★ VIRGINIA ★
DEPARTMENT *of* ELECTIONS

Summary of Laws and Policies
Inaugural Committees

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Revised September 14, 2015
Supersedes All Previous Versions

Virginia's Campaign Finance Disclosure Act
Title 24.2, Chapter 9.3, and 9.4 of the *Code of Virginia*

Table of Contents

CHAPTER 1 – General Information 4
Section 1.1 - Purpose of *Summary* 4
Section 1.2 - Campaign Finance Staff 4
Section 1.3 - Related Publications 4
Section 1.4 - Elections Not Covered 5
Section 1.6 - Cash-Basis vs. Accrual-Basis Reporting 6
Section 1.7 – Definitions 6

CHAPTER 2 – Statement of Organization 11
Section 2.1 – Establishing an Inaugural Committee 11
Section 2.2 – Treasurer and Custodian of the Books 13
Section 2.3 - Where to File the Statement of Organization 14

CHAPTER 3 – Schedule A: Cash Contributions 16
Section 3.1 – Limits on Contributions 16
Section 3.2 – Types of Cash Contributions 16
Section 3.3 - Itemized Contributions vs. Unitemized Contributions 16
Section 3.4 – Contributor's Required Information 17
Section 3.5 – Soliciting Contributions 18
Section 3.6 – Other Contribution Policies 19
Section 3.7 - Contributions from FEC PACs and Out-of-State Political Committees 20
Section 3.8 – Fundraisers 20

CHAPTER 4 – Schedule B: In-Kind Contributions 22
Section 4.1 - Types of In-Kind Contributions 22
Section 4.2 – In-Kind Contribution vs. Independent Expenditures 23
Section 4.3 – Reporting In-Kind Contributions 23

CHAPTER 5 – Schedule C: Refunds, Rebates and Interest 25
Section 5.1 - Types of Miscellaneous Receipts 25

CHAPTER 6 – Schedule D: Expenditures 26
Section 6.1 - Reporting Expenditures 26
Section 6.2 - Other Types of Expenditures 26

CHAPTER 7 – Schedule E: Loans 28
Section 7.1 – Types of Loans 28
Section 7.2 - Reporting Loan Receipts and Repayments 28
Section 7.3 - Forgiving Loans 28

CHAPTER 8 – Schedule F: Debts Remaining Unpaid 29
Section 8.1 Types of Reportable Debts 29
Section 8.2 - Reporting Outstanding Debts 29

CHAPTER 9: Schedules G and H: Summary Pages 30

CHAPTER 10 – Schedule I: Disbursement of Excess Funds 31
Section 10.1 - Filing a Final Report 31
Section 10.2 – How to Dispose of Surplus Funds 31

CHAPTER 11 – Special Reports 32
Section 11.1 – Types of Special Reports 32
Section 11.2 – Large Dollar Contribution Reports 32
Section 11.3 - Independent Expenditure Reports 32

CHAPTER 12 – Where and When to File Campaign Finance Reports 34
Section 12.1 - Filing Periods 34
Section 12.2 - Where and When to File Reports 34
Section 12.3 - Extension of the Filing Deadline 34
Section 12.4 - No Activity Reports 35
Section 12.5 - Other Reporting Policies 35

CHAPTER 13 – Campaign Finance Reporting Penalties 36
Section 13.1 – General Provisions 36
Section 13.2 - Procedure to Collect Penalties for Campaign Finance Reports 37
Section 13.3 – Penalty Schedule for Campaign Finance Reports 37
Section 13.4 – Penalties for Accepting Contributions from Unregistered Out-of-State Political Committees or Federal Political Action Committees 38

CHAPTER 14 – Political Advertisement Disclaimers 40
Section 14.1 - When Disclaimer Statements are Required 40
Section 14.2 - Requirements for Publications 40
Section 14.3 - Print Media Disclaimer Requirements for Inaugural Committees 41
Section 14.4 - Television Disclaimer Requirements for Inaugural Committees 42
Section 14.5 - Radio Disclaimer Requirements for Inaugural Committees 43
Section 14.6 – Campaign Telephone Call Requirements 43

Chapter 15 – Political Advertisement Penalties 44
Section 15.1 - Procedure for Reporting Violations 44
Section 15.2 - Penalties for Inaugural Committees 44

CHAPTER 1 – General Information

Section 1.1 - Purpose of *Summary*

In accordance with § 24.2-946 of the *Code of Virginia*, the Virginia Department of Elections has prepared this *Summary of Virginia's Campaign Finance Laws and Policies for Candidate Campaign Committees* (hereafter referred to as "Summary"), which is designed to assist candidates and their treasurers on how to file the required campaign finance reports and outlines the provisions of the Campaign Finance Disclosure Act (CFDA or the "Act"), Chapters 9.3, 9.4 and 9.5 of Title 24.2 of the *Code of Virginia* and the policies adopted by the Virginia Department of Elections related to those laws. This document has been prepared to assist the candidate committee in understanding the laws enacted by the General Assembly and the related policies set forth by the Virginia Department of Elections. This Summary is a basic reference tool, and is **NOT** a substitute for the actual law.

It is important to understand that there is more to the law than just timely filing the required campaign finance reports. As a candidate or treasurer, you should familiarize yourself with this Summary for it will serve as a valuable resource.

The Virginia Department of Elections makes the Summary available on the Internet to all candidates, their treasurers and the general public. The Virginia Department of Elections will also mail a copy of the Summary upon request.

Section 1.2 - Campaign Finance Staff

The Virginia Department of Elections staff is available to assist you in preparing reports and interpreting the requirements of the CFDA. Should you have questions or require clarification, contact:

Tina Edmonds, Compliance Specialist: tina.edmonds@elections.virginia.gov

Rise Miller, Service Specialist: rise.miller@elections.virginia.gov

Section 1.3 - Related Publications

If your committee is required to file its campaign finance reports electronically, or if you have chosen to file electronically, please refer to the *COMET* User Manual found online at the Virginia Department of Elections website: http://www.elections.virginia.gov/cms/documents/CF/COMET_User_Manual.pdf

Candidates will also need to familiarize themselves with the appropriate candidate bulletin for the office they seek. These can be found online at the Virginia Department of Elections website: http://www.elections.virginia.gov/cms/Cidate_Information/Cidate_Bulletins_Forms.html

Section 1.4 - Elections Not Covered

The provisions of CFDA do not apply to primaries and elections for:

- **Members of the United States Congress;**
- **President and Vice President of the United States;**
- **Town office in a town with a population of less than 25,000 that has not adopted an ordinance;**
  - **§24.2-945 allows, by adoption of an ordinance, the governing body of any town with a population of less than 25,000 may provide that the provisions of the Act shall be applicable to elections for town offices in the town.**
- **Directors of soil and water conservation districts; or**
- **Political Party Committee Officers.**

In addition, persons (defined in section 1.7) that make contributions from their direct operating or personal funds are not subject to the requirements of CFDA. However, they are subject to reporting requirements if they make an Independent Expenditure in excess of $1,000 for a statewide election or $200 for any other election (**see § 24.2-945.2**).

Section 1.5 – Federal Laws and Requirements

A federal candidate or political committee is required to file campaign finance reports with the Federal Election Commission (FEC). The FEC (and ***not*** the Virginia Department of Elections) enforces federal campaign finance laws. The following are candidates who must file with the FEC, not the Virginia Department of Elections:

- **President of the United States;**
- **Vice-President of the United States;**
- **United States Senate;**
- **United States House of Representatives; or**
- **Any political committee wishing to support or oppose these *federal candidates*.**

These committees must contact the Federal Election Commission (FEC) to obtain forms and information pertaining to federal campaign finance requirements and filing deadlines. You may contact FEC at:

800-424-9530 (toll-free) or 202-694-1100 (within the Washington, D.C. area)
http://www.fec.gov– Internet address
999 E. Streets, NW, Washington, DC 20463-0002 – U.S. Mail

Since Virginia participates in FEC's State Filing Waiver Program and provides public electronic access to federal campaign finance reports via the Internet, federal candidates in Virginia are not required to file copies of their campaign finance reports with the Virginia Department of Elections. Political Action Committees who file their reports with FEC are not required to file campaign finance reports with the Virginia Department of Elections. Please see the *Summary on Laws and Policies for Political Action Committees* for more information. Candidates for office in Virginia may accept contributions from these

types of candidates or political committees. However, it is important for you to review the provisions of **§ 24.2-947.3:1** prior to accepting contributions from these types of committees.

The Virginia Department of Elections has no authority to provide any advice regarding federal tax laws. Therefore, if you have questions regarding whether or not your campaign meets the requirements of the federal internal revenue code please contact the Internal Revenue Service. Their website address is http://www.irs.gov/.

Section 1.6 - Cash-Basis vs. Accrual-Basis Reporting

Virginia's campaign finance reporting system works on an accounting principle known as 'cash-basis' reporting rather than 'accrual-basis' reporting. In an accrual-basis reporting system, contributions are reported in the period for which they are earned (e.g. once contracted services are provided), regardless of when the cash from these contributions are received. Expenditures are recorded as they are owed (e.g. when supplies are ordered, the printer finishes your brochure, employees actually perform the work, etc.), instead of when they are paid. In a cash-basis reporting system, contributions are reported when the cash is received. Expenditures are reported in the reporting period when the expenditures are paid. Therefore, it is important to remember that, in Virginia, contributions are reported on the dates when the funds are actually received (not deposited) and on the dates when the funds are actually expended. It is very similar to the method that most people use to balance their check books.

The exceptions to this rule apply only in cases where debts on material goods have been received or for in-kind contributions with regard to services or advertisements purchased on behalf of a candidate where coordination has also occurred (See Chapter 4). Since no money is actually changing hands in this type of contribution, the information should be reported on the same date that the service was provided or when the advertisement benefiting the candidate was disseminated.

Section 1.7 – Definitions

The following are definitions of the terms used in this Summary that are of principal importance to treasurers. Please keep in mind that some of the terms, while not specifically defined in CFDA, are useful in understanding this document. If you wish to read the exact definitions as they appear in CFDA, you may refer to **§ § 24.2-945.1, 24.2-955.1** or **24.2-101** of the ***Code of Virginia***.

Adjournment sine die – adjournment on the last legislative day of the regular session (the regular session does not include the ensuing reconvened session or any special session following in the same year).

Advertisement – any message appearing in the print media, on television, or on radio that constitutes a contribution or expenditure under Chapter 9 (§§ 24.2-945 et seq.) of this title. "Advertisement" does not include issue advocacy or novelty items authorized by a candidate including, but not limited to, pens, pencils, magnets, and buttons to be attached to wearing apparel.

Agent of the candidate or candidate's campaign committee – One empowered to act for or represent the candidate made through an agreement, verbal or otherwise, between the candidate and the person. The term shall not include unpaid volunteers.

Aggregate Contribution – the total amount of contributions made by an individual or other entity during an election cycle.

Authorization – means the express approval or consent by the candidate, the candidate's campaign committee, or an agent of the candidate campaign committee after coordinating the expenditure with the candidate, the candidate's campaign committee, or an agent of the candidate campaign committee.

Candidate – an individual who seeks nomination for election, or election to public office, in the Commonwealth of Virginia whether or not that person's name is on the ballot. The definition includes

'write-in' candidates. An individual is considered, for campaign finance purposes only, a candidate seeking nomination for election or re-election under the provisions of the Act if they have:

- Provided payment of a filing fee for any party nomination method;
- Submitted a Statement of Qualification form (see § 24.2-501) (whether or not funds or resources have been solicited, received or expended);
- Personally, or through another person, solicited or received funds or other things of value, or made expenditures, including expenditures from personal funds, for the purpose of bringing about such individual's nomination or election to any office;
- Has been endorsed or nominated by a Political Party and is thus entitled to a position on the ballot at an election or primary (whether or not funds or resources have been solicited, received or expended);
- Has otherwise been qualified for placement on the ballot pursuant to the election laws (whether or not funds or resources have been solicited, received or expended);
- Has appointed a campaign treasurer, designated a campaign committee, or designated a campaign depository;
- Has not filed a final report for the previous election cycle prior to a new election cycle's begin date. In this instance, an individual will be considered a candidate for the same office in the succeeding election for administrative purposes (see §24.2-947).
- Candidate Types:
- Local Candidate – Candidate for a city, county or town's local or constitutional offices.
- General Assembly Candidate – Candidate for Virginia State Senate or House of Delegates.
- Statewide Candidate – Candidate for Governor, Lieutenant Governor or Attorney General.

Candidate's Campaign Committee – the committee designated by a candidate to receive all contributions and make all expenditures for them or on their behalf in connection with their nomination or election. A Candidate's Campaign Committee may not be established for multiple candidates.

Candidate's Election Cycle – an election cycle begins on January 1 of the year that the candidate first seeks election for the office through December 31 immediately following the election for such office. The election cycle provides for the aggregation of contributions and expenditures for the candidate's campaign finance reporting. A candidate with any activity to report in a new election cycle shall be presumed to be a candidate for reelection in the succeeding election solely for the purpose of filing campaign finance reports.

Conspicuous – so written, displayed, or presented that a reasonable person ought to have noticed it.

Contribution – money or services of any amount, and any other thing of value, given, advanced, loaned, or in any other way provided to a candidate, campaign committee, political committee, inaugural committee or person for the purpose of expressly advocating the election or defeat of a clearly identified candidate or to an inaugural committee for the purpose of defraying the costs of the inauguration of a Governor, Lieutenant Governor, or Attorney General. "Contribution" includes money, services or things of value in any way provided by a candidate to his own campaign and the payment by the candidate of any primary filing fee.

Coordinated or Coordination – an expenditure that is made (i) at the express request or suggestion of a candidate, a candidate's campaign committee, or an agent of the candidate or his campaign committee or (ii) with material involvement of the candidate, a candidate's campaign committee, or an agent of the candidate or his campaign committee in devising the strategy, content, means of dissemination, or timing of the expenditure.

Debt – any and all outstanding financial obligations. The term does not refer to monies owed to utility companies for services rendered.

Depository – the account(s) in a designated financial institution established to maintain all monetary receipts of a committee.

Designated Contribution – means a contribution that is designated specifically and in writing for a particular candidate or candidates and that is made using a political committee solely as a conduit.

Election – any general, primary, special election or referendum.

Expenditure – money or services of any amount, and any other thing of value, paid, loaned, provided or in any other way disbursed by any candidate, campaign committee, political committee, inaugural committee or person for the purpose of expressly advocating the election or defeat of a clearly identified candidate or by any inaugural committee for the purpose of defraying the costs of the inauguration of a Governor, Lieutenant Governor or Attorney General.

Express Advocacy – a direct or indirect contribution, in-kind contribution or loan made to a candidate or political committee for the purpose of influencing the outcome of an election; an advertisement that refers to a party or candidate(s) by name and states "Vote for…"; "Support"; "Elect…"; "Smith for Congress"; "Send Him Home"; "Oppose", etc.

Failure to File – any required campaign finance report not received by the Virginia Department of Elections or local electoral board within 60 days after official notification from the Virginia Department of Elections or local electoral board. For candidates for Statewide Office, a report shall be considered *failure to file* if the report is not received within fourteen days after official notification from the Secretary of the Virginia Department of Elections.

Federal Political Action Committee – any political action committee registered with the Federal Election Commission that makes contributions to candidates or political committees registered in Virginia.

Full-screen – the only picture appearing on the television screen during the oral disclosure statement that (i) contains the disclosing person, (ii) occupies all visible space on the television screen, and (iii) contains the image of the disclosing person that occupies at least fifty percent of the vertical height of the television screen.

Inaugural Committee – any organization, person or group of persons that anticipate receiving contributions or making expenditures, from other than publicly appropriated funds, for the inauguration of the Governor, Lieutenant Governor, or Attorney General.

Incomplete report – a campaign finance report that does not include all required information.

Independent Expenditure – an expenditure made by any person or political committee that is not made to, controlled by, coordinated with, or made with the authorization of a candidate, his campaign committee, or an agent of the candidate or his campaign committee. It includes an expenditure made by a candidate campaign committee (i) that is not related to the candidate's own campaign and (ii) that is not made to, controlled by, coordinated with, or made with the authorization of a different candidate, his campaign committee, or an agent of that candidate or his campaign committee.

In-Kind Contribution – the donation of goods, services, property or anything else of value that is offered for free or less than the usual and normal charge; or payments by a third party for goods and services rather than money. The basis for arriving at the dollar value of an In-Kind gift is as follows: new items are valued at retail value; used items are valued at fair market value and services rendered are valued at the actual cost of service per hour. Services are not to include personal services (outside of the person's professional occupation) for which no compensation is asked or given.

Occurrence – one broadcast of a radio or television political campaign advertisement in violation of the expanded disclosure requirements for television and radio.

Out-of-State Political Committee – means an entity covered by § 527 of the United States Internal Revenue Code that is not registered as a political committee or candidate campaign committee in Virginia and that does not have as its primary purpose to influence the outcome of nonfederal elections in Virginia. The term does not include a federal political action committee.

Person – any individual or corporation, partnership, business, labor organization, membership organization, association, cooperative or other like entity who makes contributions from their direct operating funds, or their own personal funds as in the case of an individual. Persons are subject to independent expenditure reporting requirements.

Petty cash fund – fund established by a campaign treasurer for the purpose of making expenditures or reimbursing verified credit card expenditures of less than $200. The total must never exceed $200 and if established, the treasurer must maintain complete records, as required by CFDA, of any expenditure less than $200 (**see § 24.2-947.2**).

Political Action Committee (PAC) – any organization, person, or group of persons, established or maintained in whole or in part to receive and expend contributions for the primary purpose of expressly advocating the election or defeat of a clearly identified candidate in a nonfederal election in Virginia. The term shall not include a campaign committee, federal political action committee, out-of-state political committee, political party committee, referendum committee, or inaugural committee. **Note:** May also be referred to as Political Committee.

Political Committee – a general term which refers to any political action committee, political party committee, referendum committee, or inaugural committee. The term does not include:

- federal political action committee,
- out-of-state political committee,
- campaign committee, or
- person, which in making contributions does so out of their own personal funds or the entity's direct operating funds.

Political Party Committee – any state political party committee, congressional district political party committee, political party committee for a county or city, other election district political party committee, organized political party group of elected officials, which anticipates receiving contributions or making expenditures in whole or in part, for the purpose of expressly advocating the election or defeat of a clearly identified candidate in a nonfederal election in Virginia. **Note:** May also be referred to as Political Committee.

Print Media – billboards, cards, newspapers, newspaper inserts, magazines, printed material disseminated through the mail, pamphlets, fliers, bumper stickers, periodicals, website, electronic mail, and outdoor advertising facilities.

Radio – any radio broadcast station that is subject to the provisions of 47 U.S.C. §§ 315 and 317.

Referendum Committee – any organization, person, group of persons, or committee, that makes expenditures to advocate the passage or defeat of a referendum legally placed on the ballot.

Reporting Period – the beginning and ending activity dates for a particular campaign finance report.

Residence – means and requires both domicile and a place of abode for all purposes of qualification to register and vote.

Scan Line – a standard term of measurement used in the electronic media industry calculating a certain area in a television advertisement.

Solicit – to request a contribution, orally or in writing. This does not include a request for support of a candidate or their position on an issue.

Sponsor – a candidate, candidate campaign committee, political party committee, political action committee, individual, or other entity that purchases an advertisement.

Surplus funds – the funds remaining after the payment of all debts (including penalties owed) and expenses incurred by a committee. **Note:** May also be referred to as Excess Funds.

Television – any television broadcast station, cable television system, wireless-cable multipoint distribution system, satellite company, or telephone company transmitting video programming that is subject to the provisions of 47 U.S.C. §§ 315 and 317.

Treasurer – the appointed bookkeeping officer of a candidate's campaign committee.

Un-obscured – means that the only printed material that may appear on the television screen is a visual disclosure statement required by law and that nothing is blocking the view of the disclosing person's face.

CHAPTER 2 – Statement of Organization

Any person, organization, or group of persons or political action committee that anticipates receiving contributions and/or spending funds, other than publicly appropriated funds, for the inauguration of the Governor, Lieutenant Governor, or Attorney General is required to submit a *Statement of Organization* and disclose its financial activity to the Virginia Department of Elections.

Section 2.1 – Establishing an Inaugural Committee

Inaugural committees must submit a *Statement of Organization* within 10 days after its organization. .

The Statement of Organization

The following information must be disclosed on the committee's *Statement of Organization*:

- The name of the committee and its address in the Commonwealth;
- The name and business address of the treasurer and his/her residence address in the Commonwealth who shall be deemed the agent of the inaugural committee for the purpose of service of process on the inaugural committee;
- The name, residence address in the Commonwealth, business address, and position of the custodian of the books and accounts who works under the direction of the treasurer and the address where the books are maintained, if different from the business address of the custodian of the books and accounts;
- The name and residence address of the elected official for whose inauguration the committee is organized;
- The designated depository to be used for the receipt and holding of funds and contributions received by the committee, in an account in a financial institution within the Commonwealth; and
- The filing method by which the committee intends to submit its campaign finance reports.

Mailing Address

The committee must include the primary mailing address of the committee. The address must be within the Commonwealth. Post Office Boxes are acceptable. This address will be the Virginia Department of Elections primary mailing address and all official notifications will be sent to this address. It is the responsibility of the committee's treasurer to ensure that the Virginia Department of Elections has the most recent mailing address filed on the committee's Statement of Organization.

Treasurer Information

The name and residence as well as business mailing address of the treasurer must be disclosed. The treasurer must be a resident of Virginia but is not required to be a registered voter in the Commonwealth. See Section 2.2 for more information on the treasurer's requirements.

Custodian of the Books

The name and mailing address of the custodian of the books as well as the address where the books are maintained must be disclosed. The custodian of the books must be a resident of Virginia but is not required to be a registered voter in the Commonwealth. The address where the books are maintained must also be located within the Commonwealth. See Section 2.2 for more information on the custodian of the books' requirements.

Elected Official's Information

The committee must disclose the name and residence address of the individual for whose inauguration the committee was organized.

Establishing a Depository

Inaugural committees are required to establish a depository in a financial institution located within the Commonwealth. The depository cannot be the same as the candidate's campaign committee. The inaugural committee must establish a wholly separate account. However, the candidate's campaign committee may make contributions to the inaugural committee.

The *Statement of Organization* will require your committee to identify the name and address of the committee's **PRIMARY** financial institution. You are not required to provide the committee's bank account number.

*****PERSONAL BANK ACCOUNTS MAY NOT BE USED UNDER ANY CIRCUMSTANCES*****

The name of the account must match exactly with the name of the committee. All checks drawn off of the committee's depository must include the name of the committee.

The financial institution will require your committee to obtain an Employee Identification Number or EIN from the Internal Revenue Service. It is not difficult, nor does it take long to obtain this number. Simply visit the IRS website (www.irs.gov) and type "Employee Identification Number" into the search field and you will be able to find the necessary information to obtain this number.

Establishing Secondary Depository Accounts

Committees are able transfer funds from the primary depository to another account or instrument for the purpose of earning interest on those funds. This can be done as long as:

- Complete records are maintained for each election cycle;
- All interest earned (reported on Schedule C) and fees paid (reported on Schedule D) are reported on the committee's campaign finance reports;
- The establishment of such an account is reported on the Campaign Committee's Statement of Organization;
- Expenditures are made only from the primary checking account; and
- Before filing a Final Report, the transferred funds and any earned interest are returned to the primary checking account.

Filing Method - Electronic or Paper?

The Virginia Department of Elections requires committees to indicate if they intend to file their campaign finance reports electronically or on paper. Committees who raise or spend $10,000 in a calendar year, or who raised or spent $10,000 in a previous calendar year, are required to file their campaign finance reports electronically. If a committee raised or spent $10,000 in a previous calendar year, but does not intend to do so in the current calendar year, then they may file an exemption from the requirements to file electronically.

To become an e-filer, you must register and submit your Statement of Organization using "COMET" (Committee Electronic Tracking System). More information on COMET can be found on our website: www.elections.virginia.gov.

The Virginia Department of Elections offers COMET at no charge to any registered committee in the Commonwealth. The department provides all of the support for this application and is available to assist you with your questions. However, if your committee wishes to use an outside company, they may choose from one of the Virginia Department of Elections approved vendors. The Virginia Department of Elections certifies all companies who wish to sell their software for the purpose of creating campaign finance reports to be filed in Virginia. Once the software is approved, the Virginia Department of Elections will accept campaign finance reports created from the company's software.

The committee cannot change its filing method without first notifying the Virginia Department of Elections by submitting an Amended *Statement of Organization.* An electronic filer who submits a report on paper will not be considered to have filed a timely campaign finance report.

Section 2.2 – Treasurer and Custodian of the Books

Treasurer Requirements

In order to serve as a treasurer for any inaugural committee the individual must be a resident of the Commonwealth of Virginia. The treasurer, for purposes of the service of process, is deemed the agent of the committee and is the person ultimately responsible for all aspects of campaign finance reporting for the committee.

Custodian of the Books

The custodian of the books works under the direction of the treasurer and is eligible to perform all of the duties of the treasurer including, but not limited to: signing checks, signing campaign finance reports, making deposits, etc.

The committee is not required to appoint a custodian of the books if the treasurer also serves as the custodian.

Duties and Responsibilities of the Treasurer

The custodian of the books can perform all of the duties of the treasurer. However, the treasurer is ultimately responsible for the records of the committee. The committee's treasurer should not allow any person (other than the custodian of the books) to sign checks, receive contributions or make expenditures on behalf of the campaign. The ultimate responsibility for compliance with the requirements of the Act always rests with the treasurer and the other officers, and it is the treasurer's or custodian of the books' signature that is required on the campaign reports.

The treasurer is responsible for the receipts and expenditures of campaign or committee funds for political purposes. The duties of a treasurer can include, but are not limited to:

- Filing complete, accurate and timely contributions and expenditure reports and *Statement of Organization* Forms;
- Signing contributions and expenditure reports and *Statement of Organization* Forms;
- Authorizing expenditures (may also be authorized by any other officer of the committee);
- Monitoring disclosure to ensure compliance with Virginia's Campaign Finance Laws; and
- Keeping detailed and accurate records for at least three years after the report is filed.

Changes or Vacancies in the Position of Treasurer

The treasurer must keep the committee's addresses, phone numbers and email addresses current to help ensure receipt of periodic notices and compliance materials. If the treasurer position becomes vacant, the committee is responsible for notifying the Virginia Department of Elections within 10 days of the change ***and*** after appointing a replacement. Please be advised that a vacancy in the treasurer's position does not relieve the committee from filing timely disclosure reports.

Disposal of Records

The treasurer must keep detailed and accurate records of all contributions and expenditures in their possession for at least one year from the date of filing the final report or three years after the December 31st immediately following the election cycle.

Records

Campaign Finance Records can include, but are not limited to:

- Receipts;
- Invoices;
- Bank statements;
- Copies of checks from contributors;
- Any communications from Virginia Department of Elections or local electoral board;
- Copies of checks for expenditures; and
- Completed solicitation forms.

Section 2.3 - Where to File the Statement of Organization

Committees must file an original, signed copy of their Statement of Organization with the Virginia Department of Elections within 10 days of the time that their committee organizes. All committees must maintain a copy of this form for their records.

Amending the Statement of Organization

The committee must file an amended *Statement of Organization w*ithin 10 days of any change to the committee's information (e.g., a change in address) to the Virginia Department of Elections.

Committees have ten days from the date of any change to file an amended *Statement of Organization.* If all information remains the same the original *Statement of Organization* will continue in effect until a Final Report is filed or until a change in the information occurs.

CHAPTER 3 – Schedule A: Cash Contributions

Section 3.1 – Limits on Contributions

There are no contribution limits in Virginia. A committee can accept contributions from any individual, corporation, union, association or partnership. It is only required that all contributions received by the committee and that all required information identifying the contributor be reported on the committee's campaign finance reports.

Federal law prohibits any political organization from accepting contributions from a foreign national or foreign corporation. An exception to the law is granted for individuals who have a valid green card. For more information concerning the prohibition of contributions from foreign nationals please visit the FEC website at www.fec.gov.

Section 3.2 – Types of Cash Contributions

A committee can solicit contributions from any source mentioned in Section 3.1. A cash contribution may be made in the form of, but is not limited to::

- Cash
- Check
- Money Order
- Credit or Debit Card.

Section 3.3 - Itemized Contributions vs. Unitemized Contributions

Contributors who have contributed an aggregate amount of more than $100 to an inaugural committee must be "itemized" on the committee's campaign finance report. This means that the committee must include the required occupation or business information for the contributor on the campaign finance report.

A contributor who has contributed an aggregate of $100 or less to the committee are reported as "unitemized" on the report. This means that the committee is not required to list the name of the contributor and other required information on the report. However, the contributor will have to be "itemized" if they provide additional contributions which increase their aggregate contribution to more than $100. The committee is required to gather at least the name and address from each contributor, no matter how small the contribution, to ensure that full disclosure is possible should the individual's aggregate contributions go above $100.

Anonymous Contributions

If a committee receives any cash contributions from an unknown source, the receiver of the contribution may donate the money to any organization described in § 170(c) of the Internal Revenue Code.

Committees Must NOT Accept Anonymous Contributions

Section 3.4 – Contributor's Required Information

The inaugural committee is required to report the following information about each contributor who contributes an aggregate of more than $100:

Name of the Contributor

The report must contain the individual or organization's name as it appears on the check. The name of the cardholder must be reported for contributions received by credit card. If the contributor submitted their contribution by any other means, then it is the responsibility of the treasurer to retain the name of the contributor for purposes of reporting.

The full name of the contributor is required to be reported, in alphabetical order, on the campaign finance report. For businesses and other types of organizations, the name of the company should be listed in alphabetical order. For individuals, the order must be alphabetical by the person's last name. The committee must report the full name of the organization. Acronyms are not acceptable.

In no case is it allowed for a contributor who wishes to contribute more than $100 to one committee to remain anonymous. The committee must not accept a contribution of more than $100 from a person who does not wish for their name to appear on the report.

Address of the Contributor

The full address of the contributor is required to be reported on the campaign finance report. The report must contain the individual or organization's address as it appears on the check. For contributions received by credit card then the address of the cardholder must be reported. If the contributor submitted their contribution by any other means, it is the responsibility of the treasurer to retain the address of the contributor for purposes of reporting. Post Office boxes are acceptable addresses in all instances.

Occupation of the Contributor (Individuals Only)

The occupation of the contributor must not state the title or position of the individual. The report should indicate the type of work of the individual is employed to do.

The following is a non-exhaustive list of acceptable occupations:

- Construction;
- Marketing;
- Financial Advisor;
- Entrepreneur;
- Student;
- Retired;
- Homemaker/Housewife.

Every person has an occupation even if that occupation is "retired" or "student." In no case should a committee report the individual's occupation as "not applicable."

Principal Type of Business (Contributions from Businesses)

The treasurer must enter the type of business for the organization making the contribution. For example, a committee that received a contribution from an electric utility would enter "Electric Utility."

Date Received

A contribution is considered "received" the date that it knowingly comes into the hands of an "agent" of the committee ("agent" is defined in Section 1.7). Contributions should never be reported as the date that the money is deposited unless the contribution was received on the same date that the contribution is deposited. Contributions should also not be reported as the date written on the check unless that is the same date that the check is received.

If a contribution is provided by credit card on a website, the date that the contribution is considered received is the date that the contributor submitted their contribution via the website. The treasurer should not report the contribution as being received on the date that the information is reported from the collecting entity to the committee. . Contributions received via services such as PayPal should be reported when the funds are released to the committee's account.

Section 3.5 – Soliciting Contributions

The Virginia Department of Elections strongly recommends that all committees make every effort possible to gather the required information at the time that a contribution is collected even if the contributor's donation is $100 or less. Although this information is not required for contributors who contribute less than $100, their aggregate contribution may exceed $100 in the future. If the information is obtained at the time of the first contribution, time and energy will be saved in the future.

Recording Contributor's Information

When keeping records of contributions, the treasurer should maintain, at a minimum, the following detailed information:

- Contributor's full name;
- Contributor's mailing address;
- Contributor's occupation, employer and location (city/town and state) of principal place of business if the contributor is an individual;
- Type of business and location (city/town and state) of the corporation or business if the contributor is a business or corporation;
- Type of committee and the location (city/town and state) of the committee if the contributor is a political committee;
- Date contribution received;
- Amount of the contribution; and
- Contributor's total contributions to date including "In-Kind" Contributions (see Chapter 4).

Solicitation Form

Certain efforts can be made to secure a contributor's required information. The Virginia Department of Elections recommends that each contribution be accompanied by a solicitation form and that the form be maintained with a copy of the contribution in the committee's records.

Each solicitation should include a request for the contributor's full name, complete mailing address, occupation, name of employer, and location of principal place of business. The following is an example of a solicitation form:

Name: _____

Occupation: _____

Employer: _____

Place of Employment: _____

Contribution Amount: _$_____

Are you a U.S. Citizen or Have a Valid Green Card: **Y** **N**

"Virginia law requires all candidate campaign committees to maintain a record of the name, mailing address, occupation information (including type of work, employer, and principal place of business) for each individual who contributes to our committee. Your information will not be reported if your cumulative contribution is $100 or less for this campaign."

Best Efforts Policy

Most committees, at one time or another, will receive unsolicited contributions which do not include the required information necessary to comply with the Act. In such instances, the committee must make every effort to contact the contributor in order to gather the required information. The Virginia Department of Elections considers a "best effort" made by the committee to include sending a written request to the contributor asking for the required information.

If the campaign finance report is due and after sending a written request, any of the required information of the contributor is still unknown, it shall temporarily suffice to report "Unable to Obtain" or "Information Requested" in the field missing the required information. The committee is also required to submit, along with the committee's report, a copy of the written request to the contributor asking for the required missing information. The Virginia Department of Elections does not consider a report complete if more than 20% of the total number of contributors or other required information is missing.

Section 3.6 – Other Contribution Policies

Joint Checks

It is unacceptable to enter two names on the committee's campaign finance report when referring to one contribution. There are cases where the committee will receive a check that has two names listed in the address field. In most cases, these are contributions written on checks from married couples who have a joint checking account.

In these cases, the treasurer must report the contribution as being received by the person who signed the check. This cannot be changed unless there is written authorization from both persons listed on the check. For example, both individuals should sign the check in order to split the contribution between both individuals listed on the check. Conversely, a solicitation form could be submitted which states that the contribution should be designated to the individual's listed on the solicitation form.

In no case should a committee's campaign finance report show a single contribution from more than one person.

Returned Checks

If a contributor's check is returned by the committee's depository for insufficient funds, or if the check is otherwise not accepted by the committee, then the Committee has the option to not record the contribution on its report if no report was due between the time the contribution was received and the time that the contribution was returned.

If the contribution was reported on a Campaign Finance Disclosure report and later returned by the depository for insufficient funds, then the committee has the option to amend the report by removing the contribution. This policy is to prevent potential public embarrassment from a contributor whose bank account was overdrawn.

Contributions by Credit Card

A contribution that is made by credit card may be made either in person, over the telephone or via the internet. If this method of payment is used, the entire amount charged to the contributor's account must be reported. Any service fees charged to a committee by the credit card processing agent must be reported separately on the report as an expenditure by the campaign or committee. Even if the company charges the campaign or committee a "per transaction fee," the fee per transaction shall not be used to reduce the amount of the contribution shown, but must be reported as an expenditure for the campaign or committee for the period being reported. "Per transaction" fees can be bundled into a single item on the Schedule of Expenditures.

Section 3.7 - Contributions from FEC PACs and Out-of-State Political Committees

Prior to accepting contributions of $10,000 or more in the aggregate in **any calendar year** from a political action committee registered with the Federal Election Commission or from an out-of-state political committee, the inaugural committee must request the Virginia Department of Elections supplied registration number from the committee and verify that number with the Virginia Department of Elections. This can be done by sending an email the Virginia Department of Elections at cfda@elections.virginia.gov or by using our on-line submission form at http://www.elections.virginia.gov.

Therefore, it is important that the treasurer verify the registration status of a political committee before the inaugural committee accepts a contribution from any political committee that aggregates to $10,000 or more in the calendar year.

Section 3.8 – Fundraisers

Many inaugural committees will wish to raise funds for their committee by organizing and hosting fundraisers. . There are several situations to be aware of when thinking about organizing fundraisers.

Contributions vs. Expenditures

Purchasing a ticket to a fundraiser is considered a contribution to the event.

A committee must report all expenditures related to the event. If other persons have paid for particulars of the fundraiser, then they must be reported as in-kind contributions. (See Chapter 4 for more information on in-kind contributions.)

In no case is it acceptable for the committee to defray the costs from the amount raised. The contributions received must be reported independently of the expenses of the event.

Joint Fundraisers

All contributors should make one check out for each committee participating in the fundraiser. At no time should a contribution be made to both committees on one check.

Common Fundraising Scenarios

The Act requires that all contributions collected by individuals for a committee is accompanied by certain identifying information. Anonymous contributions are illegal. As a result of this requirement, the Virginia Department of Elections has provided some examples of fundraising scenarios to avoid:

Pass the Hat

In a "pass the hat" scenario, the persons in the room may already be large contributors. Any additional monies contributed by those contributors would have to be itemized. In this fundraising scenario the contributor's required information is not being gathered since each contribution is anonymously placed in the "hat". It is also possible that someone could contribute more than $100. Anonymous contributions are illegal; therefore, "pass the hat" type fundraisers are also illegal.

Golf Tournaments

In most cases golf tournaments require a monetary contribution to the host committee to participate. Once at the tournament the competitors can purchase "mulligans" or other additional items. The money from these purchases is considered additional contributions to the host committee from the contributor and it is the responsibility of the committee to record the purchaser's required information. Conversely, the committee could sell "mulligans" and give the money to charity. In this case all contributions should be made out directly to the charity and the campaign should not deposit these funds.

Raffles

According to *Code of Virginia* § 18.2-340.15, political organizations in Virginia may not, under any circumstance, use raffles as a fundraising tool. The Virginia Department of Elections does not regulate this activity. Please see Department of Charitable Gaming's website for more information: http://www.dcg.virginia.gov/.

CHAPTER 4 – Schedule B: In-Kind Contributions

An in-kind contribution is the donation of goods, services, property or anything of value that is offered for free or at less than the usual and normal charge, or payments by a third party for goods or services. This type of contribution does not include a donation of cash, checks, or promissory notes. In-kind contributions must be itemized in the same manner as cash contributions (see Chapter 3 for more information).

Section 4.1 - Types of In-Kind Contributions

Some types of In-Kind Contributions can include, but are not limited to:

- Voluntary contributions of advertising materials;
- Voluntary contributions of use of an automobile;
- Voluntary contributions of free lodging;
- Voluntary contributions of catering for a fundraiser;
- Voluntary contributions of printing of literature;
- Voluntary contributions of office space and equipment;

Discounts may also be considered in-kind contributions. A discount is the difference between the usual and normal charge for goods or services and the amount charged to the recipient committee. Committees which are using coupons available to any other consumer should NOT report the discounted amount as an in-kind contribution.

Example 1

A business entity sells to a committee food or beverages that normally would cost $1000, at a discount of 20%. The $200 savings by the committee is considered an "In-Kind" Contribution from the business entity and this amount should be listed on Schedule B of the disclosure reporting forms. The remaining $800 would be reported on Schedule D as normal.

Although services provided to a committee can be considered an in-kind contribution, the uncompensated time volunteers spend working on a campaign – stuffing envelopes, knocking on doors, etc. is not considered an in-kind contribution.

Example 2

Mrs. Dee Designer, a professional web page developer, designs a web page for the Governor's Inaugural Committee free of charge. Since designing web pages is something Dee would normally charge $2,500 for doing she has made an in-kind contribution of $2,500 to the Governor's Inaugural Committee. This $2,500 counts toward Mrs. Designer's aggregate contributions to date to that committee.

Dee Designer still wants to do more to help the Governor's Inaugural Committee. She volunteers to answer telephones at the committee headquarters and to distribute flyers in the neighborhood. Since answering telephones and distributing flyers is not a service that Dee normally charges for, her activities are not considered an in-kind contribution to the committee.

Treasurers and In-Kind Contributions

A candidate's treasurer is considered a volunteer if the inaugural committee is not paying the treasurer for the services rendered. The Virginia Department of Elections considers an accountant volunteering time to the committee to assist in preparing campaign finance reports as a professional service. Therefore, the Virginia Department of Elections considers it proper to report the treasurer's time as an in-kind contribution if the person preparing the reports is offering the service at no charge or at a discounted rate.

Section 4.2 – In-Kind Contribution vs. Independent Expenditures

An independent expenditure is an expenditure which is intended to benefit a candidate (either by showing support for the candidate, or by showing displeasure with candidate's opponent(s)), but one which has not been coordinated with the candidate or the agent of the candidate's campaign committee. A candidate or an agent of their committee may have knowledge of an independent expenditure, but that does not necessarily mean that they have knowingly received an in-kind contribution.

To qualify as an in-kind contribution, the candidate or an agent of the candidate's campaign committee must have either expressly requested or suggested to the person or committee that the expenditure be made, or the candidate or an agent of the candidate campaign committee must have material involvement in devising the strategy, content, means of dissemination, or timing of the expenditure.

Section 4.3 – Reporting In-Kind Contributions

It is the responsibility of the recipient of the in-kind contribution to obtain the information necessary to report the contribution.

Date Received

In-kind contributions must be reported as being received on the same date that the good or service was received and **NOT** the date the committee is informed of the cost of the good or service.

For example, if XYZ-inaugural committee purchases an advertisement as an in-kind contribution to Candidate Doe, then the candidate's committee is required to report the in-kind contribution as being received on the date that the advertisement is first disseminated.

Service or Goods Received

As stated above, in-kind contributions can be professional services or material goods offered for free or less than the usual and normal charges or payments for materials through a third-party. The committee is required to indicate the type of service or the good received on their campaign finance report.

Basis Used to Determine Value

All In-Kind Contributions have an attached value whether they are a service or a good. Therefore, the committee is required to report what basis was used in order to determine the value for the service or goods received. The Virginia Department of Elections recognizes only two bases for determining an in-kind contribution's value:

Actual Cost:

This basis must be used when the actual cost of a good or service was determined to be the value of the in-kind contribution. This is typically used when determining the value for goods bought by a third-party or for professional services.

Fair Market Value:

This basis is used when an actual cost is not able to be determined.

Aggregate-to-Date

A contributor's cash contributions are aggregated with their in-kind contributions in cases where a contributor has given both directly and in-kind.

CHAPTER 5 – Schedule C: Refunds, Rebates and Interest

A committee may receive income from sources that are not direct or in-kind contributions. Typically, these are funds received by the committee which did not come from entities who support the committee's stated purpose. These types of income are known as miscellaneous receipts and must be reported on Schedule C of the disclosure report.

Section 5.1 - Types of Miscellaneous Receipts

Bank Interest

Treasurers are allowed to establish depositories that accrue interest. At the end of every month, the bank will report to the committee the amount of interest accrued on the statement. Bank interest is required to be reported on each committee's campaign finance report.

If the treasurer establishes a secondary depository for the purpose of earning interest, such as a money market account, it is required that all interest accrued from that account be reported on Schedule C as well.

Refunded Expenditures

There are situations when a committee issues a check and it is returned to the committee or it is not cashed. In these instances, the committee must report the expenditure (see Chapter 6) and report the income back into the committee on Schedule C.

Rebates

If a committee receives a rebate on previous expenditure it is to be reported on Schedule C. For example, if a committee purchases a computer and the manufacturer rebates the committee $100, the receipt of this income must be reported on Schedule C.

CHAPTER 6 – Schedule D: Expenditures

Section 6.1 - Reporting Expenditures

It is the treasurer's responsibility to ensure that all required information is retained at the time that the expenditure is made. The following is what is required to be reported on the committee's schedule of expenditures:

- **Full Name of Payee -** The report must contain the full name of the entity to which the expenditure was paid. For individuals, businesses and persons the full name is required. Entries containing acronyms for companies are not acceptable (unless the entity is more commonly recognized by its acronym [e.g. AARP].
- **Mailing Address of Payee -** The report must contain the full mailing address of the entity to which the expenditure was paid.
- **Item or Service -** The committee should make every effort to be as descriptive as possible when reporting the item or service that was provided for the expenditure. Vague or incomplete descriptions should be avoided.

- **Date Paid -** The report must list the expenditures in order by the date that the expenditure was made (earliest first). It is not acceptable to report the expenditure on the date that the expenditure cleared the bank account.

Section 6.2 - Other Types of Expenditures

Independent Expenditures

Every person, campaign and political committee who makes an independent expenditure in an aggregate amount of $1,000 for a statewide campaign or $200 or more for any other election within a calendar year must file an *Independent Expenditure Form* within 24 hours of making the expenditure or within 24 hours after the expenditure is disseminated, whichever is first.

Any independent expenditure made by committee must also be reported on Schedule D of the committee's next campaign finance report.

Credit Card Expenditures

The Act requires that a committee itemize all credit card expenditures on the campaign finance report. It is not acceptable to report a single expenditure to the credit card company. Each individual item must be reported on the date that the expenditure was made.

The committee should not report the payee as being the credit card company. The payee should be listed as the entity which initially received the funds through use of the credit card. For example, if the treasurer of the committee uses a credit card to purchase a hotel stay, the report should list the name of the hotel as the payee and **NOT** the treasurer or the credit card company.

Reimbursements

The treasurer may only reimburse authorized members of the committee's staff with a check from the committee's primary depository if the staff member has used their personal funds for an expense made on

behalf of the committee. It is the treasurer's responsibility to ensure that proper records for reimbursements are kept.

A reimbursement should not occur if the staff member does not provide the treasurer with a complete record of the expenditure including receipts which identify the nature of the expense and the names and addresses of each entity paid by the staff member who is being reimbursed.

To report a reimbursement, the person being reimbursed is listed as the payee. Under the item or service field report what the reimbursement was for. For example, on October 1st Joe Staffer uses his personal credit card to purchase office supplies from "Office Warehouse." On October 9th, Mr. Staffer requests a reimbursement from the treasurer for $50 providing a receipt for the expenses. On October 12th, the treasurer writes a check for $50 to Mr. Staffer. In this case, the treasurer would report an expenditure paid on October 1st of $50 to "Office Warehouse" and not a $50 expenditure to Mr. Staffer.

In the case of reimbursements to a single person which accounts for multiple expenditures of the same nature by said person, it is proper to report the single expenditure made by the committee. For example, if Joe Staffer pays for parking for the month of June at $6 per day for 20 days, it is proper for the committee to reimburse Joe Staffer $120 and report the payee as "Joe Staffer" with the item or service indicated as "Parking for the Month of June."

Entering "reimbursement" in the item or service column is not considered proper disclosure. Reimbursements for mileage should be valued at the current state rate. The state rate can be found on Virginia's Department of Accounts' website: http://www.doa.virginia.gov.

Petty Cash Fund

A treasurer may establish a petty cash fund up to $200. These monies are inclusive of the committee's total expendable funds. The fund should be used for the purpose of making expenditures or reimbursing credit card expenditures of less than$200. Receipts must be kept and the expenditure made for reimbursement must be reported on the date the expenditure was made and not the date that the reimbursement was made. The treasurer may replenish the petty cash fund as needed, provided that the total balance of the fund never exceeds $200.

CHAPTER 7 – Schedule E: Loans

Section 7.1 – Types of Loans

Loans are funds advanced to a committee that must be repaid sometime in the future. Loans must be recorded on Schedule E on the campaign finance report.

Section 7.2 - Reporting Loan Receipts and Repayments

Loans received and loan repaid are reported on Schedule E only.

When reporting loan payments list the:

- Date the loan was made;
- Name and address of the person making the loan and any co-borrower, guarantor, or endorser of the loan;
- Amount of the loan; and
- Date and amount of any repayment of the loan.

Schedule E – Part I (Income)

Part I of the form requires the disclosure of loans received (income).

Unpaid loans are reported on Schedule F (see Chapter 8) as an unpaid debt until the loan is fully repaid or forgiven.

Schedule E - Part II (Repayment)

Part II of the form requires the disclosure of loans repaid.

Requires the disclosure of loans repaid (expenditure). An expenditure for a loan repayment should never be reported on Schedule D.

Section 7.3 - Forgiving Loans

If there is an outstanding loan to the committee, the contributor has the option of forgiving the loan and converting it into a contribution. The campaign finance report must show the conversion of the loan to a contribution by listing the outstanding amount on Schedule A as a cash contribution and on Schedule E as a loan repayment.

CHAPTER 8 – Schedule F: Debts Remaining Unpaid

Section 8.1 Types of Reportable Debts

Any obligation for payment for a good, a service or a loan should be listed on Schedule F until the obligation is paid in full.

Virginia's campaign finance system operates on a cash-basis reporting system. Therefore, it is not necessary to report debts for outstanding bills from utility companies, etc.

Loans

As soon as a committee receives a loan, the campaign finance report must report the amount of the loan remaining unpaid on Schedule F.

Section 8.2 - Reporting Outstanding Debts

It is required that the committee enters the full name and mailing address of the creditor as well as the date that the debt was incurred and the remaining balance of the debt. The committee must continue reporting any debt on Schedule F on each subsequent report until the debt is fully repaid.

Purpose of Obligation

The committee should make every effort to be as descriptive as possible when reporting the purpose of the debt's obligation. Vague or incomplete descriptions must be avoided.

CHAPTER 9: Schedules G and H: Summary Pages

Schedule G is a statement of the information on contributions, receipts, expenditures, and loan transactions for the reporting period.

Schedule H contains a summary of the total of contributions, receipts, expenditures of the current election cycle (current reporting year for committees).

Schedules G and H are used to summarize the data contained in the campaign finance report. Be sure to follow the instructions on each form to accurately complete the schedules.

Negative Balances and Outstanding Debts and Loans

The Virginia Department of Elections will not accept a report which shows a negative balance. Negative balances do not occur with correct reporting. A negative balance is usually due to a failure to report all income, all expenditures or to report or properly disclose in-kind contributions.

CHAPTER 10 – Schedule I: Disbursement of Excess Funds

Section 10.1 - Filing a Final Report

An inaugural committee must file a Final Report when the committee disbands. The committee must file a Final Report in order to discontinue filing campaign finance reports for a committee. All committees (paper and electronic filers) are required to fill out the Final Report cover sheet and sign the termination statement stating that their bank account balance is zero.

Negative Balances and Outstanding Debts and Loans

The Virginia Department of Elections will not accept a Final Report if the report shows a negative balance. In this case, the committee must first amend the appropriate reports and resolve the problem before the Final Report will be accepted.

If there is an outstanding debt owed by the committee, the loaner has the option of forgiving the loan and converting it into a contribution. The campaign finance report must show the conversion of the loan to a contribution by listing the outstanding amount on Schedule A as a cash contribution and on Schedule E as a loan repayment.

Outstanding debts must be repaid prior to filing a final report.

Section 10.2 – How to Dispose of Surplus Funds

Surplus funds must be properly disposed of by one or any combination of the following methods:

- returning the excess to a contributor in an amount not to exceed the contributor's original contribution; or
- Making one or more charitable contributions to any organization described in § 170(c) of the Internal Revenue Code.
- It is unlawful for any person to convert any contributed moneys, securities, or like intangible personal property to his personal use or to the use of a member of the candidate's "immediate family" as that term is defined in § 30-101.

Disposition of Tangible Items of Value

Gifts of goods to the committee must also be disbursed. The disposition of this type of contribution may be carried out as follows:

- The tangible item may be sold to any buyer for fair market value. The proceeds of sale must be reported as a rebate on Schedule C and used to pay off the debts of the committee or as part of a surplus distribution.
- The items may be distributed as non-cash surplus to any eligible recipient described above.
- If any item is leased, the committee should simply return the item and discontinue the leasing agreement. If any item is loaned to the committee, it should discontinue use and return the item.

CHAPTER 11 – Special Reports

Section 11.1 – Types of Special Reports

Inaugural committees will sometimes be required to file other reports in addition to the required regular campaign finance reports. These are called "special reports."

Section 11.2 – Large Dollar Contribution Reports

A large dollar contribution report is required at any time that the committee receives a single direct contribution, in-kind contribution or loan of $10,000 or more from a single source. Contributions or loans from the committee's affiliated organization are exempt from this special report.

When to File Large Dollar Contribution Reports

A large dollar contribution report is due within three business days of the actual receipt of the contribution or loan.

Where to File Large Dollar Contribution Reports

Large contributions must be filed using COMET or an approved vendor.

Section 11.3 - Independent Expenditure Reports

An Independent Expenditure report is required **within 24 hours** if the committee makes independent expenditures in excess of $1,000 or more to a candidate for statewide office or in excess of $200 or more to any other candidate in the aggregate during an election cycle.

Reporting Independent Expenditures

The Independent Expenditure reporting form requires the filer to have the following information:

- Listing of the candidate(s) supported or opposed, including the office sought;
- Identifying the independent expenditures made, the payee, the amount and a description of the expenditure.

Any independent expenditure filed by the committee must also be reported on the committee's next required regular campaign finance report.

Where to File Independent Expenditure Reports

The Independent Expenditure report is to be filed **within 24 hours** with the Virginia Department of Elections if the candidate(s) supported or opposed is a candidate for statewide office or the General Assembly.

If the candidate supported or opposed is a candidate for local or constitutional office then the Independent Expenditure report must be filed with the local electoral board of that county or city.

In cases where multiple candidates are supported or opposed in multiple localities, one report must be filed in each candidate's locality which is supported or opposed.

Independent Expenditure Reports must be filed on paper and can be faxed to the appropriate office to meet the deadline with an original copy sent and postmarked within **24 hours** after the funds are expended.

When to File Independent Expenditure Reports

Independent Expenditure reports are due within **24 hours** after the committee has made the expenditure or when the advertisement supporting or opposing the clearly identified candidate is disseminated, whichever is first.

CHAPTER 12 – Where and When to File Campaign Finance Reports

Section 12.1 - Filing Periods

Inaugural Committees are required to file the following reports in each calendar year:

Activity Beginning	Activity Ending	Report Due
Committee's Inception	Prior to March 1	**March 15**
March 1	June 30	**July 15**
July 1	December 31	**January 15**
Annually Thereafter Until a Final Report is Filed		

Section 12.2 - Where and When to File Reports

Inaugural Committees are required to file all reports with the Virginia Department of Elections.

When a report's due date falls on a weekend or holiday then the report is due the first business day following the report due date.

- Reports that are filed with the Virginia Department of Elections must be mailed and postmarked by the deadline for filing the report.
- Reports that are electronically filed with the Virginia Department of Elections must file their electronic reports no later than midnight on the report's due date.

Section 12.3 - Extension of the Filing Deadline

The *Code of Virginia* authorizes the Virginia Department of Elections or the local electoral boards to grant an extension of a filing deadline in certain situations. The Virginia Department of Elections or the local electoral boards will not impose civil penalties if an appropriate written request is received by the report's due date describing any of the following situations:

- Death of treasurer or immediate family of either within 72 hours of report due date;
- Personal Computer (PC) failure that prevents timely filing, if accompanied by documented statement from a computer company licensed to do business in Virginia;
- Fire or natural disaster within 72 hours of the report due date, resulting in destruction of equipment or documents required for completing the report.

The following excuses are not sufficient and will not be considered for granting an extension of the filing deadline. They include, but are not limited to:

- Inclement weather;
- Treasurer or custodian of the books transition that may result in a "paper shuffle;"
- Committee's lack of knowledge of how to file, the need to file or due date of filing; or

- Committee's failure to have copies of necessary forms.

The Secretary of the Virginia Department of Elections has additional authority to extend an established filing deadline for filing during emergency situations that interfere with the timely filing of reports. The extension shall be limited in scope to the areas and times affected by the emergency. The emergency extensions can only be granted in the case of an emergency declared by the Governor pursuant to Chapter 3.2 (§ 44-146.13 et seq.) of Title 44 or declared by the President of the United States and confirmed by the Governor by executive order as an emergency.

Section 12.4 - No Activity Reports

All committees are required to file a report on the required deadlines even if there is no financial activity, except for bank interest or bank fees, for the committee during the reporting period. In such cases, the committee can simply file a cover sheet and filling out the "No Activity" box on the form indicating that there has been no financial activity, other than Bank Interest or Fees. The filer must promise to report all interest and fees on the next required report in which the committee has financial activity.

Committees who file electronically can simply create the electronic report being sure to indicate in the required area that there is no activity for the reporting period.

Section 12.5 - Other Reporting Policies

- It is the responsibility of the filer to ensure that they receive documentation that the statement or report has been received by the Virginia Department of Elections. All receipts should be maintained with the committee's records.

- E-filers will be provided an automatic receipt at the time that they submit their report. No e-filing committee should consider the Virginia Department of Elections as having received the report until such time as they have been provided a receipt.

- No report can be filed before the date through which activity is required to be complete.

- No report can include activity before or after the reporting period for the report.

- The first report filed must include all activity for the entire period from the time the committee met any of the requirements for establishing the committee.

- Any form required to be filed must be signed and certified as true and correct by the treasurer or custodian of the books required to file it.

- In order to close a committee, a Final Report must be filed for that committee or they will be required to file all required reports for that election cycle.

CHAPTER 13 – Campaign Finance Reporting Penalties

Section 13.1 – General Provisions

Any person who violates, or aids, abets, or participates in the violation of the Act shall be subject to a civil penalty not to exceed $100.

For purposes of establishing penalties, the *Code of Virginia* creates three categories of violations (i) the failure to file reports (§24.2-953.1); (ii) the late filing of reports (§24.2-953.2); and (iii) incomplete reports (§24.2-953.3). In addition, a special category exists to provide for additional civil penalties that relate only to statewide campaigns (§24.2-953.4). As to each category, the Code provides for a specific range of civil penalties and, where appropriate, the type of notice that must be provided before a penalty may be imposed.

The sections relating to the failure to file reports (§24.2-953.1) and the late filing of reports (§24.2-953.2), do not require that notice be provided before the imposition of penalties. Thus, if the statutory filing deadline is missed, the penalty is automatically triggered.

The procedure to be filed for the assessment of penalties relating to incomplete reports is governed by §24.2-953.3. It provides, in part: "Prior to assessing a penalty …for the filing of an incomplete report, the of the Board, or the general registrar or secretary of the local electoral board, as appropriate, shall notify, by certified mail, the candidate and treasurer, or person or political committee required to file a report…No penalty shall be assessed if the information required to complete the report is filed within 10 days of the date of mailing the written notice."

In a similar fashion, §24.2-953.4, which provides for additional penalties relating to statewide races, also explicitly requires that a prior notice must be given before a penalty may be imposed. It provides, in relevant part: "Prior to assessing a penalty pursuant to this section the Secretary shall notify…the candidate and treasurer in writing that a report has not been filed or that a filed report has not been completed…No penalty shall be assessed pursuant to this section if the report or information required to complete the report is filed within seven days of the date of mailing the written notice."

It will be noted that the above analysis does not address the terms of §24.2-953, which does contain a 60 day notice provision. Said provision does not relate to the imposition of civil penalties. Instead, it relates solely to the steps that might be followed if the Virginia Department of Elections seeks to create a rebuttable presumption of willfulness as to the violation of campaign finance laws. The potential of a rebuttable presumption is only triggered, however, after actual receipt of the mailing and only after the passage of 60 days, a time period much greater than that necessary to impose a penalty under §24.2-953.3 (10 days) and §24.2-953.4 (7 days).

The Virginia Department of Elections has formally adopted the following schedules for the assessments of civil penalties. To ensure uniformity throughout the state, this schedule must be followed when the filing officer is assessing civil penalties.

"Official Notification**,"** or any variation of this phrase, as stated within this chapter refers to the letter sent via United States Postal Service Certified Mail to the committee's primary mailing address as reported on the committee's most recently filed Statement of Organization. The date of "official notification" is either the date that the letter is received and signed for or the date on which the USPS returned the mail to the Virginia Department of Elections or the local electoral board. The notification is considered made even if the notification is not signed for, or was undeliverable, so long as the notification was sent to the committee's primary mailing address.

Section 13.2 - Procedure to Collect Penalties for Campaign Finance Reports

Late Report = $100 civil penalty automatically imposed after the conclusion of the report's filing deadline. The Virginia Department of Elections or the local electoral board will notify the committee of civil penalty and collection procedures via email or regular postal mail. If the payment is not received within 60 days of the deadline, the matter is referred to the appropriate Attorney for the Commonwealth for collection.

Failure to File Report = if no report is filed within 60 days of the due date, the Virginia Department of Elections or the local electoral board will notify the committee via certified mail. The penalty will increase to $500 and the committee will be provided an additional 60 days to submit the report. If, after 60 days has passed, the committee has not filed the report, then the matter is sent to the appropriate Attorney for the Commonwealth for collection and determination as to whether the violation is willful. The penalty notification will increase from $500 to $1000 if second or subsequent violations.

If delivery of the certified letter to the committee's primary mailing address is returned undeliverable or the recipient refused to sign, then the matter shall immediately be referred to the appropriate Attorney for the Commonwealth.

The local electoral board of a county or city will notify the Commonwealth's Attorney for the county or city in which the electoral board has jurisdiction.

For candidates for the General Assembly, the Virginia Department of Elections will notify the Commonwealth's Attorney of the county or city of the residence of the candidate in violation. For candidates for statewide office, the Virginia Department of Elections will notify the Commonwealth's Attorney for the City of Richmond.

Candidates for the General Assembly or statewide office must make their checks payable to "Treasurer of Virginia" for deposit to the General Fund. Candidates for local office must make their checks payable to the treasurer of their locality for deposit to their General Fund.

Section 13.3 – Penalty Schedule for Campaign Finance Reports

Best Efforts Policy

Once reports are received, the Virginia Department of Elections and the local electoral boards are required to review the reports and provide requests for additional information to the committee within 21 days of the deadline. The committee's failure to file an amended report or late filing of an amended report will be assessed civil penalties.

In conducting its review, the Virginia Department of Elections and the local electoral board are required to check the following information:

- that the report is legible;
- the information is descriptive and complete, that there is no missing information in required fields or descriptions such as "N/A", "none", "unknown" etc. In fields where "requested" or "unable to obtain" is entered, verify that copies of letters to the contributors requesting this information have been filed;
- that the beginning balance of the current report (Schedule H, Line 16) equals the ending balance of the previous period's report (Schedule H, Line 19);
- that Line 19 and Line 29 on Schedule H match;
- contributions are reported in alphabetical order on Schedule A and Schedule B as required by § 24.2-947.4;

- that expenditures are reported in chronological order (earliest first) on Schedule D; and
- expenditure descriptions are relevant.

If any required information is not included or the report is not completed properly, the report is deemed incomplete. However, the Virginia Department of Elections has determined that some missing information does not necessarily mean that a report should be considered incomplete. The Virginia Department of Elections has adopted this "Best Efforts" policy in order to comply with the requirements of § 24.2-953.3.

Therefore, Campaign Finance reports are not considered incomplete if:

- Less than 20% of contributors are missing required information on Schedule or Schedule B; or less than 20% of any other itemized information does not include the required information.

  *For example, if there are 100 itemized contributors on Schedule A, then no more than 20 of those contributors can have missing information.

AND

- Letters requesting the required information from those contributors are filed with the report.

If these conditions are not met, then the report is considered incomplete and a letter requesting an amended report will be mailed to the committee. Failure to amend the report within 10 days of the date of the letter will result in a $100 civil penalty being assessed to the committee.

If the requested amended report is not filed within 120 days of the specified deadline, then the violation is presumed willful and the matter will be forwarded to the appropriate Attorney for the Commonwealth.

Section 13.4 – Penalties for Accepting Contributions from Unregistered Out-of-State Political Committees or Federal Political Action Committees

It is unlawful for any committee registered in Virginia to accept contributions of more than $10,000, in the aggregate during a calendar year, from an out-of-state political committee or federal political action committee that is not registered with the Virginia Department of Elections.

Accepting any contribution of $10,000 or more, in the aggregate during a calendar year, without first verifying the committee's Virginia Department of Elections registration status will result in a penalty equal to the amount of the contribution received.

The Virginia Department of Elections will assess the penalty at the time that it becomes aware of the violation. If the penalty is not paid within five days after official notification of the penalty then the Virginia Department of Elections will send the matter to the Commonwealth's Attorney for the city of Richmond to enforce its collection.

Section 13.5 – Willful Violations

A willful violation occurs when the Virginia Department of Elections or an investigation by an Attorney for the Commonwealth or the Attorney General's office determines that the person or committee intentionally attempted to subvert the provisions of the Act.

In the case of willful violation, a committee will be guilty of a Class 1 misdemeanor and the Attorney for the Commonwealth will initiate civil proceedings to enforce any civil penalties prescribed. There will be a rebuttable presumption that the violation of the Act was willful if the violation is based on a committee's

failure to file a report required and its failure to file continues for more than 60 days following the official notification by the Virginia Department of Elections or local electoral board.

CHAPTER 14 – Political Advertisement Disclaimers

Section 14.1 - When Disclaimer Statements are Required

A disclaimer statement is required for all political advertisements which use express advocacy to support the inauguration of a candidate or group of candidates.

A Disclosure Statement is NOT required on novelty items such as:

- **Pens**
- **Pencils**
- **Magnets**
- **Buttons to be attached to wearing apparel**

*A Disclaimer Statement IS Required on:**

- **Billboards**
- **Yard signs**
- **Bumper Stickers**
- **Cards or Business Cards**
- **Sample Ballots**
- **Newspaper ads**
- **Newspaper inserts**
- **Magazines**
- **Advertisement disseminated through the mail**
- **Pamphlets**
- **Fliers**
- **Periodicals**
- **Websites**
- **Electronic mail (E-mail)**
- **Outdoor advertising facilities**
- **Barns, baseball stadium, buses, etc.**
- **Television advertisements**
- **Radio advertisements**

*No disclosure is required for individuals who incur only referendum expenses or whose aggregate expenditures for or against a candidate, in an election cycle, do not exceed $200 for a non-statewide candidate, or $1,000 for a statewide candidate.

Section 14.2 - Requirements for Publications

It is unlawful for any of the entities listed below, to accept or receive or agree to accept or receive any money or other valuable consideration for supporting or advocating the inauguration of any candidate:

- Owner;
- Clerk;
- Proprietor;
- Agent;
- Officer;
- Editor;
- Reporter;
- Manager; or
- Employee of any newspaper, magazine, or periodical printed or published in Virginia.

This section does not prevent any person, firm or corporation that is engaged in the publication of any newspaper, magazine or periodical from receiving from any person compensation for printing and publishing any matter or article that advocates the election or defeat of any candidate, as long as the statement **"**PAID ADVERTISEMENT**,"** appears in plain type in boldface Roman capitals in a conspicuous place at the beginning of the matter or article; and the matter or article otherwise complies with the provisions of §24.2-955.2 of the Code of Virginia.

The person accepting a "PAID ADVERTISEMENT" for the newspaper, magazine or periodical shall be required and for one year retain a copy of, proof of the identity (government issued identification) of the person who submits the advertisement for publication when the authorization statement on the advertisement is made by any person other than the:

- **Candidate;**
- **Candidate's Campaign Committee;**
- **Political Party Committee; or**
- **Political Action Committee (PAC) registered with the Virginia Department of Elections.**

This proof of identity must be submitted either:

- In person and include a valid VA driver's license, or any other identification card issued by a government agency of the Commonwealth, one of its political subdivisions, or the United States; or

- If other than in person, the person submitting the advertisement must provide a telephone number and the person accepting the advertisement may phone the person to verify the validity of the person's identifying information before publishing the advertisement.

- § 24.2-955.2 (B) states that a candidate who is clearly identified in a "Paid Advertisement" is entitled to obtain the identity of the person who submitted the advertisement from the newspaper, magazine, or periodical that published in the advertisement.

Section 14.3 - Print Media Disclaimer Requirements for Inaugural Committees

Advertisements with multiple folds, faces or pages must include the disclosure on at least one fold, face or page.

Print media advertisements appearing in an electronic format must be displayed in at least seven (7) point font. However, if the advertisement lacks sufficient space for a disclosure statement of at least the minimum seven (7) point font, then the advertisement will meet the disclosure requirements if, by clicking on the advertisement, the viewer is taken to a landing page or a home page that displays the required disclosure statement in a conspicuous manner.

Committees will be considered to have complied with the law if the disclosure legend or statement conveys the required information.

"Paid for by…" Statement

Every political advertisement sponsored by an inaugural committee that appears in print media must state who paid for the advertisement. The committee can replace the "Paid for by…" statement with "Authorized by…". In an advertisement supporting or opposing the nomination or election of one or more clearly identified candidates, the sponsor must state whether it is authorized by a candidate. The advertisement shall state either "Authorized by [Name of candidate]," "candidate for [Name of office]" or "Not authorized by a candidate." .

In the case of a print media advertisement that has more than one sponsor, the disclosure statement must name all of the sponsors.

Section 14.4 - Television Disclaimer Requirements for Inaugural Committees

Political advertisements that appear on television must also comply with the Communications Act of 1934, 47 U.S.C. §§ 315 and 317 as well as the applicable laws in the § 24.2-957.2 in the Code of Virginia.

If the sponsor of the advertisement does not have control over the audio then the disclaimer requirements must be the same as for print media. In the case of a television advertisement that has one or more sponsors, the disclaimer statement must name all of the sponsors and the sponsors can choose a qualified speaker to make the disclaimer statement.

"Paid for by…" Visual Statement

Every political advertisement sponsored by an inaugural committee that appears on television must visually state who paid for the advertisement. The statement must include the name of the inaugural committee as it appears on the committee's most recently filed Statement of Organization. The statement must be conspicuous and must be 20 scan lines in size and appear on the screen for at least 4 seconds.

Spoken Disclosure Statement

A television advertisement supporting or opposing the nomination or election of one or more clearly identified candidates shall include a disclosure statement, spoken by the chief executive officer or treasurer of the political committee, containing at least the following words: "The [Name of political committee] sponsored this ad." The advertisement shall include in the disclosure statement an unobscured, full-screen picture containing the disclosing individual, either in photographic form or through the actual appearance of the disclosing individual on camera. The disclosure statement may be placed at any point during the advertisement. However, if the advertisement is more than five minutes, the statement must be made both at the beginning and the end of the advertisement.

In the case of a television advertisement that has one or more sponsors, the disclosure statement must name all of the sponsors.

Section 14.5 - Radio Disclaimer Requirements for Inaugural Committees

Political advertisements that appear on radio must also comply with the Communications Act of 1934, 47 U.S.C. §§ 315 and 317 as well as the applicable laws in the § 24.2-958.2in the *Code of Virginia*. A radio advertisement supporting or opposing the nomination or election of one or more clearly identified candidates shall include a disclosure statement spoken by the chief executive officer or treasurer of the committee. The disclosure statement must contain at least the following words: "This ad was paid for (or 'sponsored by' or 'furnished by') [Name of inaugural committee.]." The statement must last at least two seconds and spoken so that its contents may be easily understood.

In the case of a radio advertisement that has one or more sponsors, the disclaimer statement must name all of the sponsors and the disclosing individual must be one of those sponsors.

Section 14.6 – Campaign Telephone Call Requirements

Campaign telephone calls are a series of telephone calls, electronic or otherwise, made to twenty-five or more telephone numbers in the Commonwealth during the 180 days before a general or special election or during the ninety days before a primary, conveying or soliciting information relating to any candidate or political party participating in the election or primary, and under an agreement to compensate the telephone callers. A violation of these disclaimer requirements will not void any election.

It is unlawful for any person, or political campaign making telephone calls to intentionally modify the caller identification information for the purpose of misleading the recipient as to the identity of the caller.

It is unlawful for any inaugural committee to make campaign telephone calls or to contract with persons making telephone calls without disclosing, before the conclusion of each telephone call, information to identify the inaugural committee who has authorized and is paying for the calls unless such call is terminated prematurely by means beyond the maker's control. The person making the campaign telephone calls must disclose the following information prior to the conclusion of the call:

- The full name of the inaugural committee (as is written on the committee's most recently filed Statement of Organization) paying for the call; and
- The Virginia Department of Elections Committee Registration Number of the inaugural committee.

Chapter 15 – Political Advertisement Penalties

Section 15.1 - Procedure for Reporting Violations

The person alleging any violation to print media, radio or television advertisements should contact the Virginia Department of Elections. Once the complaint is received, the Virginia Department of Elections has the authority to determine if a violation has occurred and assess the appropriate penalty or, if it appears that the violation is willful, they can forward the matter to the appropriate Attorney for the Commonwealth who has the authority to investigate the matter further.

Section 15.2 - Penalties for Inaugural Committees

The following penalties will apply only to inaugural committees which sponsor political advertisements.

Print Media

Violators shall be assessed a penalty as follows:

- $50 for a first time violation with explanation, apology and/or remedial measures taken
- $100 for a first time violation without explanation, apology and/or remedial measures taken
- $250 for any second violation
- $500 for any third violation
- $1000 for any fourth or subsequent violation

If the advertisement is disseminated or on display in the 14 days prior to or on the Election Day for which the advertisement pertains, the above penalties will be doubled and the maximum penalty would be $2,500.

Television

The penalty for violating required television disclosures will be $2,500 per occurrence unless the advertisement is disseminated or on display in the 14 days prior to or on the Election Day for which the advertisement pertains. In this case, the penalty will be $10,000 per occurrence.

Radio

The penalty for violating required radio disclosures will be $2,500 per occurrence unless the advertisement is disseminated or on display in the 14 days prior to or on the Election Day for which the advertisement pertains. In this case, the penalty will be $10,000 per occurrence.

Campaign Telephone Calls

The penalty for violating required campaign telephone call disclaimers will be $2,500.