



Campaign Finance Summary and Frequently Asked Questions

Campaign Finance Summary

CITY CODE PROVISIONS: The City Code regulates campaign finance at *City Code Sec. 6C-4 – 6C-19*. These Guidelines contain a summary of key campaign finance regulations. It is important that candidates refer to the City Code provisions for full guidance.

- I. Contribution Limits:** Any one individual is limited to a campaign contribution of \$500.00 per candidate per election. Cash contributions are limited to \$25.00 and anonymous contributions are prohibited. A contribution up to the limits described above may be accepted from an individual, a corporation, a business or other legal entity. Contributions from a candidate or spouse to his or her own campaign are not subject to these limits. All campaign contributions must be deposited in a separate account with a financial institution and may not be commingled with any funds. City Code Sec. 6C-12.

Political Committees and Individuals: Political committees **and** individuals are required to report their contributions and expenditures to assist in the promotion of the success or defeat of any candidate for City elective office when those contributions or expenditures exceed \$250.00. *City Code Secs. 6C-6 and 6C-8*. A political committee is any combination of two (2) or more persons who are not candidates formed in any manner that meets this \$250.00 threshold. *City Code Sec. 6C-1*.

There is no limit on the amount of money a political committee or individual can independently collect or expend to promote the success or defeat of a candidate. This regulation does not cap the total dollars spent; it only requires reporting of dollars if they exceed \$250.00.

II. Examples:

Committee – Must File a Campaign Finance Report

John Doe and Jane Doe, independent from a candidate, jointly spend \$300.00 to create and distribute a flyer supporting Council Candidate I.

Constitutes a political committee with expenditures above threshold.

Individual – Must File a Campaign Finance Report

John Doe independently spends \$300.00 to place an ad in a newspaper denouncing Candidate III.

Individual not directly contributing to a candidate and above threshold.

Individual – Does NOT have to File at Campaign Finance Report

John Doe donates \$500 to Council Candidate I and \$500.00 to Council Candidate II.

Direct support within contribution limits.

Individual – Does NOT have to File A Campaign Finance Report

Candidates I & II use a portion of money donated by John Doe to run an ad stating that “John Doe Supports Us,” with proper authority line information from both candidates.

Direct support within contributions limits. John Doe does not need to file.

BUT, Candidates I and II must include John Doe’s contribution as appropriate in their reports.

- III. Penalties:** If a candidate fails to file the first required Campaign Finance Report on or before August 22, 2019 or fails to file any other required Report within two (2) business days of its due date, the candidate may not be eligible for election. In addition, any candidate who fails to timely file any required Report is subject to a fine of up to \$1,000.00 per instance. *City Code Secs. 6C-5 and 6C-10.*
- IV. Frequently Asked Questions:** The following questions and responses are from inquires to the BOSE in prior elections.

General Filing Questions

- 1. How can I access the Campaign Finance submission site and blank Campaign Finance Report spreadsheet?**

Response: Please email CampaignFinancing@gaitthersburgmd.gov for access to the submission site and Campaign Finance Report spreadsheet. Allow up to one (1) business day for response.

- 2. If someone drops off a donation at 4:55 p.m. on the due date of the Campaign Finance Report, can the donation go on the next report or does it need to be documented before 5:00 p.m. on that day?**

Response: Each Campaign Finance Report is for the period specified on the Campaign Finance Report Title Page and is for transactions through 5:00 p.m. the day *before* the report is due.

- 3. If a candidate files a late report, will the City hold all on-time reports until the late report is received?**

Response: Staff intends to post the filed reports to the elections website and campaign finance site as soon as practicable after the filing deadline (usually by no later than 5:00 p.m. the following day), so reports will not be held until all reports are received. A late report will be posted as soon as practicable after it is received. Note that a candidate who files a late report or does not file a report is subject to fines and potential disqualification under the City Code, Sec. 6C-10.

- 4. For Campaign Finance Amendments, are you submitting just the amended transactions or are you resubmitting the entire Report with amended transactions?**

Response: You must file the complete Report for the filing period with approved transactions and amended transactions.

- 5. How do I file and Amendment?**

Response: Resubmit the full report with any changes noting that the report is an amendment on the summary tab of the campaign financing filing document.

- 6. One of the Campaign Finance Report is due on Columbus Day. Is that day it is actually due?**

Response: City Offices are open on Columbus Day, so that is the day the Report is due.

Contributions

- 1. What date should be used to reflect receipt of a contribution?**

Response: On the Campaign Finance Report Contributions and Receipts Form, the date included in the Date column should be the date the candidate physically received the contribution. For PayPal or similar accounts, the date received is the date the funds are placed in the candidate's PayPal account.

- 2. If a first time contribution is made by an individual, is the aggregate from payor to date \$0.00 or the amount of the donation?**

Response: The aggregate from payor to date would be the amount of the donation.

- 3. If a candidate received a PayPal contribution, would the donation be documented as a cash or credit card transaction?**

Response: Contributions received through PayPal should be shown as credit card transactions.

- 4. How should bank interest received on a Campaign Finance Account be reported on a Campaign Finance Report?**

Response: Bank interest should be reported as cash on Schedule 1, Contributions and Receipts.

5. May a Candidate accept a campaign contribution from someone living overseas?

Response: The Federal Election Campaign Act (FECA) prohibits any foreign national from contributing, donating or spending funds in connection with any federal, state or local election and makes it unlawful to receive or accept contributions from them. As a result, campaign contributions may not be accepted from a foreign national. The FECA further defines a foreign national as a foreign government, foreign political parties, foreign corporations, foreign associations, foreign partnerships, individuals' with foreign citizenship, and immigrants who do not have a green card.

In-Kind Contributions/Donations

1. If a candidate has leftover signs, stickers or other campaign materials from a previous campaign, how would the candidate report these items for the current election?

Response: Signs, stickers and other campaign materials left over from prior elections can be used in the current election provided the materials meet all of the current City Code requirements. The BOSE has determined that these types of materials have no monetary value, but should be reported on the Contributions and Receipts Form for the First Pre-General Report as "prior campaign material" under Type of In-Kind Donations, with a \$0.00 value.

2. If a candidate bought a printer at the beginning of the campaign and then donated the printer as an in-kind donation, how would the donation be documented?

Response: On the Campaign Finance Report Contributions and Receipts form, the printer should be shown as an in-kind donation from the individual candidate and value shown should be the current fair market value of the printer.

3. Our campaign website was paid for with the candidate's husband's personal credit card. How do we report this?

Response: This should be reported on Schedule 1 as an in-kind donation. Note that there are no dollar limitations on donations from a candidate or their spouse.

4. Since I do marketing and creative direction for a living, I've designed my own logo, brochure and yard signs (so I have only paid for printing). Do I have to record my own design work as an in-kind donation of my own time/talent? I know there is no limit to how much a candidate can donate to his/her own campaign, but I wasn't sure if needed to record something like my own design work.

Response: Correct, there is no limit to the amount you can donate to your own campaign, but you should record the fair market value of any work you've done as an in-kind contribution.

5. Is volunteer time or services an in-kind contribution subject to disclosure on a candidate's campaign finance reports?

Response: The Board of Supervisors of Elections has determined that under some circumstances volunteer time is required to be reported as an in-kind contribution. For volunteers who campaign on behalf of a candidate, generally their time is not considered an in-kind contribution that must be reported. However, if the volunteer is a professional consultant, pollster, canvasser, or other individual with technical or expert skills that would typically be paid for, their services must be reported as an in-kind contribution. In addition, if a volunteer produces campaign materials free of charge or at a reduced cost, such as a video, brochures, graphic designs, banners, signs, flyers or websites, then those services would be considered an in-kind contribution that must be reported. Of course, the candidate may volunteer his or own time and services to a his/her campaign, which is not required to be reported as an in-kind contribution.

Expenditures

1. Do we report an expenditure made with a debit card as a check or as a credit card purchase?

Response: This should reported as a credit card expenditure.

2. Our campaign has received donations through PayPal. PayPal charges a fee for each transaction. Should this fee be reported on our Schedule 2 Expenditures Report? Should this fee be reported as a contribution in kind from the donor or as an expenditure from the campaign (is so what type of expenditure check or credit)?

Response: This should be reported on Schedule 2 as a credit card expenditure. You can report PayPal charges as a cumulative amount for the reporting period versus separately reporting each charge as a separate expenditure.

Obligations

1. What is considered an obligation for campaign financing?

Response: Obligation is when you owe money to vendor or lender for goods or financial loans. For example, if you ordered signs and only paid a deposit at the time of the order, the outstanding balance would be an obligation. All outstanding obligations should be reflected on all campaign financing reports until after the final payment is filed.

Campaign Loans

1. Where do find the Declaration of Campaign Loan form?

Response: On the Campaign Finance Report submission site, the title page will give you the option to file a Declaration of Campaign Loan. There is no longer a paper form to complete.

2. What do I need to do if I take out a loan to finance my campaign?

Response: Complete the Declaration of Loan section of the Campaign Finance submission page. Enter the loan as an obligation contribution on Schedule 1, noting the transaction as a loan. Enter an obligation on Schedule 3 entering the obligations original amount and balance.

NOTE – You are not required to take out a loan if you are using money from yourself or your spouse.

3. Should loans from candidates be included on the contribution form?

Response: Yes, the loan should be included on the initial report as a contribution and then reported on the outstanding obligation report until the loan has been repaid in full.

4. Do all loans need to be recorded in Schedule 3 as well since they are all technically an obligation to a creditor?

Response: As loans from a candidate or spouse are exempt from the certification requirements, a Declaration of Campaign Loans Report does not need to be completed for these loans. However, loans from a candidate or spouse must be reported on Schedule 3.

5. How do I document a loan payment?

Response: Enter the loan payment amount as an obligation expenditure on Schedule 2, then update the obligation balance to reflect the current amount owed.

Campaigning

1. I am wondering if wearing a campaign t-shirt counts as “campaigning” which is not allowed from a stage during special events.

Response: The Election Regulations allow incumbents to participate at City events in both their elected capacity and as a candidate. However, when campaigning at events, candidates are required to abide by the same rules as non-incumbents. As a result, incumbent candidates should not wear campaign t-shirts, buttons, hats, etc., when appearing at events in their elected capacity, but when not in their elected capacity at events, are free to wear their campaign apparel.

2. Does leaving campaign materials, including flyers in between the storm door and front door of a residence constitute trespassing or other unlawful activity?

Response: The leaving of campaign materials, including flyers in between the storm door and front door or other location on the exterior of a residence does not constitute trespass under Maryland law. In order to be considered trespass, one must enter private property of another after having been notified not to do so or remain after having been told to leave. A “no solicitation” sign posted on private property would not be considered sufficient notice not to enter private property as the law requires direct notification not to enter or to leave by the owner or the owner’s agent.

3. Can I use the Gaithersburg “G” in my campaign materials?

Response: A candidate may not use the City seal, logo, or tree graphic or a graphic similar to these images in campaign materials.

4. Can I use the title “Councilmember” in my campaign materials?

Response: An incumbent Councilmember may use “Councilmember [name] in campaign materials, but non-incumbents may not use “Councilmember [name] in materials. Non-incumbents may use [name] for Council in materials.

5. Can I campaign from a community booth at a City event?

Response: If the event permits, a candidate may have a booth and campaign from that booth during a City event. Joint candidate booths are also permitted. If invited, a candidate may also campaign from a political party booth. However, candidates cannot campaign from other vendor or community booths. During City events, candidates may walk within the event to meet and greet people, but cannot carry signs, use amplifiers or impeded pedestrians.

6. Can I leave my campaign materials in City facilities?

Response: A candidate may not leave or distribute campaign materials in City facilities.

7. Can my supporters or I wear campaign t-shirts when entering a polling place to vote?

Response: The visible display of a campaign t-shirts, buttons, or other campaign apparel is prohibited inside of a polling place during voting.