



OCPF Reports

From the Director

Another state election has passed and it's good to see the vast majority of candidates and political committees filing their campaign finance reports on time.

Thank you. Disclosure of campaign activity is our primary focus, and filing timely reports is the first step toward helping the public gain access to important financial information regarding political activity.

But the process is not yet finished. To close out the 2008 election cycle, year-end reports for all political committees are due by Jan. 20, 2009. Municipal candidates file with city or town election offices, while state and county candidates, political parties, political action committees, and city-wide candidates in the five largest Bay State cities file with OCPF.

OCPF auditors begin reviewing 2008 reports early next year and will contact committees if amendments or clarifications are needed. Remember to call us with questions.

My 15-month term as

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Independent expenditures up \$200,000 in 2008 state legislative races

Three labor unions spent \$525,306 this year in independent expenditures to support or oppose state Senate and House candidates, about \$200,000 more than the amount spent in connection with legislative races in the 2006 election, according to reports filed with OCPF.

Independent expenditures are made to support or oppose candidates without cooperation with candidates or their campaigns. Candidates are not involved in how independent expenditures are made.

Most of the 2008 independent expenditures — 99 percent — were made to support Democrats or oppose Republicans.

The Service Employees International Union 1199 was the top spender at \$320,383 in independent expenditures. The Massachusetts Teachers Association spent \$129,450. The

state Nurses Association spent \$75,471, portions of which went to oppose three candidates: Sen. Scott Brown, R-Wrentham; Rep. Jeffrey Perry, R-Sandwich; and Rep. Patrick Natale, D-Woburn. The Coalition for Marriage group also spent \$1,427 in support of five Republican House candidates.

Most of the money went toward campaign tools such as newspaper advertisements, postage, printing and phone banks.

In 2006, unions spent nearly

\$4 million in independent expenditures, the bulk of which was made up of a single media expenditure of \$2.3 million to support Gov. Deval Patrick. That year, \$306,142 was spent on legislative candidates.

State law requires groups and individuals to disclose all independent expenditures made on behalf of candidates that exceed \$100. Independent expenditures are reported to OCPF if they advocate for or

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Independent Expenditure Leaders

Groups spent \$526,733 this year to support or oppose state Senate and House candidates. This is what was spent between Jan. 1 and Nov. 15:

<u>1199 Service Employees International Union</u>	\$320,383
<u>Massachusetts Teachers Association</u>	\$129,450
<u>Massachusetts Nurses Association</u>	\$75,471
<u>Coalition for Marriage</u>	\$1,427

Most candidates file pre-election reports on time

Ninety percent of candidates vying for state Senate and House seats filed their pre-election campaign finance reports on time.

Of 326 legislative candidates, 294 filed their reports by the midnight deadline on Oct. 27. Late reports can result in \$10-a-day fines.

The reports covered campaign finance activity from Aug. 30 to Oct. 17 for all legislative candidates, as well as political action committees, people's committees and local political party committees.

Among political action committees, 255 of 306 filed on time.

All committees must file year-end reports by Jan. 20 covering Oct. 18 to Dec. 31.

State ballot question committees that supported or opposed questions about eliminating the income tax, decriminalizing marijuana and banning dog racing also file their final reports on Jan. 20.

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president of the international Council on Governmental Ethics Laws ends in December at the organization's annual conference in Chicago. What's COGEL, you ask? COGEL is considered to be the preeminent organization for campaign finance, ethics, lobbying and public information agencies in the U.S. and Canada.

I was happy to lead the organization, and I'm now ready to hand the gavel to the new president, Sarah M. Jackson. Sarah is the executive director of the Kentucky Registry of Election Finance and will do a great job for the hundreds of COGEL members seeking new ideas on government ethics, elections and campaign finance issues.

Locally, OCPF is preparing for another year with a full agenda. 2009 means local elections at both the town and city level as selectmen, council, school committee, and mayoral candidates populate the ballot. Also, we expect to see a substantial number of Proposition 2 ½ override or debt exclusion questions around the commonwealth.

Please call the office to schedule an educational seminar in your community, whether it's for an override question on the ballot or you're a local clerk with new candidates gearing up for municipal elections.

OCPF will also continue to improve our on-line offerings. Many of you have been using our new electronic filing system, which makes it even easier to find the campaign finance information you want. We've even added graphs and charts to help put the numbers in perspective.

We also have ideas for new legislation, which we hope to introduce in 2009. More on that in the next edition.

Mike Sullivan, Director

Campaign report non-filers referred to Attorney General

Nineteen candidates and political committees were referred to the Attorney General's office for not filing campaign finance reports for 2007 activity.

Candidates and committees are fined \$10 a day up to \$2,500 for each late report. If the reports are not filed after several reminders and warnings, OCPF can refer the cases to the Attorney General's office for possible prosecution.

The following committees and candidates were referred to the Attorney General:

Ballot Question Committees

Andrew Tripp, Campaign for our Children's Future, Boston (subsequently filed).

Candidates

Felix Arroyo, City Council, Boston (subsequently filed).

Darius Mitchell, City Council, Lowell.

Edward Mackness, City Council, Lowell (subsequently filed).

Kathryn Podgers, City Council, Cambridge.

Matthew Geary, City Council, Boston.

George Vazquez, House of Representatives, Springfield.

Political Action Committees

Greer Swiston, Middlesex County Republican Club Political Action Committee (subsequently filed).

Robert Henry, Freedom to Marry PAC (subsequently filed).

Michael Tarckini, International Brotherhood Police Officers 378 PAC (subsequently filed).

Town/City Party Committees

Thomas Firth, Methuen Democratic Town Committee.

Robin Conley, Northfield Democratic Town Committee.

Bob Dionne, Salem Democratic City Committee.

Vera O'Connor, Springfield Democratic Town Committee (subsequently filed).

Margaret Pena Russell, Wareham Democratic Town Committee.

Phillip Morris Jr., Yarmouth Democratic Town Committee (subsequently filed).

Thomas Smith, Cambridge Republican City Committee.

Lynne Cooper, Marshfield Republican City Committee.

Linda Muir-Robinson, Medway Democratic Town Committee (subsequently filed).

Unions spend more than \$500,000 in independent expenditures for '08 races

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against the election of a specific state candidate. State law also prohibits corporations from making independent expenditures.

Senate candidates top the 2008 independent expenditure beneficiary list.

The MTA and SEIU spent \$65,718 to support state Sen. James Timilty, D-Walpole, in his successful re-election, the highest amount for any candidate in 2008. The second highest amount was \$44,657, spent by SEIU and the MNA in support of Senate candidate Sara Orozco, D-Needham, in her unsuccessful bid to unseat her opponent, Sen.

Brown. The \$44,657 total for Orozco does not include \$9,821 spent by the MNA to oppose Sen. Brown. The three unions spent \$30,616 to support Senate candidate Douglas Belanger, D-Leicester, and SEIU and the MTA spent \$27,475 to support Sen. Dianne Wilkerson, D-Boston, in her unsuccessful bid for re-election.

The figures reported to OCPF include only those disclosed by individuals and groups, and do not include so-called "issue ads" that avoid advocating for or against the election of a candidate. Individuals or groups paying for issue ads have no reporting requirements.

Independent Expenditure reports can be viewed at OCPF's Web site at www.mass.gov/ocpf

Click on the "Electronic Filing System" and choose "Indep. Expenditures"

Recent Cases and Rulings

Clerks Corner

Override Questions

Community override elections may be coming to your city or town, and OCPF would like to help you get through it.

The state's Supreme Judicial Court decided in 1978 that government officials may not use public resources to conduct campaigns. That means, for instance, that school superintendents can't mass-



produce pro-override letters to send home with kids, or ask teachers via e-mail to support the local

"Vote Yes" committee.

To help create a fair election atmosphere, OCPF has issued guidelines regarding how government officials can become involved in such campaigns.

OCPF has issued an interpretive bulletin, IB-92-02, on the activities of public officials to support or oppose ballot questions. The bulletin is available on the OCPF Web site under "Legal Guidance." Recently, OCPF issued guidance to the Ludlow School Building Committee, saying it may endorse a ballot question and discuss the endorsement in its public presentations. Public officials may not, however, use public resources to campaign for or against the ballot question.

These issues come up often at OCPF, and it's our goal to educate local officials on the public resource regulations before problems surface. **To schedule an educational seminar in your community, contact OCPF at 617-979-8300.**

If you need help with the campaign finance reporting software, call 617-979-8300 for technical support

OCPF audits all campaign finance reports and reviews complaints alleging violations of the campaign finance law. These audits and reviews may result in enforcement actions or rulings such as public resolution letters, disposition agreements or referral to the Office of the Attorney General for further action.

A **disposition agreement** is a voluntary written agreement entered into between the subject of a review and OCPF, in which the subject agrees to take certain specific actions.

A **public resolution letter** may be issued in instances where the office found "no reason to believe" a violation occurred: where "no further action" or investigation is warranted; or where a subject "did not comply" with the law but, in OCPF's view, the case is able to be settled in an informal fashion with an educational letter or a requirement that some corrective action be taken. A public resolution letter does not necessarily imply a wrongdoing on the part of a subject and does not require agreement by a subject.

OCPF does not comment on any matter under review, nor does the office confirm or deny that it has received a specific complaint. The identity of any complainant is kept confidential. Public resolution letters and disposition agreements are matters of public record once cases are concluded.

Disposition Agreements

State Sen. Dianne Wilkerson, Boston. Wilkerson agreed to campaign finance violations from 2000 to 2007 involving recordkeeping, the apparent use of campaign funds for the personal benefit of the candidate or others, receipt of prohibited corporate campaign contributions, improper reimbursements of campaign funds to the candidate and others, and failure to disclose certain campaign contributions and expenditures. Wilkerson agreed to pay a \$10,000 civil forfeiture and forgive \$29,524 in debt that she claims her campaign committee owes her. She also agreed to disgorge \$2,200 in unlawful contributions. Under the agreement, the senator's campaign must now follow a set

of reporting controls to ensure future compliance. The agreement includes several requirements stricter than existing campaign finance rules governing candidates for the Legislature. The requirements include enhanced campaign finance reporting, procedures regarding expenditures and reimbursements, enhanced reporting and screening of contributions, and improved recordkeeping protocols. The agreement also allows the Attorney General to bring an immediate court enforcement action upon any future violation of the agreement. The agreement was signed by the candidate, the state Attorney General's office and OCPF.

State Rep. John Rogers, Norwood. An OCPF review of the consulting expenditures of the Rogers campaign committee from 2004 to 2006 disclosed payments by the Rogers Committee of \$196,600 to Bay State Consulting of Wrentham, a consulting business owned by Philip Filosa, the candidate's former law partner. As the Rogers Committee made payments to the consulting company, BSC retained Thomas Drummey, the candidate's political advisor. During the time Drummey was employed, BSC paid Drummey \$96,300 to provide consulting services to the Rogers Committee. During the OCPF review, the candidate informed OCPF that he and Drummey had a joint interest in a house in East Falmouth. Rogers made a down payment for the house in 2004 from his personal funds and Drummey then paid the first 22 mortgage payments. The timing and amounts of the payments by Rogers' campaign committee to BSC, the consulting company's payments to Drummey, and Drummey's payments on the mortgage, led OCPF to question whether the expenditures by the committee were made primarily for the candidate's personal use, and as such, the

funds were not used in a manner consistent with Section 6 of the Massachusetts General Law Chapter 55. Section 6 states that campaign funds may not be used primarily for personal use. During the course of OCPF's review, OCPF interviewed Drummey and others who worked for BSC and determined that substantial services were provided by Drummey to the Rogers Committee. The candidate's position is that campaign funds were used in a manner consistent with state law. To resolve the matter, the Rogers Committee has reimbursed the state \$30,000, the amount OCPF has projected as the costs of its review. Rogers also agreed to inform OCPF when his campaign committee exceeds payments of \$10,000 in a calendar year for political consulting services, and will keep records for services it receives from consultants. The records will include time sheets, contracts and invoices, among other documents, and Rogers will make the records available for inspection by OCPF within seven days if requested.

Public Resolution Letters

CPF-08-34: Amos A. Lawrence School PTO. No further action. (Disclosure); 07/02/2008. The PTO distributed newsletters supporting a May 6 override in Brookline but did not file a report disclosing those expenses with the Brookline Town Clerk.

CPF-08-36: Michael Kujawski. Did not comply. (Public resources, public employees, government buildings); 07/03/2008. An internal investigation by the Executive Office of Labor and Workforce Development found that Kujawski, an employee, engaged in excessive use of agency resources for political purposes. Kujawski sent at least 52 e-mails to other state employees at their places

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Committees pay fines, civil forfeitures to state treasury

Candidates and other political committees paid \$52,845 to the state last year as a result of campaign finance violations, late fees and other legal agreements with the Office of Campaign and Political Finance.

The 2007 collection amounts exceeded the 2006 total by \$20,000.

In 2007, OCPF closed 83 legal cases and referred six candidates to the state Attorney General for not filing campaign finance reports.



Campaign finance complaints are reviewed by the OCPF legal department — Gregory Birne, general counsel; Sarah Hartry, legal counsel; Tracey Dano, legal counsel; and Caroline Paras, compliance coordinator.

Individuals with information about campaign finance issues can call OCPF at 617-979-8300. The names of complainants are not revealed.

We're on the Web
www.mass.gov/ocpf

Recent Cases and Rulings

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of work supporting or opposing a political candidate between Sept. 13, 2007, and Feb. 8, 2008. Seven of the e-mails included solicitations for political contributions. This conduct violated the campaign finance law, which prohibits the use of governmental resources for political purposes (*Anderson v. City of Boston*), political fundraising by state employees (Section 13), and political fundraising in government buildings (Section 14).

CPF-08-27: Edward Mackness. Did not comply. (Recordkeeping and disclosure); 07/14/2008. Mackness, a candidate for City Council in Lowell, failed to file accurate and timely reports of contributions for five deposits totaling \$3,490, and failed to provide "purpose information" for a Nov. 2, 2007, expenditure to the Mt. Pleasant Golf Club. The required information has now been filed.

CP-08-04: Kathleen M. Jackson, Attleboro. No further action. (Disclosure, corporate contribution); 07/17/2008. The content of amended campaign finance reports did not reflect the explanations described in the section of the report used to provide the reason for the amendment. The committee has now correctly completed the reports. Also, the committee accepted a \$75 corporate donation, a violation of campaign finance law. The donation has been returned.

CPF-08-47: State Rep. Jennifer Callahan, Sutton. No further action. (Solicitation in a government building); 7/17/2008. An invitation to a fundraising event was delivered to colleagues in the State House. Section 14 prohibits the solicitation of campaign contributions in a building used for governmental purposes. Callahan intended the invitation to be complimentary and did not expect donations from colleagues. OCPF advises that any future invitations for campaign fund-

raisers that are distributed in the State House should be marked as complimentary.

CPF-08-37: State Rep. Joseph Wagner, Chicopee. No further action. (Public employee); 7/17/2008. A fundraising letter dated May 5, 2008, included the name of Wagner's chief of staff. The campaign finance law prohibits direct and indirect political fundraising activity by public employees. The distribution of the letter created the appearance that the employee may have been indirectly soliciting contributions. The chief of staff's name appeared on the fundraising document inadvertently, an oversight by Wagner's political committee which used the same letter template it uses for constituent services.

CPF-08-25: Christopher Morra. Did not comply. (Recordkeeping and disclosure); 7/22/2008. Certain campaign finance reports for Morra, the subject of a recall election in Rehoboth, were not filed in a timely manner and his reporting needed to be amended to more accurately reflect certain expenditures, in-kind contributions and liabilities, particularly in connection with a mailing that was distributed prior to the Jan. 7, 2008, special election.

CPF-08-45: Jennifer Benson, Lunenburg. Did not comply (Solicitation in a government building); 7/23/2008. Benson, a state representative candidate from Lunenburg, collected and received \$1,000 in contributions at a June 9 campaign event at Sargent Memorial Library in Boxboro. Benson's committee either refunded or returned all the contributions received at the event.

CPF-08-45: State Rep. James Eldridge, Acton. No reason to believe (Solicitation in a government building); 7/23/2008. Based on a review, there was no reason to believe that Eldridge solicited or received contributions at a June 9 campaign event for Jennifer Benson at Sargent Memorial Library in Boxboro.

CPF-08-46: Stuart Sklar, chairman, **Harvard School Committee.** Did not comply (Public resources); 7/23/2008. The Harvard Connect Ed automated phone system, used by the School Department to send messages to parents, was used to contact voters about a June 11 special town election in Harvard. The message said that a "no vote" would mean teacher cuts. Campaign finance regulations prohibit the use of public resources, such as an automated phone system, to advocate for or against a ballot question.

CPF-07-89: State Rep. Benjamin Swan, Springfield. Did not comply (Disclosure); 7/29/2008. The Swan Committee did not comply with certain disclosure and reporting requirements from 2005 to 2007. Specifically, the committee overstated its 2005 beginning balance and significantly understated both receipts and expenditures from 2005 to 2007 due to inadequate bookkeeping and recordkeeping procedures. The committee has agreed to an enhanced reporting schedule and requirements until 2011. The committee also agreed to pay a \$1,000 civil forfeiture.

CPF-08-30: Keith A. Mercurio, Watertown. Did not comply (Disclosure); 8/18/2008. Mercurio, who ran unsuccessfully for the 29th Middlesex District House seat, filed his 2006 and 2007 campaign finance reports late and did not report \$5,210 in contributions, \$12,894 in expenditures and \$3,663 in liabilities. He also deposited \$600 in money orders, received \$250 in prohibited corporate contributions and deposited a treasurer's check for \$1,900. To resolve the matter, OCPF and Mercurio entered into an agreement in which the candidate agreed to pay a \$2,500 civil forfeiture to the state and will forgive \$3,100 in loans he made to the campaign. OCPF waived \$2,370 in late fines and the committee has dissolved.

CPF-08-16: Reed Hillman, Sturbridge. Did not comply

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Statewide seminars available

OCPF travels to Massachusetts communities to discuss the campaign finance law for candidates, political action committees, school officials, unions, journalists, educators and others

Available Seminars

- Activities of public officials in support of or in opposition to ballot questions
- Campaign finance law for local candidates
- How labor unions can participate in state and local campaigns
- Navigating the campaign finance law and OCPF Web site for journalists
- Other subjects upon request



Call 617-979-8300 to schedule a seminar.

Commonwealth of
Massachusetts



Recent Cases and Rulings

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(Recordkeeping, excess contribution); 9/15/2008. The Committee failed to originally disclose in-kind contributions valued at about \$7,000 that were received in connection with several fundraising events for the 2006 election. An individual also made an excess contribution: \$445 in cash and a \$225 in-kind donation, exceeding the annual \$500 limit by \$225. Hillman's 2006 year-end campaign finance report has been amended and he has reimbursed the state \$1,000 for the cost of OCPF's review.

CPF-08-55: College Democrats of MA PAC. Did not comply (Disclosure); 10/22/2008. The PAC did not accurately disclose receipt and expenditure activity and accepted contributions from out-of-state political committees, a violation of state law. Cash withdrawals were made from ATM's, also a violation.

Advisory Opinions

AO-08-04: The Norfolk Democratic Town Committee may spend money or award a scholarship to help defray the expenses of a student attending the Democratic National Convention, if the expenditure enhances the principle for which the committee was formed and is not primarily for personal use.

AO-08-05: Contributions to a PAC by way of payroll deductions, which are transmitted by the employer by check, are consistent with the law.

AO-08-06: The American Resort Development Association Resort Owners Coalition Massachusetts PAC may not collect donations from members using a system involving automatic payment to the PAC unless the member indicates that no donation should be made. The correct method of fundraising is to use a check-off block requiring a person to affirmatively make a contribution.

AO-08-07: Sheriff Frank Cousins' political committee may pay for legal expenses in connection with a Massachusetts Commission Against Discrimination action brought by the sheriff against a correctional officers association and individual current and former members of the association who allegedly made threatening and discriminatory statements against the sheriff. If the commission awards attorneys' fees to the sheriff, the committee may be reimbursed for legal costs.

AO-08-08: The Ludlow School Building Committee may endorse a ballot question and discuss the endorsement in its public presentations. Public resources may not be used to promote or oppose a ballot question.

New EFS provides enhanced public CF disclosure

Researching information on the OCPF Web site just got easier.

OCPF launched its new electronic filing system, which expands the sorting methods the public can use to view the campaign spending and fundraising histories of candidates and other committees.

Campaign contributions can now be sorted by zip code and city or town, and expenditures can now be accessed by the spending purpose.



Other changes include printer friendly versions of campaign finance reports, and graphs and charts to help put the numbers in visual perspective.

OCPF is available to help people navigate the electronic filing system by calling 617-979-8300 and asking for technical support. The EFS database can be found at www.mass.gov/ocpf.

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