Candidates & Public Officials

2014

Revised 2/3/2014

Definitions

Candidate: An individual who seeks nomination for election or election to any public office.

Public Official: Every elected state, county, & municipal official.

Election Cycle: Begins the day following the date of an election, and continues through and includes the date of the next such election to the same public office.

Reporting Period: Reporting period begins immediately after the due date of the previous report and ends at midnight on the date the next report is due.

Qualifying Officer: Means person who qualifies a candidate for an election.

2014 CHANGES
STATE LEVEL

http://ethics.ga.gov/wp-content/uploads/2013/12/State-Level.pdf

Definitions

Added *qualifying fees* and *attorney's fees connected to the campaign* to "Ordinary and Necessary. OCGA 21-5-3(18)

Added *Council* to the definition of "Public Officer". OCGA 21-5-3(22)(E)

Campaign Contribution Disclosure Report

ALL candidates seeking election to statewide or state offices, state or statewide Elected Public Officials, or state level non candidate committees are required to file electronically with the Commission.

FILE SCHEDULE

NON ELECTION YEAR

January 31

June 30

ELECTION YEAR

January 31

March 31 (HB 310)

June 30

September 30

October 25

December 31

RUN OFF ELECTION

6 days before run off

SPECIAL ELECTION

15 days prior to the special election

Removed language allowing a 15 day extension on final report

Added that a Final Report shall be filed "within 10 days of the dissolution of a campaign or committee"

Personal Financial Disclosure Statement

ALL candidates seeking election to statewide or state offices are required to file electronically with the Commission

Two Business Day Report

Faxed TBDs must also be e-filed within five business days following the transmission of the fax.

Late Filing fees

Graduated late fees of $125, $250 and $1,000 are imposed by the person or entity with which filing is required for failure to timely file CCDRs and PFDs.

Publish a list on a quarterly bases of late/non-filers who were required to file with the Commission.

Removed the prohibition for using campaigns funds to pay CCDR late fees.

Commission receives first $25 from late fees received by the Commission.

Notice of late fees shall be sent to the candidate and the candidate's committee in the same manner by which the penalized report was filed with the commission. However, if the report in question was not filed or was filed with the commission in a manner other than electronic filing or certified mail, return receipt requested, the commission shall utilize certified mail, return receipt requested, to notify the candidate and the candidate's committee of the late fee due.

Add the language that the postmark date is the prima-facie evidence of filing.

2014 CHANGES
LOCAL LEVEL

http://ethics.ga.gov/wp-content/uploads/2013/12/Local-Level.pdf

DOI/CCDR/PFD

File with the County Election Superintendent if you are a ….

State Court Judge

Solicitor

Clerk of Superior Court

Sheriff

Tax Commissioner

Tax Assessor

Tax Receiver

Tax Collector

Other Elected Count Office (except Soil & Water Conservation District Supervisors)

Coroner

Magistrate

County Commissioner

Judge of Probate Court

Judge of Civil Court

Judge of Recorders Court

School Board Member

Surveyor

DOI/CCDR/PFD

File with the municipal clerk or, if there is no clerk, with the chief executive officer of the municipality if you are a ……

Mayor

Alderman

Judge of Municipal Court

Other Elected Municipal Office

Council Member

Clerk of Municipal Court

Marshall of Municipal Court

File with the appropriate office if you meet the registration and reporting requirements for the following committees at a Local Level

Recall Committees

Ballot Committees

Independent Committees

Persons that make contributions or expenditures in excess of $25,000.00 in a calendar year

2014 CHANGES
LOCAL LEVEL

http://ethics.ga.gov/wp-content/uploads/2013/12/Local-Level.pdf

Candidates seeking election to county or municipal offices may use electronic means to file their campaign contribution disclosure reports if such method is made available or may file by certified mail, or statutory overnight delivery, or personal delivery.

In the event a county or municipal candidate or elected county official or the chairperson or treasurer of a campaign committee organized to bring about the nomination or election of such candidate signs and files with the Election Superintendent (County) or City Clerk (Municipal) a written notice that such candidate or campaign committee does not intend to accept during such election cycle:

A combined total of contributions exceeding $2,500.00 nor make a combined total of expenditures exceeding $2,500.00 for the campaign in such election cycle, then such candidate or campaign committee shall not be required to file a report under O.C.G.A. §21-5-34(d)(d.1)(1).

If such candidate or campaign committee exceeds the $2,500.00 limit for either accepting contributions or making expenditures for such campaign during such election cycle but does not accept a combined total of contributions exceeding $5,000.00 in such election cycle nor makes expenditures exceeding $5,000.00 in such election cycle, then such candidate or campaign committee shall be required to file only the June 30 and October 25 reports. The first such report shall include all contributions received and expenditures made beginning January 1 of such calendar year.

If such candidate or campaign committee accepts a combined total of contributions exceeding $5,000.00 or makes expenditures exceeding $5,000.00 for such campaign during any such election cycle, then such candidate or campaign committee chairperson or treasurer shall thereupon be subject to the reporting requirements of this Code section the same as if the written notice authorized by this subsection had not been filed.

2014 CHANGES
LOCAL LEVEL

http://ethics.ga.gov/wp-content/uploads/2013/12/Local-Level.pdf

Graduated late fees of $125, $250 and $1,000 are imposed by the person or entity with which filing is required for failure to timely file CCDRs and PFDs.

Election Superintendents:

The appropriate official shall transmit an electronic copy of the written notice (that a candidate does not intend to accept in excess of $2,500.00) by eFiling or eFax to the commission not later than ten days after the close of qualifying. The failure of the appropriate official to timely transmit such copy of the written notice to the commission shall not disqualify the candidate or campaign committee from the exemption from report filing provided by this paragraph.

Reviews each Disclosure Report to determine that such statement is in compliance with the requirements of the Campaign Finance Act.

Transmits, electronically by eFiling or eFax, a copy of each report to the Commission not later than 30 days after the close of the reporting period.

Transmits, electronically by eFiling or eFax a copy of each such declaration of intention to the commission not later than ten days after the close of the reporting period.

Graduated late fees of $125, $250 and $1,000 are imposed by the person or entity with which filing is required for failure to timely file CCDRs and PFDs.

Maintain the envelope of all mailed reports.

City Clerk or Chief Executive Officer:

The appropriate official shall transmit an electronic copy of the written notice (that a candidate does not intend to accept in excess of $2,500.00) by eFiling or eFax to the commission not later than ten days after the close of qualifying. The failure of the appropriate official to timely transmit such copy of the written notice to the commission shall not disqualify the candidate or campaign committee from the exemption from report filing provided by this paragraph.

Reviews each Disclosure Report to determine that such statement is in compliance with the requirements of the Campaign Finance Act.

Transmits, electronically by eFiling or eFax, a copy of each report to the Commission not later than 30 days after the close of the reporting period.

Transmits, electronically by eFiling or eFax a copy of each such declaration of intention to the commission not later than ten days after the close of the reporting period.

Graduated late fees of $125, $250 and $1,000 are imposed by the person or entity with which filing is required for failure to timely file CCDRs and PFDs.

Maintain the envelope of all mailed reports.

eFax number 1-866-914-7974

O.C.G.A. § 21-5-30.2(b)

- No agency and no person acting on behalf of an agency shall make, directly or indirectly, any contribution to any campaign committee, political action committee, or political organization or to any candidate; but nothing in this Code section shall prohibit the furnishing of office space, facilities, equipment, goods, or services to a public officer for use by the public officer in such officer's fulfillment of such office.

Declaration of Intention to Accept Contributions (Form DOI)

Reference: O.C.G.A. § 21-5-30 (g)

- Anyone who is not already a public officer and who plans to run for public office must file a Declaration of Intention to Accept Campaign Contributions BEFORE accepting such contributions.
- No such declaration is required of persons who are public officers and who plan to run for the same public office they currently hold.
- Statewide/State level file Form DOI with the Commission.
- County level file DOI with County Election Superintendent
- Municipal level file DOI with the Municipal Clerk

http://ethics.ga.gov/wp-content/uploads/2011/08/2014_FORMDOI1.pdf

Registration Form for a Campaign Committee (Form RC)

Reference: O.C.G.A. § 21-5-3(2) and O.C.G.A. § 21-5-30(b)

- The term "campaign committee" as it relates to the candidate means the candidate, person(s) or committee which accepts contributions or makes expenditures for the purpose of bringing about the nomination or election of an individual to any elected office.
- If a candidate has a campaign committee, the name and address of the committee, its chairman, treasurer and the candidate must be registered with the Commission prior to accepting any contributions.
- No candidate may have more than one committee.
- No contributions may be accepted at any time there is a vacancy in either the position of chairman or treasurer. One person may serve as both chairman and treasurer.
- "Registration Form for a Campaign Committee" is filed with the Commission.
- When a candidate is elected to office, the candidate's campaign committee registration will remain in effect as long as the candidate remains in office until and unless the registration is canceled by the campaign committee or the candidate.
- Any substantive changes to registration information of a committee must be updated with the Commission within 7 business days.

http://ethics.ga.gov/wp-content/uploads/2011/08/2014_FORMRC.pdf

Choosing Option of Separate Accounting (Form COOSA)

Reference: O.C.G.A. § 21-5-43 (a) (2)

- A candidate who wishes to accept contributions for more than one election at a time shall separately account for such campaign contributions and shall file an "Option to Choose Separate Accounting" form with the **Commission** prior to accepting contributions for any election other than the candidate's next upcoming election.

- A candidate is only required to file one Form COOSA which shall be utilized for all subsequent elections to the same office, regardless of whether an election occurs in a new election cycle.

http://media.ethics.ga.gov/Commission/2011Forms/3/FormCOOSA2011.pdf

Reporting Schedule

File Reports according to schedule

- Go to www.ethics.ga.gov
- Click on filing schedule (to the right side of the page)
- Select Candidates
- Select your level
- Enter your applicable information
- See a full detailed filing schedule including the due date, end of the grace period, and when late filing fees apply.

You must start reporting when . . . Any one of these four items trigger the reporting requirements.

- You file a Declaration of Intention to Accept Campaign Contributions - Form DOI
- You or your committee accepts a contribution
- You or your committee makes an expenditure
- You formally qualify

Reports

- CCDR
- PFD
- TBD
- Termination Statement

Campaign Contribution Disclosure Statement (CCDR)

- Campaign Contribution Disclosure Report is a report filed with the appropriate filing office by a candidate or the chairperson or treasurer of a campaign committee setting forth all expenditures and contributions.

- Itemize all contributions and expenditures more than $100.00; and aggregate totals of all contributions and expenditures $100.00 or less

- Technical Defect: an incorrect date or a failure to include a date, an incorrect contributor's occupation or a failure to include a contributor's occupation, an incorrect address or e-mail address or a failure to include an address or e-mail address, an incorrect employer or a failure to include an employer, accounting errors, or any other similar defects.

- Each statewide and state official shall file with the commission, in writing, a current e-mail address and shall advise the commission, in writing, of any change to such address within ten days of any change to such address. Such information shall be provided to the commission prior to January 31 each year.

When to File a CCDR

- Election Year
  - January 31, March 31, June 30, September 30, October 25 & December 31
  - In the event any candidate covered by this chapter has no opposition in either a primary or a general election and receives no contribution more than $100.00, such candidate shall only be required to make the initial and final report as required under this chapter
- Non-Election Year
  - January 31 and June 30
- Run-Off
  - 6 days prior to Primary and/or General Run-Off
  - 6 days prior to Special Primary Run-Off
  - 6 days prior to Special Run-Off
- Special Election
  - 15 days prior to Special Primary
  - 15 days prior to Special Election
  - December 31

CCDR GRACE PERIODS

- Campaign Contribution Disclosure Reports have a five business day grace period in filing.

- If a report is due for a run-off election, the candidate will have a two business day grace period in filing the required report.

Win, Lose, or Withdraw

- Any elected public officer, upon leaving public office with excess contributions, is required to file supplemental CCDR's on June 30 and December 31 of each year until the contributions are expended.

- Any unsuccessful candidate in an election is required to file CCDR's for the remainder of the election cycle, at the same times as a successful candidate.

- Any unsuccessful candidate who receives contributions following the election to retire debts incurred in the campaign for elective office is required to file a supplemental CCDR no later than December 31 of each year until such unpaid expenditures from the campaign are satisfied.

PERSONAL FINANCIAL DISCLOSURE STATEMENT

- Every public officer and every candidate for election as a public officer must file a Personal Financial Disclosure Statement covering the period of the preceding calendar year.

- Only one Personal Financial Disclosure Statement is required per calendar year.

- If a Public Officer chooses not to run for re-election, or for another public office, no Personal Financial Disclosure Statement need be filed in the year qualifying to succeed him/her takes place.

WHEN TO FILE THE PERSONAL FINANCIAL DISCLOSURE STATEMENT

- **A Public Officer** shall file not before January 1 nor later than July 1 of each year in office (except the year of election).

- **A Candidate for Public Office** other than statewide shall file not later than the fifteenth day following the day on which the candidate qualifies.

- **Candidates for a public office elected statewide** must file their financial disclosure statements *not later than seven days after qualifying or filing a notice of candidacy.* Statewide candidates must disclose more information than other candidates for public office.

- *Statewide and State Filers must complete and mail in an original Personal Financial Disclosure PIN Application (which includes a valid email address) prior to filing electronically.*

- There is no grace period for the Personal Financial Disclosure Statement.

Two Business Day (TBD) Report

- The TBD Report addresses the period of time between the last report due prior to the date of any election for which the candidate is qualified and the date of the election. The TBD Report requires the disclosure of all contributions (including loans) of $1,000.00 or more and must be reported within two-business days of receipt of the contribution.

- The contribution must also be reported on the next succeeding regularly scheduled Campaign Contribution Disclosure Report.

- Must be sent by facsimile or electronic transmission within two business days of receipt of contribution. Faxed TBDs must also be electronically filed within five business days following the transmission of the fax.

- There is no grace period for the TBD report.

Termination Statement

All campaigns and committees must file a termination statement within ten days of the dissolution of a campaign or committee which shall, among other things, identify the person responsible for maintaining campaign records as required by the Act. The termination statement shall be submitted with a final Campaign Contribution Disclosure Report which identifies a zero balance and zero indebtedness.

Use of Candidates Personal Funds/ "Millionaires Clause"

- A candidate may use his own money or resources to finance a campaign or to supplement contributions received from others.
- Such use of personal funds by a candidate is a campaign contribution; all such contributions must be reported.
- "Millionaires Clause" - Millionaire's Clause provides that a candidate who loans money to his campaign will not be able to use campaign funds to repay that loan after an election to the extent that the loan exceeds $250,000.00.

Uses of Campaign Funds

- **Ordinary and Necessary - O.C.G.A. 21-5-3 (18)**

Ordinary and necessary expenses shall include, but shall not be limited to, expenditures made during the reporting period for qualifying fees, office costs and rent, lodging, equipment, travel, advertising, postage, staff salaries, consultants, files storage, polling, special events, volunteers, reimbursements to volunteers, repayment of any loans received except as restricted under subsection (i) of Code Section 21-5-41, contributions to nonprofit organizations, flowers for special occasions, which shall include, but are not limited to, birthdays and funerals, attorney fees connected to and in the furtherance of the campaign, and all other expenditures contemplated in Code Section 21-5-33.

- **Disposition of Contributions - O.C.G.A. 21-5-33**

Including to defray ordinary and necessary expenses, fulfillment or retention of office, contribution to a charitable organizations, transfer to national, state, or local committee of any political party, pro rata repayment to persons making such contribution, for use of future campaign for the same office, for repayment of any prior campaign debt.

Maximum Allowable Contribution Limits

No person, corporation, political committee, or political party shall make, and no candidate or campaign committee shall receive from any such entity, contributions to any candidate for state-wide elected office which in the aggregate for an election cycle exceed:

Candidates for State-Wide Offices

Six thousand three hundred dollars ($6,300.00) for a primary election
Three thousand seven hundred dollars ($3,700.00) for a primary run-off election
Six thousand three hundred dollars ($6,300.00) for a general election
Three thousand seven hundred dollars ($3,700.00) for a general run-off election

Candidates for All Other Offices

Two thousand five hundred dollars ($2,500.00) for a primary election
One thousand three hundred dollars ($1,300.00) for a primary run-off election
Two thousand five hundred dollars ($2,500.00) for a general election
One thousand three hundred dollars ($1,300.00) for a general run-off election

Record Keeping

- Contributions of money received by the candidate or the candidate's campaign committee must be promptly deposited in a **separate campaign depository account** *(separate from the personal banking account of the candidate)* opened and maintained for this purpose.

- The account may be an interest bearing account and any interest earned will be deemed a contribution to the campaign committee; Interest earned is not payable to the candidate.

- The candidate or treasurer of each campaign committee must keep detailed accounts, current within not more than five (5) days after the receipt of a contribution or making of an expenditure.

Anonymous Contribution

- Anonymous contributions are prohibited.
- Any cash contribution received by a candidate who fails to record the name and address of the contributor and the amount of the contribution is an anonymous contribution.
- If an anonymous contribution is received it must be transmitted to the Office of Treasury and Fiscal Services 200 Piedmont Ave, Suite 1202 West Tower, Atlanta, GA 30334. Telephone # (404) 656-2168.
- The recipient must also notify the Commission of the receipt of the contribution and its subsequent transmittal to the office of Treasury and Fiscal Services.

CCDR & PFD Late Fees

- Graduated late fees of $125, $250 and $1,000 are imposed by the person or entity with which filing is required for failure to timely file CCDRs and PFDs.
  - A $125.00 filing fee is imposed on the first day a report is late.
  - An additional $250.00 if not filed by the 15th day after the due date of the report.
  - An additional $1,000.00 if not filed by the 45th day after the due date of the report.

  - Late Fees **CAN** be paid from campaign funds for CCDR late fees.
  - Late Fees **CANNOT** be paid from campaign funds for PFD late fees.

Civil Penalties

A civil penalty can be assessed by the commission in a consent order and can not be paid with campaign funds

- Not to exceed $1,000.00 for the first occurrence of a violation
- Not to exceed $10,000.00 for a second occurrence of a violation
- Not to exceed $25,000.00 for each third or subsequent occurrence of a violation

Contact Information

Website: www.ethics.ga.gov

General Email: GAEthics@ethics.ga.gov

Main Line: 404-463-1980

<u>Compliance Information Training Manager</u>

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