

COMMONWEALTH OF PENNSYLVANIA

**CAMPAIGN EXPENSE
REPORTING LAWS**

**MANUAL FOR CANDIDATES
AND POLITICAL COMMITTEES**

Revised 1/2001

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Frequently Asked Questions

1) **What are acceptable ways to file campaign finance reports?**

One of two ways -1) the prescribed forms, see § 1640 (3); or (2) on diskette or CD in lieu of a paper report as long as the cover page, which includes the affidavit, accompanies it. Diskette filing must meet the Department's technical specifications which can be reviewed or downloaded from **www.dos.state.pa.us** or may be directly obtained by calling (717) 787-5280. A list of vendors whose software is approved by the Department is also available.

2) **Where must campaign finance reports be filed?**

See § 1631.

3) **What records and information am I required by law to keep?**

See § 1622 (C).

4) **What is an election expenditure?**

See § 1621 (D).

5) **When do I become a candidate?**

See § 1621 (A).

6) **Must I file vouchers with each report? No,**

see § 1626(C)

7) **May a corporation or unincorporated associate make a contribution to a candidate or a political committee?**

See § 1633.

- 8) **Is there any limit to the amount of money which an individual can contribute?**
No, however, if the amount is in excess of \$100 it cannot be in the form of currency (cash), as required by § 1634 (C).
- 9) **What type of information must be identified in a report?**
See § 1626 (A & B).
- 10) **Are campaign finance reports public record upon filing?**
Yes, see § 1639(3).
- 11) **Are there any penalties for filing a late report?**
Yes, see § 1632.
- 12) **If a candidate makes a contribution to his/her committee in the form of a loan, is it an expenditure for the candidate?**
Yes, see § 1621 (B & D).
- 13) **Must campaign finance reports and campaign finance statements be notarized?**
Yes, see § 1629 (A)
- 14) **Upon receiving an anonymous contribution, what procedure must a candidate or political committee treasurer follow?**
See § 1634(B)

General Review

The information contained in this manual is intended to give the candidate and political committee treasurer an overview of the Commonwealth's Campaign Expense Reporting Laws. The summary which follows serves to help clarify the responsibilities of candidates and political committees. It is strongly recommended that candidates also review the Campaign Expense Reporting Law.

CANDIDATES

An individual who seeks public office is not required to operate with the assistance of a committee. The Election Code does not prohibit a candidate from receiving contributions or making election expenditures personally without the aid of a committee. (See§1621).

A candidate is not required to establish a separate account. Personal accounts may be used as campaign accounts. However, business accounts and partnership accounts may not be used as campaign accounts.

To determine where a candidate must file campaign expense information, please refer to § 1631 of the Law.

CANDIDATE'S CAMPAIGN COMMITTEE

A candidate may decide to form a campaign committee to operate on his/her behalf. Should such a committee be formed, there are several responsibilities of which the candidate and committee treasurer should be aware:

1) Appoint a Chairman and Treasurer: In order for a committee to be able to operate, the committee must have a chairman and a treasurer who may not be the same individual. A vacancy in either of these offices prohibits the committee from receiving contributions or making expenditures. (See § 1622).

A candidate may decide to form more than one campaign committee, however, the committees must operate with the same treasurer.

2) Authorization: Before the committee may receive contributions on behalf of the candidate, the committee must be authorized by the candidate. The Authorization Form must be filed with the appropriate supervisor before the committee may receive any contributions. (See § 1623). The forms are prescribed by the Secretary of the Commonwealth and are available at the State Bureau of Elections or the County Board of Elections. (See § 1631).

3) Registration: When the committee has received an aggregate amount of \$250 in contributions, a Registration Statement must be filed with the appropriate supervisor within 20 days. A committee that fails to register timely is prohibited from making contributions to any candidate or political committee until it has registered. (See § 1624).

4) Where to File: To determine where a candidate's political committee must file campaign expense information, please refer to § 1631 of the Law.

POLITICAL ACTION COMMITTEES AND POLITICAL PARTY COMMITTEES

In order to form a political action committee or party committee, a treasurer and a chairman, who shall not be the same individual, must be appointed. A vacancy in either of these offices prohibits the committee from receiving contributions or making expenditures. (See§1622).

The committee must file a Registration Statement within 20 days of receiving an aggregate amount of \$250 in contributions. Should the committee fail to register timely, it is prohibited from making a contribution to any candidate or political committee until it has registered. (See § 1624).

To determine where a political action committee or party committee must file campaign expense information, please refer to § 1631 of the Law.

REPORTING AT ELECTIONS

The information that follows is intended to clarify reporting obligations of candidates and political committees at elections occurring during the year. (For annual reporting and termination reporting, refer to appropriate section of this review.) Each election, including special elections, has its own set of reporting dates. Specific reporting dates for a particular election may be obtained by contacting the State Bureau of Elections or the County Board of Elections.

Candidates: Candidates for public office are required to file a campaign finance report or campaign finance statement by the deadlines provided in § 1626. A candidate must file a campaign finance report or campaign finance statement that is separate from and in addition to his/her campaign committee. If the candidate has neither received nor expended any money, a campaign finance statement must be filed by the required deadline. To determine which form is appropriate to file for a reporting period, the candidate should review the instructions on the reporting forms.

Candidate Committee: A candidate's campaign committee must file a campaign finance report or campaign finance statement at the reporting deadlines which are specified in § 1626. The committee may request the specific reporting dates from the State Bureau of Elections or the County Board of Elections. To determine the appropriate form for reporting, the committee treasurer should review the instructions on the reporting forms.

Political Action Committees: A political action committee must file reports by deadlines that are specified in § 1626 (J)

of the Law. The committee is responsible for requesting reporting forms from the State Bureau of Elections or the County Board of Elections.

Political Party Committees: A political party committee must file reports at any election in which it expends money to influence an election, as outlined in § 1626 of the Law. The committee is responsible for requesting the appropriate reporting forms from the State Bureau of Elections or the County Board of Elections.

ANNUAL REPORTING

All candidates and political committees, as provided in § 1627 of the Law, who have not filed termination reports are required to file an annual report. Annual reports must reflect financial activity from the closing of books of the last report filed up to and including December 31.

TERMINATION REPORTS

A candidate or political committee may file a termination report when there is a zero balance and no unpaid debts or obligations. In addition, candidates cannot terminate until after the election in which they are involved.

Campaign Expense Reporting Law

Section 1621. Definitions.

As used in this article, the following words have the following meanings:

(A) The word "candidate shall mean any individual who seeks nomination or election to public office, other than a judge of elections or inspector of elections, whether or not such individual is nominated or elected. For the purpose of this article, an individual shall be deemed to be seeking nomination or election to such office if he has:

(1) Received a contribution or made an expenditure or has given his consent for any other person or committee to receive a contribution or make an expenditure, for the purpose of influencing his nomination or election to such office, whether or not the individual has made known the specific office for which he or she will seek nomination or election at the time the contribution is received or the expenditure is made; or

(2) Taken the action necessary under the laws of the Commonwealth to qualify himself for nomination or election to such office.

(B) The word "contribution" shall mean any payment, gift, subscription, assessment, contract, payment for services, dues, loan, forbearance, advance or deposit of money or any valuable thing, to a candidate or political committee made for the purpose of influencing any election in this Commonwealth or for paying debts incurred by or for a candidate or committee before or after any election. "Contribution" shall also include the purchase of tickets for events such as dinners, luncheons, rallies and all other fund raising events; the granting of discounts or rebates not available to the general public; or the granting of discounts or rebates by television and radio stations and newspapers not extended on an equal basis to all candidates for the same office; and any payments provided for the benefit of any candidate, including any payments for the services of any person serving as an agent of a

candidate or committee by a person other than the candidate or committee or a person whose expenditures the candidate or committee must report under this act. The word "contribution" includes any receipt or use of anything of value received by a political committee from another political committee and also includes any return on investments by a political committee.

(C) The word "election" shall mean any retention, primary, special, municipal or general election at which candidates appear on the ballot for nomination or election or at which questions are to be voted on by the electors of this Commonwealth.

(D) The word "expenditure" shall mean:

(1) The payment, distribution, loan or advancement of money or any valuable thing by a candidate, political committee or other person for the purpose of influencing the outcome of an election;

(2) The payment, distribution, loan, advance or transfer of money or other valuable thing between or among political committees;

(3) The providing of a service or other valuable thing for the purpose of influencing the outcome of a nomination or election of any person to any public office to be voted for in this Commonwealth; or

(4) The payment or providing of money or other valuable thing by any person other than a candidate or political committee, to compensate any person for services rendered to a candidate or political committee.

(E) The words "independent expenditure" shall mean an expenditure by a person made for the purpose of influencing an election without cooperation or consultation with any candidate or any political committee authorized by that candidate and which is not made in concert with or at the request or suggestion of any candidate or political committee or agent thereof.

(F) The word "lobbyist" shall mean any person who is registered pursuant to the provisions of the act of September 30, 1961 (P.L.I 778, No.712), known as the "**Lobbying Registration and Regulation Act.**"

(G) The word 'pledge' shall mean any written contract, promise or agreement to contribute personally money or anything of value.

(H) The words "political committee" shall mean any committee, club, association or other group of persons which receives contributions or makes expenditures.

(I) The words "prosecutor/a/ official" shall mean the Attorney General of this Commonwealth or the district attorneys of the respective counties.

(J) The word "supervisor" shall mean the Secretary of the Commonwealth or the respective county boards of elections.

(K) The words "valuable thing" shall mean all securities, goods, facilities, equipment, supplies, personnel, advertising, services, membership lists commonly offered or used commercially or other in-kind contributions provided without compensation, or at compensation which is below the usual and normal compensation for the items. The dollar value of a contribution of a valuable thing is the difference between the usual and normal charge for goods or services at the time of the contribution and the amount charged the candidate or political committee.

Any of the categories hereinafter excluded from the definition of "valuable thing" shall not be deemed a contribution or expenditure for purposes of reporting or recordkeeping. The words "valuable thing" shall not include such de minimus items as the following:

(1) Voluntary personal services provided by individuals who volunteer a portion or all of their time on behalf of a candidate or political committee.

(2) The operation of a motor vehicle owned or leased by a candidate or a member of his immediate family or for consumption of food or beverages by a candidate or his immediate family.

(3) The use of real or personal property, including a community room or a church used on a regular basis by members of a community for non-commercial purposes, and the cost of invitations, food and beverages voluntarily provided by an

individual to any candidate in rendering voluntary personal services on the individual's residential premises or in the church or community room for candidate related activities, to the extent that the cumulative value of such invitations, food and beverages provided by such individual on behalf of any single candidate does not exceed two hundred fifty dollars (\$250) with respect to any single election.

(4) The sale of any food or beverage by a vendor other than a corporation or unincorporated association for use in any candidate's campaign at a charge less than the normal comparable charge, if such charge is at least equal to the cost of such food or beverage to the vendor to the extent that the cumulative value of such reduced charge by such vendor on behalf of any single candidate does not exceed two hundred fifty dollars (\$250) with respect to any single election.

(5) Any unreimbursed payment for travel expenses made by any individual on behalf of any candidate to the extent that the cumulative value of such travel activity by such individual on behalf of any single candidate does not exceed two hundred fifty dollars (\$250) with respect to any single election.

(6) The use of the personal residence or the business or office space of the candidate other than a corporation or unincorporated association and the use of personal property owned or leased by the candidate; Provided, however, that the cumulative value of the use of such personal property does not exceed one thousand dollars (\$1,000) with respect to any single election.

(7) The use of the personal residence or the business or office space of any volunteer, other than a corporation or unincorporated association, and the use of personal property owned or leased by a volunteer: Provided, however, that the cumulative value of the use of such personal property does not exceed two hundred fifty dollars (\$250) with respect to any single election. Nothing in this section shall be construed to permit any matter prohibited in sections 1633 and 1843.

(L) The words "Political Action Committee" shall mean any political committee as defined in subsection (H) which receives contributions and makes expenditures to, or on behalf of, any candidate other than a candidate's own authorized political committees or the political committees of any State, county, city, borough, township, ward or other regularly constituted party committee of any political party or political body.

(M) The words "Candidates Political Committee" shall mean any political committee formed on behalf of a specified candidate and authorized by said candidate.

**Section 1622. Organization of Political Committees;
Treasurer and Assistant Treasurer;
Records of Candidate and Committees.**

(A) Every political committee shall have a treasurer and a chairman. No contribution shall be received nor shall any expenditure be made when there is a vacancy in either one of these offices. All money received and disbursed by a political committee must be done through the treasurer of the committee.

(B) Every candidate who authorizes a committee or committees, to receive and disburse funds on behalf of this candidacy, shall name a sole treasurer, irrespective of the number of committees so authorized, to receive and disburse all funds for said committees. Nothing herein shall be construed to prohibit a candidate from receiving or expending moneys on his behalf or a treasurer of a political party committee or a committee authorized to receive and distribute funds on behalf of more than one (1) candidate from receiving or expending moneys on behalf of said candidates, notwithstanding the appointment of a sole treasurer. A sole treasurer may delegate authority, in writing, to any number of assistant treasurers to receive and disburse moneys collected on behalf of a candidate for election. Nothing in this section shall prohibit authorized individuals from selling tickets or soliciting funds when funds are deposited in the campaign account of the candidate.

(C) Each candidate and committee shall keep records of the names and addresses of each person from whom a contribution of over ten dollars (\$10) has been received and a record of all

other information required to be reported pursuant to this act. All such records shall be retained by the candidate or treasurer for a period of three (3) years after such information is reported as required by this act.

(D) Any person receiving any contribution on behalf of a political committee or candidate shall turn such contributions over to the treasurer of that committee or the candidate within ten (10) days of its receipt.

Section 1623. Authorization of Political Committee.

No treasurer of any political committee shall receive any money on behalf of a candidate until such political committee shall have been so authorized in writing by the candidate on a form designed by the Secretary of the Commonwealth. A copy of such written authorization shall be filed with the appropriate supervisor;

however, the treasurer of any state, county, city, borough, township, ward or other regularly constituted party committee of any political party or political body is hereby authorized to receive money on behalf of the candidates of such political party or political body in a general, municipal or special election, without special written authorization from such candidate.

Section 1624. Registration.

(A) Any political committee which receives contributions in an aggregate amount of two hundred fifty dollars (\$250) or more shall file a registration statement, designed by the Secretary of the Commonwealth, with the appropriate supervisor within twenty (20) days after the date on which it receives such amount. Each committee in existence shall have sixty (60) days from the effective date of this amendatory act to comply with the requirements of this section.

(B) Each registration statement shall contain the following information:

(1) The name, address and phone number of the political committee.

(2) The name, address and phone number of the committee's treasurer.

(3) The name, address and phone number of the committee's chairman.

(4) The names, addresses and relationships of other affiliated or connected organizations.

(5) The candidates, if any, and their names and addresses.

(6) The ballot question, if any, which the committee intends to support or oppose.

(7) The banks, safety deposit boxes or other repositories and their addresses used by the committee.

(8) The proposed period of operation of the committee.

(C) The committee shall inform the appropriate supervisor of any changes in the information contained in subsection (B) within thirty (30) days of that change.

(D) No political committee which receives an aggregate amount of contributions of two hundred fifty dollars (\$250) or more may make a contribution to any candidate or political committee, unless it has registered with the appropriate supervisor.

Section 1625. Statements by Lobbyists.

(A) Any lobbyist who has given a contribution or pledge regardless of amount, to any candidate, shall be subject to the same registration and reporting provisions as are political committees.

(B) The registration statement required by section 1624 shall be filed by a lobbyist who has given a contribution or pledge, regardless of amount, to any candidate.

Section 1626. Reporting by Candidate and Political Committees and other Persons.

(A) Each treasurer of a political committee and each candidate for election to public office shall file with the appropriate supervisor reports of receipts and expenditures on forms, designed by the Secretary of the Commonwealth, if the amount received or expended or liabilities incurred shall exceed the sum of two hundred fifty dollars (\$250). Should such an amount not exceed two hundred

fifty dollars (\$250), then the candidate or the treasurer of the committee shall file a sworn statement to that effect with the appropriate supervisor rather than the report required by this section.

(B) Each report shall include the following information:

(1) The full name, mailing address, occupation and name of employer, if any, or the principal place of business, if self-employed, of each person who has made one or more contributions to or for such committee or candidate within the reporting period in an aggregate amount or value in excess of two hundred fifty dollars (\$250), together with the amount and date of such contributions. The accuracy of the information furnished to the candidate or committee shall be the responsibility of the contributor.

(2) The full name and mailing address of each person who has made one or more contributions to or for such committee or candidate within the reporting period in an aggregate amount or value in excess of fifty dollars (\$50), together with the amount and date of such contributions. The accuracy of the information furnished by the contributor shall be the responsibility of the contributor.

(3) The total sum of individual contributions made to or for such committee or candidate during the reporting period and not reported under clauses (1) and (2).

(4) Each and every expenditure, the date made, the full name and address of the person to whom made and the purpose for which such expenditure was made.

(5) Any unpaid debts and liabilities, with the nature and amount of each, the date incurred and the full name and address of the person owed.

(6) The account shall include any unexpended balance of contributions or other receipts appearing from the last account filed.

(C) Vouchers or copies of vouchers for all sums expended amounting to more than twenty-five dollars (\$25) shall be retained by the candidate or the committee treasurer and shall be available for public inspection and copying as herein provided. Any person may inspect or copy such vouchers or copies thereof by filing a written request with the appropriate supervisory office which shall notify the candidate or political committee of such request. The candidate or political committee shall have the option of either forwarding such vouchers or copy of the same to the supervisor for such purpose or making the vouchers or copy of the same available to the requesting person. If a candidate or a treasurer of a political committee shall fail to make said vouchers or copies thereof available for inspection and copying when requested by the appropriate supervisory officer, such officer shall direct the candidate or political committee to promptly deliver the vouchers or copies thereof to the supervisory office for purposes of inspection and copying. Costs of copying and costs of delivery by the candidate or treasurer of the requested vouchers or copies thereof shall be borne by the person requesting same.

(D) Pre-election reports by candidates for offices to be voted for by the electors of the State at large and all political committees, which have expended money for the purpose of influencing the election of such candidate, shall be filed not later than the sixth Tuesday before and the second Friday before an election, provided that the initial pre-election report shall be complete as of fifty (50) days prior to the election and the subsequent pre-election report shall be complete as of fifteen (15) days prior to the election. Pre-election reports by all other candidates and political committees which have received contributions or made expenditures for the purpose of influencing an election shall be filed not later than the second Friday before an election, provided that such report be complete as of fifteen (15) days prior to the election.

(E) All candidates or political committees, required to file under this section, shall also file a post-election report not later than thirty (30) days after an election which shall be complete as of twenty (20) days after the election. In the case of a special election, the post-election report shall be complete as of ten (10) days after such special election.

(F) Each report shall also contain a summary, on a separate page, of the information required by subsection (B).

(G) Every person, other than a political committee or candidate, who makes independent expenditures expressly advocating the election or defeat of a clearly identified candidate, or question appearing on the ballot, other than by contribution to a political committee or candidate, in an aggregate amount in excess of one hundred dollars (\$100) during a calendar year, shall file with the appropriate supervisor, on a form prepared by the Secretary of the Commonwealth, a report which shall include the same information required of a candidate or political committee receiving such a contribution and, additionally, the name of the candidate or question supported or opposed. Reports required by this subsection shall be filed on dates on which reports by political committees making expenditures are required to report under this section.

(H) All reports required to be filed pursuant to this section shall be filed pursuant to section 1630. All reports and statements required by this section shall cover the campaign activity of a candidate only from the last prior report or statement.

(I) An expenditure from a candidate's political committee to another political committee shall be reported as a contribution by the political committee receiving the contribution, but need not be reported by the contributing candidate's political committee until the time required by law for that candidate's political committee to report: Provided, however, that if the amount of the contribution exceeds two hundred fifty dollars (\$250) to a single political committee or one thousand dollars (\$1,000) in aggregate contributions to more than one political committee for any primary, general or special election, then receipts and expenditures shall be reported by the contributing committee at the same time as required by law for the committee receiving same.

(J) All "Political Action Committees" shall report to the Secretary of the Commonwealth all expenditures to or made on behalf of, any State-wide candidate, candidate for the Pennsylvania House of Representatives, or candidate for the State Senate, in the same manner as indicated in this section as a candidate's political committee. This provision shall be in addition to any other filing and reporting provisions of this act which apply to such committees, their treasurers and chairmen.

**Section 1626.1. Waiver of Reporting by Local
Candidates Upon Filing of Additional Affidavits.**

(A) In lieu of filing the reports or statements required by sections 1626 and 1627, a candidate for local office (which shall include county, township, city, school district, magisterial district, town and borough offices), who does not form a political committee, shall file an additional affidavit on the form required in section 910 or 951 attesting to the following:

(1) that the candidate for local office does not intend to receive contributions or make expenditures in excess of two hundred fifty dollars (\$250) during any reporting period;

(2) that the candidate for local office will keep records of contributions and expenditures, as required by this act;

(3) that the candidate for local office will file reports in accord with sections 1626 and 1627 for any reporting period during which he receives contributions or makes expenditures in excess of two hundred fifty dollars (\$250).

(B) Any candidate for local office filing an affidavit pursuant to this section, who exceeds the two hundred fifty dollar (\$250) limit herein specified, during a reporting period shall file the report required by section 1626 which shall be cumulative from the beginning of the reporting period. No further report shall be required for any subsequent period unless a candidate for local office receives contributions or makes expenditures in excess of two hundred fifty dollars (\$250) during said reporting period.

Section 1627. Annual Reports.

(A) All political committees and candidates, including those committees and candidates filing reports under section 1626 (D) and (E), shall file a report on January 31 of each year which shall be complete as of December 31 of the prior year. Such reports shall be filed annually at this time until there is no balance or debt in the report of the candidate or political committee. Such reports shall be cumulative. However, if there has been no change in the account, then the candidate or political committee shall file a statement

to that effect with the appropriate supervisor. Each form designated by the Secretary of the Commonwealth for filing a report or statement required by section 1626(E) shall contain a block which may be marked by the candidate or political committee designating it a termination report or statement. If such report or statement is so designated, or if an authorized candidate elects to file no report or statement pursuant to section 1626.1, no annual report need be filed under this section unless contributions were received or expenditures made subsequent to the time period for filing of such termination report. However, no candidate or political committee may terminate by way of a statement where the unpaid balance indicated in the previous report was greater than two hundred fifty dollars (\$250). In the case of annual reports, said report shall cover the campaign activity of a candidate or political committee from the last prior report or statement.

(B) Any political committee required to be registered under this act and not reporting under section 1626 shall file an annual report under this section. However, if a political committee makes aggregate expenditures as defined in section 1621 in an amount less than two hundred fifty dollars (\$250) or incurs aggregate debt in an amount less than two hundred fifty dollars (\$250) during the calendar year to influence an election, it need not file an annual report; provided that this exception shall not be applicable to a candidate's political committee or to a State or county committee of a political party or political body or to a political action committee of a corporation or unincorporated association.

**Section 1628. Late Contributions
and Independent Expenditures.**

Any candidate or political committee, authorized by a candidate and created solely for the purpose of influencing an election on behalf of that candidate, which receives any contribution or pledge of five hundred dollars (\$500) or more, and any person making an independent expenditure, as defined by this act, of five hundred dollars (\$500) or more after the final pre-election report has been deemed completed, shall report such contribution, pledge or expenditure to the appropriate supervisor. Such report shall be sent by the candidate, chairman or treasurer of the political committee within twenty-four (24) hours of receipt of the

contribution. It shall be the duty of the supervisor to confirm the substance of such report. The report shall be made by telegram, mailgram, overnight mail or facsimile transmission. Any candidate in his own behalf, or chairman, treasurer or candidate in behalf of the political committee may also comply with this section by appearing personally before such supervisor and reporting such late contributions or pledges.

Section 1629. Oath of Compliance; Perjury; Disqualification from Office; Commercial Use.

(A) Each report shall be subscribed and sworn to by the individual submitting the report. In addition, any report filed by a political committee, authorized by a candidate and created solely for the purpose of influencing an election on behalf of that candidate, must be accompanied by an affidavit from that candidate which provides that, to the best of the candidate's knowledge, the political committee has not violated any provision of this act.

(B) Any willfully false, fraudulent or misleading statement or entry made by any candidate or treasurer in any statement or report under oath as required by this article, shall constitute the crime of perjury, and be punishable as such according to the laws of this Commonwealth.

(C) Any person hereafter convicted of such an act shall be disqualified from holding public office in this Commonwealth. Conviction, as used in this subsection, shall include a finding or verdict of guilt, an admission of guilt, or a plea of nolo contendere.

(D) It shall be unlawful for any person to use the contents of any statement or report filed under this article for any commercial purpose whatsoever.

Section 1630. Residual Funds.

In the event that a candidate or political committee terminates its financial activity as such, then the disbursement of any residual funds remaining in such an account shall be made in the following manner:

(1) any such funds may be used for any expenditure as defined by this article; and

(2) may be returned, pro rata, to the contributors by the candidate or treasurer of the political committee. A final report must be made by the next January 31 in accordance with section 1627.

Section 1631. Place of Filing.

Any statement or report required by this article to be filed, shall be done in the following manner:

(1) (i) Any candidate, individual, or committee required to file a report concerning any candidate shall file that statement or report in the office of the supervisor with whom the candidate filed a nomination paper, nomination certificate, nomination petitions or with the supervisor with whom the candidate would have filed such if he had sought nomination in that manner.

(ii) All candidates and political committees, authorized by candidates and created solely for the purpose of influencing the election of such candidates, who must file reports with the Secretary of the Commonwealth, shall also file copies of their reports in the county in which the candidate resides.

(2) (i) Any statement or report concerning an issue to be voted on by the electors of the State at large shall be filed with the Secretary of the Commonwealth.

(ii) Any statement or report concerning any other issue to be voted on by the electors of this Commonwealth shall be filed in the county wherein the electors reside.

(3) However, if any report of any political committee concerns both candidates who file for nomination with the Secretary of the Commonwealth and candidates who file with a county board of elections, then such report shall be filed with the Secretary of the Commonwealth.

Section 1632. Late Filing Fee; Certificate of Filing.

(A) A late filing fee for each report or statement of expenditures and contributions which is not filed within the prescribed period shall be imposed as follows. Such fee shall be ten dollars (\$10)

for each day or part of a day excluding Saturdays, Sundays and holidays that a report is overdue. An additional fee of ten dollars (\$10) is due for each of the first six (6) days that a report is overdue. The maximum fee payable with respect to a single report is two hundred fifty dollars (\$250). A supervisor shall receive an overdue report or statement even if any late filing fee due has not been paid but the report or statement shall not be considered filed until all fees have been paid upon the receipt by the supervisor of an overdue report. No further late filing fees shall be incurred notwithstanding the fact that the report or statement is not considered filed. The late filing fee is the personal liability of the candidate or treasurer of a political committee and cannot be paid from contributions to the candidate or committee, nor may such fee be considered an expenditure. A report or statement of expenditures and contributions shall be deemed to have been filed within the prescribed time if the letter transmitting the report or statement which is received by the supervisor is transmitted by first class mail and is postmarked by the United States Postal Service on the day prior to the final day on which the report or statement is to be received:

Provided, that this sentence shall not be applicable to the reporting requirements contained in section 1628.

(B) No person shall be deemed elected to a public office under the laws of this Commonwealth or enter upon the duties thereof, or receive any salary or emoluments therefrom until all of the reports and statements of contributions and expenditures required to be filed by any candidate and treasurers of committees authorized by such candidate and due before the person may take office, have been filed. No candidate may be sworn in until the appropriate supervisor certifies that all required reports have been filed, and no official of the Commonwealth or any of its political subdivisions may issue a commission or administer an oath of office until that official has received this certification. No certification shall be issued until the supervisor has received post election reports of any candidate and treasurer of committees authorized by such candidate.

**Section 1633. Contributions or Expenditures by National Banks,
Corporations or Unincorporated Associations.**

(A) It is unlawful for any National or State bank, or any corporation, incorporated under the laws of this or any other state or any foreign country or any unincorporated association, except those corporations formed primarily for political purposes or as a political committee, to make a contribution or expenditure in connection with the election of any candidate or for any political purpose whatever except in connection with any question to be voted on by the electors of this Commonwealth. Furthermore, it shall be unlawful for any candidate, political committee, or other person to knowingly accept or receive any contribution prohibited by this section, or for any officer or any director of any corporation, bank, or any unincorporated association to consent to any contribution or expenditure by the corporation, bank or unincorporated association, as the case may be, prohibited by this section.

(B) No provision of the laws of this Commonwealth shall be deemed to prohibit a loan of money by a National or State bank made in accordance with the applicable banking laws and regulations in the ordinary course of business; however, any such loans shall be included in the reports filed by the candidates and political committees. No provision of the laws of this Commonwealth shall be deemed to prohibit the receipt of interest or dividends on investments where the interest or dividends are received in accordance with the applicable banking laws and in the ordinary course of business. Any such interest and dividends shall be included in the financial records maintained by the candidate and political committees and reported where appropriate under the filing requirements of this act.

(C) No provision of the laws of this Commonwealth shall be deemed to prohibit direct private communications by a corporation to its stockholders and their families or by an unincorporated association to its members and their families on any subject; nonparti-san registration and get-out-vote campaigns by a corporation aimed at its stockholders and their families or by an unincorporated association aimed at its members and their families; and the establishment, and administration by a corporation or an unincorporated association of a separate segregated fund which fund is to

be created by voluntary individual contributions, including those solicited by the corporation or unincorporated association and to be utilized for political purposes, provided that any such separate segregated fund shall be deemed to be a political committee for purposes of this article.

**Section 1634. Contributions by Agents;
Anonymous Contributions; Cash Contributions.**

(A) It shall be unlawful for any person to make any contribution with funds designated or given to him for the purpose by any other person, firm or corporation. Each person making a contribution shall do so only in his own name.

(B) It shall be unlawful for any candidate or political committee to disburse money received from an anonymous source. All such money shall be handed over to the State Treasurer within twenty (20) days of its receipt.

(C) It shall be unlawful for any person to make contributions of currency of the United States or currency of any foreign country to or for the benefit of any candidate which in the aggregate, exceed one hundred dollars (\$100), with respect to any candidate for election.

Section 1634.1. Lawful Election Expenses.

No candidate, chairman or treasurer of any political committee shall make or agree to make any expenditure or incur any liability, except as provided in section 1621(D).

Section 1635. Independent Audit.

(A) Every two (2) years, the Secretary of the Commonwealth shall contract for the services of a certified public accountant or certified public accounting firm. Such contract shall be awarded on a bid basis and no certified public accountant or certified public accounting firm shall be eligible to obtain such a contract for two (2) successive contract periods.

(B) The Secretary of the Commonwealth shall select by lottery, at a public drawing, forty (40) days after each primary, general and municipal election three (3) percent of all public offices for which candidates must file nominating petitions or papers with the

Secretary of the Commonwealth. For the purpose of this subsection, a legislative or senatorial district shall be considered a public office. Any public office filled at a special election occurring other than at a primary, general or municipal election shall be placed in the lottery of public offices for audit at the next succeeding primary, general or municipal election whichever occurs first. Any public office filled at a special election held at the same time as any other election shall be included in the lottery for that election.

(C) The certified public accountant shall audit the reports of all candidates for each public office selected in accordance with subsection (B) and those committees, authorized and created solely for the purposes of influencing an election on behalf of those candidates.

(D) The accountants shall conduct their audit in accord with sound accounting principles and shall make findings of any possible violations of this act with respect to campaign contributions or expenses. All audited candidates and their committees shall furnish any records to the accountants which the accountants deem necessary for the completion of their work.

(E) The accountant shall report his or her findings to the Secretary of the Commonwealth who shall make public the report of the accountants. The results of the primary election audit shall not be released to the public until after the general or municipal election. Nothing in this subsection shall be construed to prohibit the initiation of prosecution for criminal violations by the appropriate agencies.

(F) The accountants shall also furnish a report of their findings to the Attorney General for the institution of such criminal proceedings as he or she shall deem necessary.

Section 1636. Audit of Expense Accounts.

(A) Within ninety (90) days after the last day for filing any report and affidavit required by this act, any five (5) electors of the Commonwealth or of the political subdivision may present a petition to the court of common pleas of the county in which is situated the office where such original report has been filed or with the Commonwealth Court in the case of original report filed with the

Secretary of the Commonwealth for an audit of such report. Thereupon the court shall direct the officer or board with whom such report has been filed to certify the same to the court for audit and may, in its discretion, require security to be entered for costs. The court may, in its discretion, appoint an auditor to audit such report, but the fees of such auditor shall be a reasonable sum per day for each day actually engaged. The court or auditor shall fix a day as early as may be convenient for the audit, at which time the person by whom such report has been filed shall be required to be present in person to vouch his report and to answer on oath or affirmation all such relevant questions concerning the same, as may be put to him by the petitioners or their counsel. The auditor shall issue subpoenas to all parties whom the petitioners or the filer of the report may require, to give evidence concerning such report, and he shall determine, subject to exception, all questions as to the admissibility of evidence, and shall file a copy of the evidence with his findings. If upon the audit, the court shall decide that the report was false in any substantial manner, or that any expenses have been incurred in contravention of this act, the costs of said audit shall be paid by the filer of the report, otherwise the court shall make such order as to payment of costs as shall be just in the circumstances.

(B) If the court shall decide upon the audit that any person, whether a candidate or not, has accepted contributions or incurred expense or has expended or disbursed money in contravention of this act, or has otherwise violated any of the provisions of this act, it shall certify its decision to the appropriate prosecutorial officer and it shall thereupon be the duty of such officer to institute criminal proceedings as he or she shall deem necessary.

(C) No person shall be excused from answering any question in any proceeding under this section on the ground that such answer would tend to incriminate him, but no such answer shall be used as evidence against such person in any criminal action or prosecution whatever, except in an action for perjury in giving such testimony.

Section 1637. Proceedings Against Candidates Violating Provisions Relating to Contributions and Expenditures.

If any candidate, who has been nominated or elected, is found by any court of this Commonwealth in criminal proceedings to have willfully accepted any contributions or made any expenditures in contravention of this act, either directly or through the treasurer of any committee authorized by section 1623 or through any other person with his knowledge or consent, whether expressly or not, that fact shall be certified by the court to the Attorney General. In the case of a candidate for nomination, the Attorney General shall make a motion to the proper court to remove the candidate's name from the ballot. In the case of an elected candidate, the Attorney General shall file in the proper court a suggestion for a writ of quo warranto against such candidate. If upon the hearing of such motion or writ, it shall be determined that such candidate has willfully accepted any contribution, or made any expenditure in contravention of this act, either directly or through the treasurer of any committee authorized by section 1623 to pay or incur primary or election expenses in furtherance of his candidacy or through any other person with his knowledge and consent, whether expressly authorized or not, judgment of ouster from nomination, in the case of a candidate for nomination where the judgment is entered prior to the subsequent election, or judgment of ouster from office in the case of a candidate for election or in the case of a candidate for nomination who has been subsequently elected to the office for which he was nominated, shall be entered against him. However, in the case of a candidate elected to the office of Senator or Representative in the General Assembly, the decision of the court shall be certified to the President of the Senate or to the Speaker of the House of Representatives, as the case may be.

Section 1638. Advertising.

(A) Whenever any person makes an expenditure for the purpose of financing communications expressly advocating the election defeat of a candidate, or ballot questions, through any broadcasting station, newspaper, magazine, outdoor advertising facility, direct mailing, or any other type of general public political advertising, such communication:

(1) If authorized by the candidate, his authorized political committee or their agents, shall clearly and conspicuously state that the communication has been authorized.

(2) If not authorized by a candidate, his authorized political committee, or their agents, shall clearly and conspicuously state the name of the person who made or financed the expenditure for the communication, including, in the case of a political committee the name of any affiliated or connected organization.

*(B) (1) No candidate for public office, or political committee or party acting on his behalf, shall place any advertisement referring to an opposing candidate for the same office which is to be broadcast or published during the one hundred and twenty (120) hours immediately prior to an election or published in a weekly newspaper or periodical during the eight (8) days immediately prior to an election, with a television or radio broadcasting station, newspaper or periodical, unless he has first given a copy of the material to appear or be used in the advertisement and reasonable notice to the opposing candidate and the county board of elections of the county where the advertisement is to be placed in sufficient time for a reply advertisement to be published or broadcast at the same approximate time or in the same issue of the publication or on the same radio or television broadcast as the original advertisement and prior to the election in question.

(2) The reasonable notice referred to in clause (1) shall be given in writing by registered mail, return receipt requested, addressee signature only, with a true copy of the material enclosed to appear or be used in the advertisement so as to afford the recipient sufficient time to place a reply advertisement to be published or broadcast at the same approximate time or in the same issue of the publication or on the same radio or television broadcast as the original advertisement and prior to the election in question.

(3) Any person, firm or corporation, political committee or party or member thereof, violating any of the provisions of this section, shall be guilty of a misdemeanor, and upon conviction thereof, shall be sentenced to pay a fine not exceeding

one thousand dollars (\$1,000), or to undergo an imprisonment of not less than one (1) month nor more than two (2) years, or both, in the discretion of the court.

* **NOTE:** Commonwealth of Pennsylvania vs. Wadzinski 492 Pa. 35 422 A.2d 124 (1980).

The Pennsylvania Supreme Court declared as unconstitutional former Section 1614 of the Code which required a candidate to give reasonable notice to an opponent. Based on the Wadzinski decision, it is the position of the Office of the Secretary of the Commonwealth that Section 1638 (B) is unenforceable.

Section 1638 (A) has not been amended legislatively, nor has the Wadzinski case affected it.

Section 1639. Powers and Duties of the Supervisor.

It shall be the duty of the supervisor to:

- (1) Furnish to the persons, subject to the provisions of this act, a bookkeeping and reporting manual and the prescribed forms for the making of the reports and statements required to be filed under this article.
- (2) Develop a filing system consistent with the purposes of this article.
- (3) Make the reports and statements filed with him or her available for public inspection and copying, commencing as soon as practicable but not later than the end of the second day following the day during which it was received, and to provide copies of any such report or parts thereof, as requested by any person, at the expense of such person, at the rate not to exceed the actual cost of reproduction.
- (4) Preserve such reports and statements for a period of five (5) years from the date of filing.
- (5) Compile and maintain a current list of all statements pertaining to each candidate and political committee.

(6) Make from time to time inquiries and field investigations with respect to reports and statements filed under the provisions of this article and with respect to alleged failures to file any report or statement required under provisions of this article.

(7) Report apparent violations of this article to the appropriate law enforcement authorities.

(8) Collect any fines relating to the filing of late reports and transmit all such fines collected to the appropriate fiscal officer of the receiving supervisor.

(9) Inform each candidate or committee which has failed to file of that fact.

(10) Publish a list of all those candidates and their committees who have failed to file reports as required by this act within six (6) days of their failure to comply.

Section 1640. Additional Powers and Duties of the Secretary of the Commonwealth.

The Secretary of the Commonwealth shall have the following additional powers and duties:

(1) To serve as the State clearing house for information concerning the administration of this act.

(2) To prescribe suitable rules and regulations to carry out the provisions of this act.

(3) To develop the prescribed forms required by the provisions of this article for the making of the reports and statements required to be filed with the supervisor.

(4) To prepare a manual setting forth recommended uniform methods of bookkeeping and reporting which shall be furnished by the supervisor to the person required to file such reports and statements as required by this article.

(5) To examine the contributions to State legislative and State wide candidates and publish a list of all those political committees who have contributed to candidates and who have failed to file reports as required by this act within six (6) days of their failure to comply.

**Section 1641. Reports by Business Entities;
Publication by Secretary of the Commonwealth.**

(A) Any business entity including but not limited to corporation, company, association, partnership or sole proprietorship, which has been awarded non-bid contracts from the Commonwealth or its political subdivisions during the preceding calendar year, shall report by February 15 of each year to the Secretary of the Commonwealth an itemized list of all political contributions known to the business entity by virtue of the knowledge possessed by every officer, director, associate, partner, limited partner or individual owner that has been made by:

(1) any officer, director, associate, partner, limited partner, individual owner or members of their immediate family when the contributions exceed an aggregate one thousand dollars (\$1,000) by any individual during the preceding year; or

(2) any employe or members of his immediate family whose political contribution exceeded one thousand dollars (\$1,000) during the preceding year.

For the purposes of this subsection, "immediate family" means a person's spouse and any unemancipated child.

(B) It shall be the duty of the Secretary of the Commonwealth to publish sixty (60) days after February 15 of each year a complete itemized list of all contributions given under the provisions of subsection (A). This list shall be a matter of public record open to public inspection and copies made available at cost to any individual who requests them.

Section 1642. Enforcement.

(A) The Attorney General shall have prosecutorial jurisdiction over all violations connected with any statement or report and the contents thereof which is to be filed with the Secretary of the Commonwealth.

(B) The district attorneys of the respective counties shall have jurisdiction over any other violations committed under this act.

(C) The district attorney of any county in which a violation, referred to in subsection-(A) occurs, has concurrent powers and responsibilities with the Attorney General over such violations.

ARTICLE XVIII PENALTIES

Section 1839. Bribery at Elections.

Any person who shall, directly or indirectly, give or promise or offer to give any gift or reward in money, goods or other valuable thing to any person, with intent to induce him to vote or refrain from voting for any particular candidate or candidates or for or against any constitutional amendment or other question at any primary or election; or who shall, directly or indirectly, procure for or offer or promise to procure for such person any such gift or reward with the intent aforesaid; or, who with the intent to influence or intimidate such person to give his vote or to refrain from giving his vote for any particular candidate or candidates or for or against any constitutional amendment or other question at any primary or election, shall give to or obtain for or assist in obtaining for or offer or promise to give to or obtain for or assist in obtaining for such person any office, place, appointment or employment, public or private, or threaten such person with dismissal or discharge from any office, place, appointment or employment, public or private, then held by him, shall be guilty of a felony of the third degree, and, upon conviction thereof, shall be sentenced to pay a fine not exceeding fifteen thousand (\$15,000) dollars, or to undergo an imprisonment of not more than seven (7) years, or both, in the discretion of the court.

Section 1840. Receipts and Disbursements of Primary and Election Expenses by Persons Other Than Candidates and Treasurers.

Any member of a political committee who shall receive or disburse any money or incur any liability for primary or election expenses, except through the treasurer of such political committee, and any person not a candidate or member of a political committee who shall receive or disburse any money or incur any liability for primary or election expenses, shall be guilty of a misdemeanor, and, upon conviction thereof, shall be sentenced to pay a fine not exceeding one thousand (\$1,000) dollars, or to undergo an imprisonment of not less than one (1) month nor more than two (2) years, or both, in the discretion of the court.

Section 1841. Receipts of Primary and Election Expenses by Unauthorized Persons.

Any person or any political committee who receives money on behalf of any candidate without being authorized to do so under the provisions of section 1623, shall be guilty of a misdemeanor, and, upon conviction thereof, shall be sentenced to pay a fine not exceeding five thousand dollars (\$5,000), or to undergo an imprisonment of not less than one (1) month nor more than two (2) years, or both, in the discretion of the court.

Section 1843. Contributions by Corporations or Unincorporated Associations.

Any corporation or unincorporated association, which shall pay, give or lend or agree to pay, give or lend any money belonging to such corporation or unincorporated association or in its custody or control, in violation of the provisions of section 1633, shall be guilty of a misdemeanor, and, upon conviction thereof, shall be sentenced to pay a fine of not less than one thousand dollars (\$1,000) nor more than ten thousand dollars (\$10,000). Any director, officer, agent or employe of any corporation or unincorporated association who shall on behalf of such corporation or unincorporated association pay, give or lend or authorize to be paid, given or lent any money belonging to such corporation or unincorporated association or in its custody or control in violation of the provisions of section 1633, shall be guilty of a misdemeanor, and, upon conviction thereof, shall be sentenced to pay a fine not exceeding ten thousand dollars (\$10,000), or to undergo an imprisonment of not less than one (1) month nor more than two (2) years, or both, in the discretion of the court.

Section 1845. Failure to File Expense Account.

Any candidate or treasurer of a political committee or person acting as such treasurer who shall fail to file an account of primary or election expenses, as required by this act, shall be guilty of a misdemeanor, and, upon conviction thereof, shall be sentenced to pay a fine not exceeding five thousand dollars (\$5,000), or to undergo an imprisonment of not less than one (1) month nor more than two (2) years, or both, in the discretion of the court.

Section 1850. Violation of Any Provision of Act.

Any person who shall violate any of the provisions of this act, for which a penalty is not herein specifically provided, shall be guilty of a misdemeanor, and, upon conviction thereof, shall be sentenced to pay a fine not exceeding one thousand (\$1,000) dollars, or to undergo an imprisonment of not more than one (1) year, or both, in the discretion of the court.

**Section 1851. Candidate Violating Act
Disqualified from Holding Office.**

Any person who shall, while a candidate for office, be guilty of bribery, fraud or willful violation of any provision of this act, shall be forever disqualified from holding said office or any other office of trust or profit in this Commonwealth.

Recommended Procedures

Cash Receipts Journal

The law requires that each candidate and committee keep records of names, addresses and other information required for each contributor donating more than ten dollars. (See § 1622 (C)). This must be done even though reports only reflect a listing of contributors of over \$50.00. Also, this information must be retained for a period of three years after it is reported by the candidate or committee. It is recommended that candidates and treasurers maintain a cash receipts journal.

Cash Disbursements Journal

The law requires that each expenditure made shall be documented by recording the date, purpose, amount and the name and address of the person or firm to whom the expenditure was made. In addition, the reporting provisions require strict cash accounting. It is recommended that candidates and treasurers maintain a cash disbursements journal to be retained for a period of three years in conjunction with the cash receipts journal.

Debts and Liabilities

The law requires that each candidate and committee shall maintain records of any unpaid debts and liabilities disclosing the nature, date, to whom owed and amount of each. It is recommended that candidates and treasurers maintain accounts payable ledgers for each debt or liability. These ledgers should be posted at least monthly from information contained in the cash disbursements journal. The ledger should be retained for a period of three years concurrent with the cash receipts journal.

Instructions for Preparation of Campaign Finance Reports.

Please review the instruction page on the reporting form that you intend to file before completing the form.

Contributions and Receipts

1) Review the cash receipts to determine the names of contributors that will be itemized in the report. Political committees should begin with the first contribution received after the close of the last reporting period. If a report has never been filed prior to the one being completed, then begin with the first contribution received. Candidates, however, should begin with the first day of that reporting period.

2) Complete the Summary of Contributions and Receipts after the review of receipts for the reporting period has been completed:

- (a) All contributors in the reporting period who in the aggregate gave \$50 or less will not be itemized on the report. This total should appear in Section 1 of the Detailed Summary Page.
- (b) Each contributor in the reporting period who gave from \$50.01 to \$250 in the aggregate is itemized next in Parts A & B of the report. After the section has been completed, this total amount should be listed in Section 2 of the Detailed Summary Page.
- (c) Each contributor in the reporting period who gave in excess of \$250 in the aggregate is itemized in Parts C & D of the report. After the section has been completed, this total amount should be listed in Section 3 of the Detailed Summary Page.
- (d) Other receipts are itemized in Part E and the total is listed in Section 4 of the Detailed Summary Page.

In-Kind Contributions

Complete Schedule II by itemizing the in-kind contributions received during the reporting period. In-kind contributions are not included in the total of monetary contributions.

Expenditures

Political committees should complete Schedule III information by listing each and every expenditure since the close of the last reporting period. If a report has never been filed prior to the one being completed, then begin with the committee's first expenditure. Candidates, however, should list each and every expenditure for that reporting period only.

Unpaid Debts and Obligations

Complete Schedule IV information by recording the current balance of each outstanding debt or liability. This information can be obtained from your accounts payable ledger.

Cover Page

Complete the cover page of the report after all other information has been listed in the report. Remember to complete the required affidavits in the presence of a notary public.

Instructions for Preparation of Campaign Finance Statements

1) If the total amount received, expended, or liabilities incurred during a reporting period does not exceed \$250, then a campaign finance statement is prepared.

2) Campaign finance statements may be used as termination statements only as provided in Section 1627 (A) of the Law.