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INTERPRETIVE BULLETIN

Requirements of the Campaign Finance Law Relating to Political Action Committees

The Office of Campaign and Political Finance (OCPF) periodically issues interpretive bulletins regarding various aspects of M.G.L. c. 55, the Massachusetts campaign finance law. This bulletin is issued to provide guidance and direction to political committees and interested persons regarding the interpretation and implementation of certain provisions of the law relating to political action committees ("PACs") and related entities. This bulletin does not provide guidance relating to independent expenditure PACs (also known as "super PACs"). For guidance regarding independent expenditure PACs, *see* IB-10-03.

I. Background.

Section 1 of M.G.L. c. 55 defines a "political action committee" as:

a political committee which is not a candidate's committee, a political party committee nor a ballot question committee; provided, however, that a political committee which does not receive contributions from any individual that exceed one hundred dollars in any calendar year, which has been in existence for six months or more and which contributes to five or more candidates shall not be a political action committee; provided, further, that said one hundred dollar amount shall be indexed biennially for inflation by the director. . .

The definition of "political action committee" in section 1 distinguishes between PACs and certain other political committees, which, although similar to PACs, are limited in the amount that they may receive from individual contributors. This type of political committee, termed a people's committee, is not subject to certain requirements that have been imposed on PACs.

People's committees, unlike PACs, are limited to an annual aggregate receipt of \$161¹ per individual. Contributions may only be received from individuals, and may not be received from

¹ This amount was initially set at \$100 per calendar year when the statute was enacted in 1994. It has been increased for inflation several times since then. The \$161 figure is in effect until December 2015. *See* M-97-05, which is revised in December of every odd-numbered year to announce the revised amount in effect for the next two years.



entities such as associations or other political committees. In addition, to become a people's committee, a committee must be organized and in existence for at least six months as a political action committee and must have contributed to at least five candidates during its existence as a political action committee. If a political committee, which is not a candidate committee, political party committee, or a ballot question committee, does not comply with each of these three requirements, it by definition remains a PAC.

II. Obligations of PACs and people's committees.

A. Disclosure.

1. Depository reporting required.

Starting in 2015, the campaign finance law requires PACs and people's committees to file reports in the depository system. *See* M.G.L. c. 55, § 19. The depository system requires PACs and people's committees that file with OCPF to appoint a bank to e-file twice-monthly campaign finance reports with OCPF on behalf of the committee. All of the PAC's expenditures must be made through the depository account. The bank's reports itemize expenditures and summarize the deposit totals for the period. To disclose contributions, PACs and people's committees e-file deposit reports shortly after making deposits.²

Where an organization raises funds from members by a single check or other payment method for distribution to both the organization's general fund and the PAC, or to both a federal and state PAC associated with the organization, the funds must first be deposited into a separate transmittal account. *See* AO-02-36. The portion of the funds to be transferred to the state PAC from that transmittal account must be transferred to the state PAC within seven days of the date the funds are received into the transmittal account. *See* AO-15-02.

2. Committee name: full name must be used.

Section 5 of chapter 55 requires a PAC or people's committee to include in its Statement of Organization filed with OCPF³ "the full words represented by any abbreviations, initials or acronyms in [the committee's] name; . . . if a political action committee shall include the words 'Political Action Committee' in said name." The PAC may not use a name that is different than the name in its statement of organization (e.g., if the committee is called "Local 123 workers political action committee," the committee, when it prints materials such as contribution direct deposit authorization cards⁴ or creates a website, should refer to itself by the name in the statement of

² Independent expenditure PACs do not file in the depository system. Instead, they file independent expenditure reports according to a different schedule. *See* IB-10-03.

³ PACs and people's committees file reports with OCPF, with the exception of PACs and people's committees organized for the primary purpose of supporting or opposing the election of candidates who file reports with a local election official. These committees file statements and reports with the appropriate city or town clerk or board of election commissioners, rather than with OCPF.

⁴ Authorization cards must also include a statement that the contributor's authorization may be revoked by the contributor at any time by written notice from the contributor. *See* M.G.L. c. 55, § 9A.

organization, or may call itself the "Local 123 workers PAC." It should not use a name not referenced in the statement of organization, e.g., the name "the Local 123 Committee on Political Education" would not comply. In addition, both PACs and people's committees must reflect the purpose for which the committee was organized on the Statement of Organization. Therefore, a people's committee must disclose, on its amended Statement of Organization filed after it becomes a people's committee, its status as a people's committee since that status is an element of the committee's "purpose." A people's committee cannot use "PAC" or "political action committee" in its name.

3. Committee name: disclosure of economic or special interests of contributors.

Section 5B of c. 55 requires a PAC or people's committee to use a name which clearly identifies "the economic or other special interest . . . of a majority of its contributors." If a majority of contributors share a common employer, the name must identify the employer. If the contributors' special interest or employer is not identifiable, the name must identify the economic or special interest of the organizers; if a majority of organizers share a common employer, the name must identify the employer. If the committee is organized, financed, controlled or maintained by an individual, the committee's name must include the name of the individual.

4. Issues in which committee takes interest.

Section 5 of c. 55 requires a PAC or people's committee to include, in its Statement of Organization, the "specific issues in which the committee takes an interest, and a list of specific interests, including but not limited to business, charitable, educational, or other interests represented by the committee, or by a significant proportion of its officers, members or donors."

5. Use of multiple names prohibited.

In addition, section 5B of c. 55 prohibits PACs and people's committees from using any name other than the name included in the committee's Statement of Organization.

6. Reporting occupation and employer of contributors.

Section 18 of c. 55 specifies that reports filed by PACs must reflect the occupation and name of employer or employers for each person whose contribution or contributions in the aggregate equal or exceed \$200 in any calendar year.

People's committees cannot accept more than \$161 in any calendar year from any individual and maintain their status as people's committees. Therefore, the occupation/employer provision does not apply to people's committees. If a people's committee accepts more than \$161 in any calendar year from any individual or accepts any contribution, including an in-kind contribution, from any entity, the committee, by definition, becomes a PAC, subject to all the requirements placed on PACs.

7. Penalties for late filing of reports.

Section 3 of c. 55 mandates that OCPF assess a civil penalty for any report, statement, or affidavit that is filed late. The amount of the penalty is set at \$25 per day, up to a maximum of \$5,000 for any late filed report, statement, or affidavit. In the case of a PAC or people's committee, the penalty is assessed against the committee treasurer who is personally responsible for payment.

B. Limits on contributions which may be made and received.

1. Limits on contributions from PACs and people's committees to other political committees.

Both PACs and people's committees, when making contributions to a candidate, a candidate's committee, or any other political committee, are subject to section 6, which limits such contributions. Section 6 states that PACs and people's committees may not contribute to people's committees and may contribute only up to \$500 annually to a candidate, a candidate's committee, or any other political committee, with the exception of a political party committee, as described below.

2. Limits on contributions from PACs and people's committees to party committees.

The maximum annual total on contributions from PACs and people's committees to political party committees is \$5,000. For example, a PAC or people's committee cannot contribute \$4,000 to a state party committee and \$2,000 to a city, town or ward party committee, since the total aggregate contribution to political party committees would then be greater than \$5,000.

3. Limits on aggregate contributions from PACs to candidates.

Section 6A imposes restrictions on the aggregate amount of PAC contributions to candidate committees. No aggregate limits are placed on contributions made by people's committees. Section 6A limits what candidates can receive from PACs based on the office sought by the candidate. For example, a gubernatorial candidate can receive only up to \$150,000 annually from PACs; a candidate for state representative can receive only up to \$7,500 per year. Aggregate limits do not apply to contributions to candidates for municipal office.

4. Limits on contributions from individuals to PACs.

Section 7A limits the individual annual contributions that may be received by PACs to \$500 per individual. Section 7A also limits the amount which may be given by legislative and executive agents, also known as lobbyists, to PACs to \$200 per agent per year. By definition, contributions to people's committees from agents, like any other individual, are restricted to \$161 per agent per year, subject to indexing.

C. Limits on who may establish, finance, maintain, control or serve as an officer of a PAC.

Section 5A states that "no candidate or individual holding elective public office" can "establish, finance, maintain, control or serve as a principal officer" of a PAC, with one exception.

A majority of each party's legislators in both the house of representatives and senate can authorize PACs to be established, or otherwise controlled, by a candidate or elected officer.

Other than this exception, no candidate (including a candidate for municipal or county office) can establish, finance, maintain, control or serve as a principal officer of a PAC. For example, a candidate for elected town planning board, or an incumbent board member, may not control a PAC.

Section 5A applies only to PACs. It does not prohibit such candidates or elected officers from establishing, financing, maintaining, controlling, or serving as principal officers of people's committees.

D. Obligations of a PAC which is an intermediary or conduit for contributions to a candidate.

Section 10A provides that contributions passed through (i.e., "bundled by") an intermediary that is a PAC, or an officer, employee or other agent of the PAC, will also be considered to be contributions from the intermediary. The PAC is obligated to report the original source of the contribution to OCPF and to the candidate's committee which ultimately receives the contribution. Section 10A of c. 55 does not apply to contributions made through a people's committee or its agents or to a PAC if all contributions are \$161 or less.

Since contributions "bundled by" a PAC, or by an officer, employee or agent of the PAC, are also treated as contributions from the PAC, such contributions will count toward the aggregate contribution limit allowed the PAC. They also will count toward the aggregate contribution limit of the original source of the contribution.

E. Registration of new committees

Any group of persons which intends to receive contributions or make expenditures for the purpose of contributing to more than one candidate, and which has not previously filed a Statement of Organization with OCPF, must file a Statement of Organization as a PAC (Form CPF 101PC), as well as an Appointment of Depository Bank (Form CPF D103) and an initial campaign finance report (Form CPF D102). These forms must be filed before the PAC becomes involved in any campaign finance activity.

A new political committee which intends to become a people's committee must temporarily register as a PAC. Thereafter, such a political committee may become a people's committee provided that it (1) has been in existence for at least six months, (2) has contributed to five or more candidates and (3) has only received contributions from individuals and that such contributions are limited to \$161 per individual during a calendar year. In addition, the treasurer of the political committee must affirm, on a Declaration of Status, that the political committee will continue to accept only contributions from individuals and that it will limit the amount received from any individual to \$161 per calendar year.

1. Affiliated political committees.

Any two political committees, including a PAC and a people's committee, will be considered "affiliated" committees for purposes of determining the limitations on their

contributions, if they are "established, financed, maintained or controlled by any person, including any parent committee of a subsidiary committee. . ." See M.G.L. c. 55, § 6 and 970 CMR 1.06. For example: if a PAC contributes \$400 to a candidate, and an affiliated people's committee contributes \$200 to the same candidate, the \$500 limit on contributions from political committees not organized on behalf of a candidate to a candidate's committees would be violated.

2. Statement of Organization.

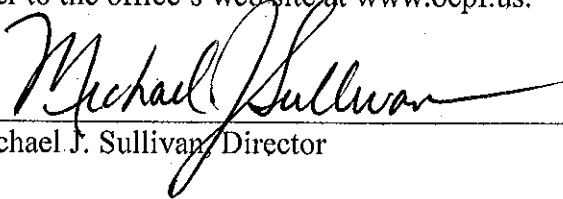
The Statement of Organization must comply with sections 5 and 5B of c. 55 and all other provisions of c. 55. For example, a political action committee must include the phrase "political action committee" in the committee's name. In addition, to the extent the committee is financed, maintained, controlled or has as a principal officer, a candidate or elected public officer, such person must relinquish control or be replaced by another officer, in order to comply with section 5A except as previously noted in section II C.

Finally, the name of each political action committee or people's committee must reflect the committee's economic interests and the name of a common employer as noted in section II A (2).

F. People's committee failure to meet requirements.

A people's committee may decide to become a PAC at any time but must immediately file a Declaration of Status with OCPF to reflect the committee's new name (which must include the words "political action committee") and status. In addition, if a people's committee fails to limit all contributions from individuals to \$161 or less in a calendar year or accepts any contribution, including an in-kind contribution, from a political committee, association or any other entity, the committee must immediately file an amended Statement of Organization as a PAC. Once a people's committee has failed to comply with the contribution limitations applicable to people's committees, or declared itself to be a PAC, it will not be able to once again become a people's committee.

If you have questions regarding this interpretative bulletin or any other campaign finance matter please do not hesitate to contact OCPF at (800) 462-OCPF or (617) 979-8300. You may also refer to the office's web site at www.ocpf.us.



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