



OHIO CAMPAIGN FINANCE HANDBOOK

**CHAPTER 7: POLITICAL
CONTRIBUTING ENTITIES**

POLITICAL CONTRIBUTING ENTITIES

What is a Political Contributing Entity?

A political contributing entity (PCE) is any entity, including a corporation or labor organization, that may lawfully make contributions and expenditures and that is not an individual, political action committee (PAC), continuing association, campaign committee, political party, legislative campaign fund (LCF), designated state campaign fund or state candidate fund. For the purposes of the definition of a PCE, “lawfully” means not prohibited by any section of the Revised Code, or authorized by a final judgment of a court of competent jurisdiction. Corporations may not currently be PCEs. Only labor organizations may make contributions and expenditures in accordance with the decision in *UAW v. Philomena* (1998) 121 Ohio App. 3d 760 (10th District).

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

What to Do First

Before receiving contributions or making expenditures, *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 PCE. PCEs formed for the sole purpose of supporting or opposing ballot issues should refer to *Chapter 8, Ballot Issue Committees*.

[R.C. 3517.10(D)(1)]

Where to File Reports

Where reports are filed is based on the PCE’s activity. Generally, PCEs that contribute to county political parties, local candidate campaign committees, or local ballot issue committees will file the PCE’s campaign finance reports with the local county board of elections. PCEs that contribute to candidates seeking election to a district office, other than a candidate for member of the general assembly, or a ballot issue to be submitted to a multi-county district will file campaign finance reports with the board of elections in the most populous county of that district. A PCE that makes contributions to candidates for member of the general assembly, statewide candidate, statewide ballot issues, state political parties or to other PCEs which contribute to those candidates or issues will file its campaign finance reports with the secretary of state. All entities filing campaign finance reports with the secretary of state’s office are subject to mandatory electronic filing.

A PCE that must change its place of filing does so by first filing a new *Designation of Treasurer form*. The original form should be filed with the new place of filing. A photocopy should be sent to the prior place of filing with a notation or letter clearly indicating that the photocopied form is intended as a termination.

When to File Reports

PCE reports are due based on the nature and timing of the activity in which the PCE engages. The reporting clock begins based upon the PCE's activity. All reports must be physically received by the secretary of state or board of elections to meet the filing deadline requirement. A report postmarked, but not received by the deadline, is a late filing, and the PCE must be referred to the Ohio Elections Commission.

A PCE MAY CHOOSE TO FILE A PRE-ELECTION REPORT EVEN IF TOTAL CONTRIBUTIONS AND EXPENDITURES ARE BELOW THE \$1,000 THRESHOLD.

There are four types of reporting deadlines:

A **pre-election** report is due by 4:00 p.m. 12 days before an election if the PCE 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); OAC 111-5-04]

Examples:

A PCE raises \$2,300 and spends \$930 in a pre-election period. The PCE made a contribution of \$800 to a campaign committee whose candidate will appear on that election's ballot. Because the PCE made a contribution to influence the election and had more than \$1,000 in contributions in the pre-election period, the PCE must file a pre-election report.

A PCE raises \$25,000 and spends \$400 in a pre-election period. None of the expenditure activity went to support or oppose any candidate or issue on that election's ballot. Because the PCE had no activity to influence the result of the election, a pre-election report is not due.

A **post-election** report is due by 4:00 p.m. 38 days after the election if the PCE 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); OAC 111-5-04]

Examples:

A PCE raises \$800 and spends \$65 in a post-election period. The PCE made a \$65 contribution to a campaign committee whose candidate appeared on that election's ballot. Because the PCE made an expenditure to influence the election, the PCE must file a post-election report.

A PCE raises \$40,000 and spends \$1,400 in the combined pre- and post-election reporting periods. None of the PCE's expenditure activity in either the pre-election or post-election reporting periods have been to campaign committees whose candidate appeared on the ballot or to issues appearing on the ballot. Therefore, because the PCE had no ballot-related activity, neither a pre-election nor a post-election report is due.

A **semiannual** report is due by 4:00 p.m. on the last business day of July if the PCE 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 4:00 p.m. on the last business day of January if the PCE was not required to file a report after the immediately preceding November election. It should cover the time period since the last filed report and through the last day of December. An annual report should reflect only the activity that has occurred since the last report was filed.

[R.C. 3517.10(A)(3); OAC 111-5-04]

The rules described in the pre-election and post-election sections above apply regardless of when the election is held. For example, a PCE may have activity in regard to a special election in February, a statewide primary in May, or municipal primary pursuant to a municipal charter at a different time. Any of these elections may, based on the PCE’s activity, trigger the “12-day before” or “38-day after” rule.

The purpose of a contribution to the PCE or the PCE’s use of a contribution are the keys to determining when a report will be required. The need for pre- and post-election reports will be determined by whether the PCE received contributions and/or used its contributions to influence a particular election. Making a contribution to a political party generally means that the contribution will be used to influence whatever election is imminent.

[R.C. 3517.01(B)(5), (6)]

If a required report is filed late, then the board of elections or the secretary of state must refer the matter to the Ohio Elections Commission. The commission determines if a fine should be imposed.

[R.C. 3517.11]

Report Forms

All reporting forms, along with instructions for their use, are available at the secretary of state’s website: 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 a PCE is legally responsible for keeping detailed records of everything received, given or expended. 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.

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

Affiliation

A PCE is affiliated with another PCE or PAC if they are both established, financed, maintained or controlled by, or if they are, the same corporation, organization, labor organization, continuing association or other person, including any parent, subsidiary, division or department of that corporation, organization, labor organization, continuing association or other person.

[R.C. 3517.102(D); OAC 111-1-02(H)]

CONTRIBUTIONS

Generally speaking, the value of all contributions received by a campaign committee 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.

Contributions from Dues, Membership Fees or Other Assessments

A PCE that receives contributions from the dues, membership fees or other assessments of its members or from its officers, shareholders and employees may report the aggregate amount of contributions received from those types of contributors and the number of individuals making those contributions. All voluntary contributions received must be fully reported.

[R.C. 3517.10(L)]

Anonymous Contributions

Contributors may not remain anonymous by request. If a donor does not want to be identified, then the contribution should not be made. However, if an anonymous contribution is received, then efforts must be made by the PCE receiving it to identify the donor. If the efforts are unsuccessful, then 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)]

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

The amounts that PCEs may contribute or accept are shown on the contribution limit chart. Contributions from one PCE to another PCE or PAC affiliated with it are not subject to limits. Contributions made from two or more PCEs that are affiliated are considered to have been made from a single PCE. However, expenditures made by a PCE that declares affiliation with a PAC are not combined with that PAC for the purpose of determining contribution limits.

[*R.C. 3517.102*]

Minors

Political Contributing Entities are prohibited from knowingly accepting contributions from any individual under the age of seven.

[*R.C. 3517.102 (C)(7)(a)*]

Partnerships/Unincorporated Associations

Contributions received from partnerships or unincorporated associations must reflect both the name of the entity and the individual(s) making the contribution. Incorporated professional associations and limited liability companies are considered unincorporated associations or, if applicable, partnerships. Contributions may be transmitted by these entities but must include, at the time of the distribution, detailed information on the allocation of the contribution amount among the owners or partners of the unincorporated association or partnership. 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*]

Deposit of Contributions and Other Income

A PCE primarily accepts contributions from dues, membership fees or other assessments of its members. These funds may be held in the labor organization's general treasury accounts. However, the PCE may elect to establish and deposit dues, membership fees or other assessments of its members into an account separate from the general treasury. The PCE must establish a separate account only if it accepts voluntary contributions. The deposit of voluntary contributions is subject to the time limits prescribed in *OAC 111-5-12*.

In-Kind Contributions

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 PCE. 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 PCE.

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

EXPENDITURES

Independent Expenditures

An independent expenditure is an expenditure 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 or suggestion of, the candidate or ballot issue. Such expenditures are reported by the PCE that makes them, but not by the benefited committee.

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

Permissible Use of Funds

PCEs may use their resources only in ways that match the definition of expenditure as defined in *R.C. 3517.01(B)(6)* or to refund excess or illegal contributions. This means that PCEs are allowed to spend money and make in-kind contributions in a manner intended to influence an election or to make a charitable contribution. 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)*]

No person may convert for personal or business use anything of value from a PAC's funds.

[*R.C. 3517.13(O)*]

PCEs may not make any refund of any contribution unless the purpose is to refund a contribution in excess of the applicable contribution limit or to refund a contribution that has been determined to be illegal.

[*OEC Adv. 99-ELC-03*]

Expenditure Verification

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. In addition, the secretary of state or the county board of elections may request a log for certain items, such as mileage reimbursements, so that the expenditure and its appropriateness may be verified. If canceled checks are not returned or provided by the banking institution of the PCE, a copy or printout of the campaign committee’s bank statements 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. Additionally, printouts of cancelled check images as provided by the PCE’s banking institution satisfy the expenditure verification requirement.

THE THREE PRIMARY
PIECES OF DATA
NEEDED TO MEET
THE EXPENDITURE
VERIFICATION ARE:

- » NAME OF PAYEE
- » DATE OF EXPENDITURE
- » AMOUNT OF EXPENDITURE

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

REPORTING

If a PCE makes an expenditure from the proceeds of dues monies, there are two ways that activity can be reported. A labor organization may use either method based on its preferences and needs. A PCE may set up a separate bank account or it can make expenditures directly from the labor organization’s general fund. If a separate bank account is established, then all contributions into and all expenditures out of that account will be reported. The Balance on Hand (line 6) of the last report will be transferred to the Amount Brought Forward (line 1) of the next report. However, if the PCE makes expenditures out of the labor organization’s general fund, then it is acceptable in each report to show only contributions in a sufficient amount to cover the expenditures made during the reporting period. In this report, both the Amount Brought Forward and the Balance on Hand would be zero. A PCE should report contributions received from the dues or other assessments under the description “Proceeds from Dues Funds,” along with the date and amount of each contribution.

Corrections and Amendments

When a correction is necessary or additional information is obtained by the PCE or is required by the auditing authority relating to a report that has already been filed, an amended report must be filed. Amendments consist only of 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 PCE that is filing and what report is being amended. 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 PCE has 21 days to provide the information or correction.

[R.C. 3517.11(B)]

Fund-Raiser Exemption

Voluntary contributions, totaling \$25 or less, received at a specific fund-raising event do not need to be itemized 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 \$325 or less from one contributor at a single fund-raising event 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 the contribution in case such records are requested by the auditing authority.

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

THE TREND IN BANKING PRACTICES IS MOVING AWAY FROM MAILING A PAPER COPY OF STATEMENTS AND OTHER ACCOUNT INFORMATION. TREASURER'S SHOULD DOWNLOAD AND SAVE BANK STATEMENTS AND COPIES (IMAGES) OF CANCELED CHECKS EACH MONTH.

Record Retention

PCEs must keep their records for six years. The boards of elections and the secretary of state must also keep all reports filed with them for six years. This requirement includes all bank records (including deposit records), reports, amendments, correspondence, receipts, invoices and notices.

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

Closing the PCE

A PCE must have a zero balance, no outstanding debts and no outstanding loans before it may terminate. When these criteria have been met, a PCE must file a final report. This report should list all activity, if any, that has occurred since the previous report. The termination box must also be marked when the committee desires to terminate. There is no separate form for terminating.