https://documents.alleghenycounty.us/publicaccess/DatasourceTemplate.aspx>

Terminating a PAC.

- A political committee may file a termination statement after ceasing its operations and either returning all unexpended funds pro rata to its contributors (which is so burdensome as rarely to be done) or by contributing its remaining funds to another political committee; Pennsylvania does not permit a charitable disposition of residual political committee funds. 25 P.S. §§ 3247, 3250.
- Until a political committee files a termination statement, its treasurer is required to file annual reports. 25 P.S. § 3247.

ENFORCEMENT AND PENALTIES

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

BALLOT MEASURES

- Ballot-measure political committees are subject to the same registration and filing requirements as other political committees. Independent expenditures relating to a ballot measure are subject to the same requirements, including for disclosure. Because Pennsylvania has no citizen-petition procedure to initiate a state-wide ballot measure, most ballot-measure committees are organized to support or oppose judges who are standing for retention in a “yes” or “no” referendum following an initial 10-year term, though the state legislature also has the ability to place issues on the ballot. [The Referendum Handbook](#), issued by the Governor’s Center for Local Government Services describes the process for local referenda and initiatives throughout the Commonwealth.

CITY CAMPAIGN FINANCE ORDINANCES

PHILADELPHIA:

- Unlike the state, Philadelphia imposes contribution limits on individuals and PACs. The limits apply to all City elective offices: Mayor, District Attorney, City Controller, Register of Wills, Sheriff, Clerk of Court, city Commissioner or City Council
 - Individual limits: \$3,000 per candidate in a calendar year.
 - PAC and partnership limits: \$11,900 per candidate in a calendar year.
 - Starting in 2008, these limits increase every four years, according to the consumer price index. The current limits were set in 2016: <http://www.phila.gov/ethicsboard/campaignfinance/Pages/FAQ.asp>
- [X](#)
§§20-1002(1), (2), (11) of the Philadelphia Code.
- If a candidate for a particular office makes contributions totaling \$250,000 or more to his or her campaign from his or her own personal resources, the limits applicable to all other candidates for that office will be doubled. §20-1002(6) of the Philadelphia Code.
- Campaign reports must be filed electronically, on the same schedule required by the state. §20-1006(1) of the Philadelphia Code.
- Enforcement powers are granted to the City Board of Ethics. §20-1006(4) of the Philadelphia Code.
- During 2006, the City’s power to enact campaign contribution limits was challenged in the Pennsylvania Supreme Court, which on December 28, 2007 sustained the City’s power in *Nutter v. Dougherty*, 595 Pa. 340, 938 A.2d 401 (2007).
- Under a different ordinance, codified as Chapter 17-1400 of the Philadelphia Code, individuals and business entities can be barred from receiving City non-bid contracts or other City financial benefits through their participation in soliciting contributions.

PITTSBURGH

- In 2015, the city of Pittsburgh amended its campaign finance ordinance to impose the same contribution limits as the Federal Election Campaign Act. For 2018 those contribution limits are \$2,700 for individuals and partnerships, and \$5,000 for PACs.
- These limits are adjusted each year to match rates promulgated by FECA. The Allegheny County Election Board is supposed to post a notice of the limits every year, but they are not currently on the website. See Pitt. Code of Ordinances §198.02

CONTACT INFORMATION FOR STATE AND LOCAL AGENCIES

Statewide:

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

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

Website:

<http://www.dos.pa.gov/VotingElections/CandidatesCommittees/CampaignFinance/Pages/default.aspx>

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

Philadelphia:

City of Philadelphia
Board of Ethics
One Parkway Building
1515 Arch Street, 18th Floor
Philadelphia, PA 19102-1504

Phone: (215) 686-9450
Fax: (215) 686-9453

Website:

General: <http://www.phila.gov/ethicsboard/campaignfinance/Pages/default.aspx>

Reporting:

<http://www.phila.gov/records/CampaignFinance/CampaignFinance.html>

Pittsburgh/Allegheny County:

Allegheny County Elections Division

Mark Wolosik, Division Manager

County Office Building

542 Forbes Avenue, Room 604

Pittsburgh, PA 15219

Phone: (412) 350-4500

Fax: (412) 350-5697

Websites:

<http://pittsburghpa.gov/controller/campaign-finances/co-campaign-finances.html>

<http://www.alleghenycounty.us/elections/index.aspx>

FOR FURTHER ASSISTANCE

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

**Email: Advocacy@afj.org
Telephone: 1-866-NPLOBBY
(675-6229)**

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