

OHIO CAMPAIGN FINANCE HANDBOOK

**CHAPTER 4: LEGISLATIVE
CAMPAIGN FUNDS**

Updated May 2014

LEGISLATIVE CAMPAIGN FUNDS

What is a Legislative Campaign Fund?

A legislative campaign fund (LCF) is an entity that is associated with one of the caucuses of the general assembly and is established as an auxiliary of a state political party.

[R.C. 3517.01(B)(15)]

The four LCFs are:

HOUSE DEMOCRATIC CAUCUS FUND
OHIO HOUSE REPUBLICAN ORGANIZATIONAL COMMITTEE
OHIO SENATE DEMOCRATS
REPUBLICAN SENATE CAMPAIGN COMMITTEE

ACCOUNT TYPES

LCFs may have two different accounts, with each serving a specific purpose. They include:

- » general account;
- » building fund.

General Account

The general political account is the fund used by a LCF to directly support the members of, or candidates for the legislative caucus to which the LCF is connected. Such support can be in the form of direct monetary contributions or as in-kind contributions in the form of goods and services – e.g. television air time, media production, postage, etc. The general political account of a LCF may not accept any contribution or transfer from that LCF's building fund.

[R.C. 3517.01 (B)(15); 3517.10 (D); 3517.101 (H)]

Building Fund

Building fund gifts may be used for the construction, renovation, purchase, or lease of, as well as any furniture, fixtures, equipment, supplies, operating costs (not including personnel), and the maintenance or repair of office facilities that are not used solely for the purpose of influencing the election of any individual candidate in any particular election for any office. Any individual, partnership, unincorporated business organization or association, political action committee (PAC), political contributing entity (PCE), labor organization, corporation (other than a public utility) may make one or more gifts, limited to \$10,000 per calendar year, to a building fund. Monies received into a building fund must be kept in a separate bank account because gifts may be accepted directly from corporations doing business in Ohio.

[R.C. 3517.101; OEC Adv. 2000ELC-04]

REPORTING

Disclosure of campaign finance activity is a crucial element in monitoring compliance with and effectiveness of Ohio's campaign finance laws and regulations. When a report is filed, it must be a full, true and itemized accounting of contributions and expenditures for the reporting period.

What to Do First

Before receiving or giving money or goods or services, *form 30-D, Designation of Treasurer*, must be filed. This form is considered a "registration" form. It includes basic information, such as the treasurer's name and address and the name of the LCF. [R.C. 3517.10(D)]

Where to File Reports

LCFs file their reports with the secretary of state. [R.C. 3517.11(A)(1)]

When to File Reports

LCF reports are due based on the nature and timing of the activity in which the fund engages. All reports must be physically received by the secretary of state to meet the filing deadline requirement. A report postmarked, but not received, by the deadline is a late filing and must be referred to the Ohio Elections Commission.

There are four types of reporting deadlines:

A **pre-election** report is due by 4 p.m. 12 days before an election if the LCF spent or received \$1,000 or more to influence that election between the time the last report was filed and the 20th day before the election. [R.C. 3517.10(A)(1)]

A **post-election** report is due by 4 p.m. 38 days after the election if the LCF received contributions or made expenditures to influence that election between the time the last report was filed and the 31st day after the election. [R.C. 3517.10(A)(2)]

A **semiannual** report is due by 4 p.m. on the last business day of July if the LCF was not required to file a report after the immediately preceding primary election. It should cover the time period since the last report through the last day of June. A semiannual report should only reflect the activity that has occurred since the last report was filed. [R.C. 3517.10(A)(4)]

An **annual** report is due by 4 p.m. on the last business day of January if the fund was not required to file a post-election report after the immediately preceding November election. The annual report must cover the time period since the last report through the last day of December. The report should reflect only activity that occurred since the last previous report was filed. [R.C. 3517.10(A)(3)]

The use of the fund's contribution is the key to when a report will be required. The need for pre- and post-election reports will be determined by whether the recipient of an LCF contribution will appear on a particular election ballot. A contribution made by a LCF to a political party is presumed to have been made to influence whatever election is imminent. [R.C. 3517.01(B)(5) and (6)]

If a required report is filed late, the secretary of state must file a complaint against the LCF with the Ohio Elections Commission. The commission determines whether the LCF will be penalized. [R.C. 3517.11]

Report Forms

All reporting forms, along with instructions for their use, are available at the secretary of state's web site: www.OhioSecretaryofState.gov

Filers may choose to download the forms and use them for creating reports eligible for filing in paper form. Filers may choose to create their own forms for use in paper filing, with the approval of the secretary of state's office, as long as they are substantially similar to the forms prescribed by the secretary of state's office. [OAC 111-5-11]

Filers seeking the approval of alternative paper forms may direct their request, along with a sample of each of the alternative forms to:

OHIO SECRETARY OF STATE
CAMPAIGN FINANCE DIVISION
180 E. BROAD ST., 15TH FLOOR
COLUMBUS, OH 43215

GENERAL RULES

Treasurer Duties and Liability

The treasurer of an LCF is legally responsible for keeping detailed records of everything received or given. The cover page of every report filed should be signed by the treasurer or deputy treasurer. Each report must contain a statement that the report is correct, subject to the penalty for election falsification. Whoever commits election falsification is guilty of a felony of the fifth degree.

[R.C. 3517.10(C) and (D), 3517.992, 3599.36; OAC 111-5-12, 111-5-14]

CONTRIBUTIONS

Generally speaking, the value of all contributions received by a LCF must be disclosed. With the exception of those received at a fundraising event, all contributions must be separately itemized. The primary elements for complete disclosure of a contribution are the name and address of each contributor as well as the date and amount of each contribution.

Anonymous Contributions

Contributors may not remain anonymous by request. If a donor does not want to be identified, the contribution should not be made. However, if an anonymous contribution is received, efforts must be made by the LCF receiving it to identify the donor. If the efforts are unsuccessful, the contribution should have an explanation of the circumstances that caused it to be anonymous and a description of the efforts made to determine the donor's identity. This information should appear in the address portion of *form 31-A, Statement of Contributions Received*. [R.C. 3517.10 (C)(2)]

GENERALLY SPEAKING,
ONLY THOSE CAMPAIGN
COMMITTEES OF
CANDIDATES WHO ARE
OR WILL BE MEMBERS OF
THE LEGISLATIVE CAUCUS
ASSOCIATED WITH THE
LCF ARE CONSIDERED TO
BE "DESIGNATED STATE
CAMPAIGN COMMITTEES".

Cash Contribution Limits

A contributor may not give more than \$100 per election in cash. Cash includes only currency or coin. [R.C. 3517.13(F); OAC 111-5-06]

Contribution Limits

In most cases, contributions to a LCF are limited by statute. Contributions given to a LCF from a "designated state campaign committee" are not limited. For information regarding "designated state campaign committees", see *Chapter 3*. A contribution limit chart is available from the secretary of state's web site. [R.C. 3517.102]

Contributions from Minor Children

Legislative campaign funds are prohibited from knowingly accepting a contribution from an individual who is under seven years of age. [R.C. 3517.102 (C)(5)(a)]

Corporate \ Professional Association Contributions

Corporations are prohibited from directly or indirectly supporting or opposing any candidate. This prohibition applies to the provision of corporate funds or property to a candidate or campaign committee. The use of a corporate logo on an endorsement or solicitation letter is also a prohibited corporate contribution. [R.C. 3599.03; OEC Adv. 97ELC-05]

Legal professional associations and other professional associations under R.C. 1785 as limited liability companies under R.C. 1705, or partnerships as defined by R.C. 1775 through 1783, are not “corporations” under R.C. 3599.03. These entities are considered either partnerships or unincorporated businesses. A partnership or other unincorporated business may use its checking account to transmit a contribution to a LCF. The contribution must be accompanied by detailed information about each partner, owner or member and their allocated portion of the contribution. The recipient of such a contribution must itemize each allocated portion according to the information provided. No contribution from a partnership or other unincorporated business may be accepted, deposited or used unless the recipient has the allocation information necessary to itemize the contribution by the partner, owner or member.

[R.C. 3517.10 (I); OAC 111-5-21; OEC Adv. 96ELC-03]

To determine the status of a business or a corporation registered in Ohio, you may contact the secretary of state’s Business Services Division at (614) 466-3910. Also, the complete database of business entity filings are available and can be searched at the secretary of state’s web site: www.OhioSecretaryofState.gov

Follow the links for *Business / Corporations* and *Search Filings* or *Search Database*.

In-Kind Contributions Received

An in-kind contribution is a non-monetary contribution of goods or services that was made with the consent of, in coordination or cooperation with, or at the request or suggestion of, the benefited LCF. Examples include receiving postage or signs, receiving rent-free office space, having personnel assistance compensated by a third party, or having a third party buy media advertising on behalf of the fund. These contributions are reported on *form 31-J-1, In-Kind Contributions Received*.

[R.C. 3517.01(B)(16)]



Joint Fund-Raisers

Each LCF that engages in a joint fund-raising activity may deposit into its account only the checks that are made out to that particular LCF. If a check is received that is made out to more than one reporting entity, then it must be refunded to the contributor and not deposited into the LCF bank account. The expenses for the event are divided equally among the participants unless they have agreed to divide them in another manner. [OAC 111-5-18]

Labor Organization Contributions

A LCF may accept contributions from a PAC sponsored by a labor organization or from a labor organization’s political contributing entity (PCE).

[R.C. 3517.01(B)(21), 3517.082]

Partnerships/Unincorporated Associations

Contributions received from partnerships or unincorporated associations must reflect the name of that entity, as well as the name of the individuals making the contribution. A partnership or other unincorporated business may use its checking account to transmit a contribution, but the contribution must be accompanied by detailed information of each partner, owner or member and his or her allocated portion of the contribution. The recipient of such a contribution must itemize each allocated portion according to the information provided. No contribution from a partnership or other unincorporated business may be accepted, deposited or used unless the recipient has the allocation information necessary to itemize the contribution by the partner(s), owner(s) or member(s).

[*R.C. 3517.10(I)*; *OAC 111-5-20*; *OEC Adv. 96ELC-03*]

Public Employee Solicitations \ Contributions

Public employees are prohibited from soliciting contributions, or from being solicited for contributions while performing their official duties or while they are in those areas of a public building where official business is transacted or conducted. For the purpose of these prohibitions, the term “public employee” does not include any person holding an elective office. [*R.C. 3517.092*]

Deposit of Contributions or Other Income

All contributions and other monetary income must be deposited in an account within 30 days of receipt or returned to the donor without having been deposited. A contribution that is clearly illegal must be returned and not deposited. A contribution that appears on its face to be legal (e.g., not from a foreign national, corporation or in excess of contribution limits) may be deposited and used by the LCF.

Contributions that appear questionable may be deposited, but not spent. The treasurer must make a good-faith effort to determine the legality of the contribution. If, within 30 days of receipt, it cannot be determined that the contribution is legal, then it must be returned. If a contribution is kept that is later found to be illegal, then the LCF must refund it within 10 days of the discovery.

[*OAC 111-5-12*]

EXPENDITURES

The value of all expenditures made by a LCF must be disclosed. The primary elements for complete disclosure of expenditures include the name and address of each payee as well as the date, amount and detailed purpose of each expenditure. In some cases, additional information or more detailed itemization may be required.

Permissible Campaign Expenses

The use of campaign funds for personal or business purposes is prohibited. All expenditures made by an LCF must be to influence the result of an election or for making a charitable contribution. No beneficiary of a LCF or other person may convert for personal use anything of value from the LCF, except as reimbursement for: Legitimate and verifiable prior campaign expenses.

- » Legitimate and verifiable prior campaign expenses;
- » Legitimate, verifiable, ordinary and necessary expenses incurred in connection with the duties as the holder of a public office
- » Legitimate, verifiable, ordinary and necessary expenses incurred by the beneficiary while:
 - » engaged in activities to support or oppose another candidate, political party, or issue;
 - » raising funds for, or participating in activities of, a political party or other political committee; or,
 - » attending a political party convention or meeting.

These terms have been defined by the Ohio Elections Commission as follows:

Legitimate	conforming to recognized principles or accepted rules and standards;
Verifiable	able to be proven true, confirmed or authenticated;
Ordinary	taking place according to customary occurrences or procedures;
Necessary	appropriate and helpful to accomplishing a particular end.

In addition, the Ohio Elections Commission has made clear that these expenses must be reasonable in cost and form. [*OEC Adv. 87ELC-4*]

Gifts to employees for birthdays, weddings and retirements and flowers to employees or their family members due to illness or death have been deemed permissible. The Ohio Elections Commission has also advised that campaign expenditures for legal fees are permissible when the fees are associated with representing the LCF on matters before the Commission.

[*OEC Adv's. 87ELC-9, 87ELC-15, 88ELC-1, 90ELC-4, 96ELC-06, 96ELC-08, 2000ELC-05, 2006ELC-01*]

Charitable contributions are those made to a charity that has been designated as exempt from federal income taxation under subsection 501(a) and described in subsections 501(c)(3), 501(c)(4), 501(c)(8), 501(c)(10) or 501(c)(19) of the Internal Revenue Code, or to any charity approved by advisory opinion of the Ohio Elections Commission. [*R.C. 3517.08(G)*]

Credit Cards

An LCF may use a credit card to purchase goods and services on behalf of the fund. If the LCF pays the credit card company directly, then each credit card purchase should be listed separately as an expenditure on *form 31-B, Statement of Expenditures*, or on *form 31-F, Statement of Expenditures for a Social or Fund-Raising Event*, with the vendor name, address, date and amount of purchase. The credit card statement or memo should be attached to the report along with a copy of the canceled check to the credit card company. If an individual used a credit card and seeks reimbursement from the LCF for the purchases, then the reimbursement expenditure is reported on the expenditure form. [OAC 111-5-14]



The treasurer must obtain receipts for all reimbursements issued in order to verify the legitimacy of each campaign expense. The underlying documentation for an expenditure may be requested by a county board of elections or the secretary of state.

Independent Expenditures

An independent expenditure is one that is made in support of or in opposition to either a candidate or a ballot issue without the consent of, and not in coordination, cooperation or consultation with, or at the request of or suggestion of, the candidate or ballot issue. Such expenditures are reported by the entity that makes them, but not by the benefited committee.

[R.C. 3517.01(B)(17), 3517.105; OAC 111-3-02, 111-3-03]

In-Kind Contributions Made

An in-kind contribution is a non-monetary contribution of goods or services that was made with the consent of, in coordination or cooperation with, or at the request or suggestion of, the benefited candidate, fund or party. An LCF may contribute to a candidate's campaign committee any item or service it has purchased rather than, or in addition to, making a monetary contribution. For example, an LCF may have purchased a large block of radio airtime at a particular radio station. When the LCF gives a portion of this asset to a campaign committee, an in-kind contribution has been *made* by the LCF and received by the campaign committee. Therefore, both entities have a responsibility to disclose this transaction.

Receipts

Every expenditure in excess of \$25 must have a corresponding canceled check or receipt photocopy attached to the report. A paid receipt is one that has been marked "PAID" by the vendor. If canceled checks are not returned or provided by the banking institution of the LCF, a copy or printout of the campaign committee's bank account will suffice for the receipt requirement so long as the name of the vendor, date of transaction and amount of the expenditure are all provided.

[R.C. 3517.10(D); OAC 111-5-14; OEC Advs. 87ELC-03 and 87ELC-12]

Reimbursement of Campaign Expenses

Campaign related expenses incurred by employees or volunteers may be reimbursed by the LCF if they are legitimate and verifiable prior expenses and not otherwise prohibited by law. The LCF may not advance funds to a candidate, employee or volunteer; the expense must be incurred prior to reimbursement. The treasurer must obtain receipts for all reimbursements issued in order to verify the legitimacy of each campaign expense. Reimbursements for items or services purchased on behalf of the committee that are not reimbursed during the reporting period must be reported as outstanding debt. [R.C. 3517.13(O)]

Corrections and Amendments

When a correction is necessary or additional information is obtained by the LCF or required by the secretary of state relating to a report that has already been filed, an amended report must be filed. Amendments filed on paper consist of only corrections to previously submitted information or additional information. The amendment should include either a report cover page or a cover letter clearly indicating the name of the LCF and what report is being amended. Amendments filed electronically consist of all report data – both that which was originally filed and new or modified records.



When an error is found, or when checks are received that could not earlier be attached to a report, the amendment should be filed immediately. When an auditing authority requests additional information or a correction to a report, the LCF has 21 days to provide the information or correction. [R.C. 3517.11(B); OAC 111-5-08, 111-5-09]

Fund-Raiser Exemption

Individual contributions totaling \$25 or less per person received at a specific fund-raising activity do not need to be itemized (listed by person) within a report. These contributions should be reported as a single line item with an aggregate amount on *form 31-E, Statement of Contributions Received at a Social or Fund-Raising Event*. Also, in-kind contributions totaling \$300 or less from one contributor at a single fund-raising activity need not be itemized. These contributions should be reported as a single line item with an aggregate amount on *form 31-J-1, Statement of In-kind Contributions Received*. However, in both instances, the treasurer is responsible for keeping itemized records of any of these contributions, in case such records are requested by the secretary of state.

[R.C. 3517.10(B)(4)(e)]

Record Retention

LCFs must keep their records for six years. The secretary of state must also keep all paper reports filed with them for six years. The secretary of state must keep all reports filed by electronic means of transmission for six years. [R.C. 3517.10(D), 3517.106 (D); OAC 111-5-14]

Excess Funds

The amount of contributions that may be retained after the general election by an LCF is limited to \$206,036.04. Excess amounts are determined as of the close of business on the seventh day before the post-general election statement is filed. Any excess money retained by an LCF must be disposed of within 90 days after the filing of the post-general election campaign finance report. The excess money can be given to either the Ohio Elections Commission fund, individual contributors up to the amount of their contribution, or certain 501(c) nonprofit corporations. The LCF must file a report on the 90th day disclosing its balance on hand at the close of business on the seventh day before the post-general election statement is filed, and attesting that the excess funds were disposed of according to law, and any other information required by the secretary of state.

[*R.C. 3517.102(E)*]

¹This amount is valid until February 25, 2015. All amounts specified in *R.C. 3517.102* are adjusted for inflation in January of each odd-numbered year.

[*R.C. 3517.104*]