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## 21.1 General Information

Chapter 9.3 of Title 24.2 of the *Code of Virginia* comprises the *Campaign Finance Disclosure Act of 2006* (CFDA). With the exceptions noted in section 21.1.1 below, the CFDA applies to all elections for state and local public office in the Commonwealth and to nominations of political party candidates for those offices, whether by primary, nominating conventions, mass meetings, or other nominating methods.<sup>1</sup>

Virginia regulates campaign finance activity entirely through disclosure and imposes no contribution limits.<sup>2</sup> The general registrar is required by CFDA to perform certain duties relating to the filing of campaign finance reports, assessing civil penalties, and referring matters to the Commonwealth's attorney. Neglect of official duties is punishable as a Class 1 misdemeanor.<sup>3</sup> When the Department of Elections determines the public interest will be served, it can request the Attorney General or other Governor-designated counsel to participate.<sup>4</sup> The statute of limitations for campaign finance violations is the earlier of one year following discovery or three years after the violation.<sup>5</sup>

Chapter 9.5 of Title 24.2 the *Code of Virginia*, which sets forth disclaimer requirements for campaign advertisements and telephone calls, is also discussed herein.<sup>6</sup>

### 21.1.1 Scope of Virginia Campaign Finance Law

Candidates for the following offices are exempt from the provisions of CFDA:<sup>7</sup>

- Member of the U.S. Congress
- President and Vice President of the United States
- Soil and Water Conservation District Director
- Any town office in a town with a population less than 25,000 (unless local ordinance provides otherwise)
- Political party committee officer

All other candidates in the Commonwealth are subject to the provisions of Chapters 9.3 and 9.5 of Title 24.2. For these purposes "candidate" includes any person who raises or spends funds in order to seek or campaign for an office of the Commonwealth, or one of its governmental units,

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<sup>1</sup> Va Code [§ 24.2-945](#).

<sup>2</sup> Federal law does impose one important prohibition applicable in state and local elections on contributions from foreign nationals. 8 USC § 441e. This prohibition is enforced by [United States Attorneys](#) to whom any questions about compliance should be directed.

<sup>3</sup> Va Code [§ 24.2-1001](#).

<sup>4</sup> Va Code [§ 24.2-104](#).

<sup>5</sup> Va Code [§ 19.2-8](#) and [§ 24.2-953](#).

<sup>6</sup> Va Code [§ 24.2-955 et seq.](#)

<sup>7</sup> Va Code [§ 24.2-945](#).

in a party nomination process or general, primary, or special election.<sup>8</sup> Such persons are considered candidates until a final report is filed.<sup>9</sup> Write-in candidates are included in this definition and are, therefore, also subject to the reporting requirements under CFDA and campaign advertising laws.

## **21.1.2 Allocation of Responsibilities**

Candidates for General Assembly and local or constitutional offices can choose to file their campaign finance reports on paper or electronically. The Virginia Department of Elections (“ELECT”) is responsible for maintaining a centralized database to receive campaign finance reports and other required filings that are filed electronically. If a candidate chooses to file on paper, then the locality is wholly responsible for the information set forth in this chapter. If the candidate chooses to file electronically, then there are shared responsibilities between ELECT and the local office.

In the case of a candidate for the General Assembly, if the candidate files on paper, the office of the general registrar in the locality of the candidate’s residence will receive copies of the signed statement of organization and subsequent reports. If the candidate files electronically, the local office of the candidate’s residence will only receive a signed copy of the statement of organization. Subsequent reports will be submitted to and kept with ELECT.

If a candidate for local or constitutional office files electronically, the candidate will file reports on-line using ELECT’s online filing application. Once filed, ELECT sends a copy of the report to the locality of the candidate’s residence. Even when candidates for local or constitutional office file electronically with ELECT, localities remain responsible for maintaining these reports as well as assessing any appropriate civil penalties.

The office with which reports are required to be filed must preserve the records for public inspection and copying for a period of one year after final report or through the next pertinent general election, whichever is later.<sup>10</sup> Copies of paper and e-filed reports must be made available at a reasonable cost to any person requesting.

## **21.1.3 COMET**

The Virginia Department of Elections has developed an electronic campaign finance report creation and filing application known as COMET (COMmittee Electronic Tracking) that enables candidates to report their finances and to electronically file (e-file) required disclosure reports. There is no cost for using COMET and all support for this application is provided by ELECT. Additionally COMET reminds candidates of upcoming reports and prevents them from submitting incomplete reports, thus helping to prevent candidates from incurring penalties.

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<sup>8</sup> Va Code [§ 24.2-101](#).

<sup>9</sup> Va Code [§ 24.2-101](#). See also [§ 24.2-948.4](#).

<sup>10</sup> Va Code [§ 24.2-946.2](#).

General Registrars should encourage candidates to take advantage of COMET by opting to file electronically on their statement of organization. Registrars can direct candidates to ELECT's *COMET Quick User Guide* to help them get started with online filing.<sup>11</sup>

#### **21.1.4 Election Cycles**

The candidate's election cycle is determined by the office for which the candidate decides to run. It begins on January 1 of the year the candidate first seeks election to that office through December 31 immediately following the election for such office.<sup>12</sup> For a candidate who seeks election in successive elections for the same office, the next election cycle shall begin on January 1 immediately following each election for that office and continue through December 31 immediately following the next successive election for the same office.

For administrative purposes, a candidate who files a statement of organization is presumed to be a candidate in all subsequent elections until the filing of a final report. The candidate is responsible for timely filing all required reports in the intervening period, regardless as to whether the candidate is actively seeking office. Candidates can close their committee registration at any time by filing a final report (Section 21.2.6 below).

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<sup>11</sup> [COMET Quick User Guide](#).

<sup>12</sup> Va Code [§ 24.2-947](#).

## 21.2 Campaign Finance Filings

Below is a list of the types of filings, information about those filings, and procedures for processing them. They are listed in the approximate order of their filing, with statements of organization first and final reports last. While most of these filings will be made online through COMET, registrars should be familiar with each of these types of filings and the forms on which they are filed.

### 21.2.1 Statements of Organization

The statement of organization<sup>13</sup> is the first document that candidates must file. It establishes the candidate's campaign committee, to which all future filings and communications are linked.

#### 21.2.1.1 When a Candidate Must File a Statement of Organization

All individuals within the scope of Virginia campaign finance law (21.1.1 above) are required to file a statement of organization within 10 calendar days of meeting any one of the following conditions:<sup>14</sup>

- Acceptance of a contribution of any amount
- Expenditure of any funds (including personal funds for the purpose of the campaign)
- The payment of a filing fee for any party nomination method
- The filing of a candidate statement of qualification (Form SBE-501)
- The appointment of a campaign treasurer, designation of campaign committee, or designation of a campaign depository (bank account)

The statement of organization creates a candidate campaign committee. This is a committee designated by a candidate to receive all contributions and make all expenditures for him or on his behalf in connection with his nomination or election for a particular office.<sup>15</sup>

#### 21.2.1.2 Amending the Statement of Organization

The committee has 10 days from the date of any change to their current Statement of Organization to submit an amended Statement of Organization with up to date information.<sup>16</sup> This is done using the same form as an initial statement of organization.

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<sup>13</sup> Form [CFDA-947.1](#), Candidate Statement of Organization.

<sup>14</sup> Va Code [§ 24.2-947.1](#).

<sup>15</sup> Va Code [§ 24.2-945.1](#).

<sup>16</sup> Va Code [§ 24.2-947.1\(D\)](#).

### 21.2.1.3 Processing a Statement of Organization

Upon receipt of the CDFA-947.1 Statement of Organization form, the general registrar should do a preliminary check for completeness. A statement is not considered filed until a complete copy has been provided. If an incomplete statement is provided, return it to the candidate with instructions for completing the form.

Following the preliminary overview, the general registrar should do a more targeted review of the form to determine eligibility and to determine whether fines should be assessed. Use the following checklist:

- Type of Statement
  - If the statement is “Amended” check to make sure the date that changes took effect is less than 10 days from the date of receipt.
  - If it has been more than 10 days, a penalty for late filing should be assessed.
- Candidate Information
  - Check that the address provided matches the candidate’s address in VERIS.
  - If the address does not match, the information provided is either incorrect or the candidate is ineligible to run for office. Contact the candidate and have them resubmit their statement if necessary
- Treasurer Information
  - Check that the address provided matches the candidate’s address in VERIS.
  - If the address does not match, the information provided is either incorrect or the treasurer is ineligible to hold that position. Contact the candidate and have them resubmit their statement if necessary.
- Campaign Depository
  - Check that the financial institution is located in the Commonwealth.
  - The depository account must be with an institution located in Virginia. If the financial institution is located outside the Commonwealth the information provided is either incorrect or the campaign must find another financial institution. Contact the candidate and have them resubmit their statement.
- Committee Activity
  - If the statement is “New”, check to make sure that none of the dates of activity are more than 10 days prior to the receipt of the statement.
  - If it has been more than 10 days since one of the dates provided, a penalty for late filing should be assessed.

If the candidate has filed a complete statement of organization and the information provided therein does not disqualify them, then the campaign committee has been successfully created.

Before filing away the statement of organization, check the administrative parameters indicated by the statement using the following procedure:

- Check the “Filing Method” section
  - If the candidate indicates they will file paper reports, all future reports will be made on paper to the office of the general registrar.

- The office of the general registrar will be entirely responsible for filings made by these candidates.
  - If the candidate indicates they will file electronically, most future reports will be made through the Department of Elections' COMET system.
    - The office of the general registrar will receive e-mail notifications when a candidate files reports, including the time of the filing and a link to the filing.
    - Registrars will also be notified by e-mail when a candidate is late or has failed to file.
    - If this is indicated on a hand written form the registrar should remind the candidate of the need to resubmit their statement on line through COMET and direct the candidate to the *COMET Quick User Guide* for assistance in doing so.<sup>17</sup>
- Check the "Election Information" section
  - The "Type of Election" sets the reporting schedule for the committee (see 21.2.3.1 below). COMET sets this schedule automatically for e-filers. Registrars for paper filers must be sure to track this information themselves.
  - The "Office sought" and "Year of Election" set the election cycle for the committee (see 21.1.4 above). COMET sets this cycle automatically for e-filers. Registrars for paper filers must be sure to track this information themselves.

#### **21.2.1.4 Special Elections**

A candidate may campaign for a special election to fill a vacant seat prior to the special election writ being issued. If the writ for a special election has not been called, then the election date on the statement of organization should indicate the next general election date for the office sought. The statement of organization must be amended to reflect the date of the special election once the writ has been issued and the candidate has decided to run in the special election.

### **21.2.2 Local Candidate Reporting Exemption Request**

Candidates for local office are allowed to request an exemption from filing regular campaign finance reports.<sup>18</sup> Candidates wishing to file an exemption must file by paper with their GR/EB. There is currently no way for exempt candidates to file electronically with COMET.

The exemption applies if the candidate certifies the following:

- Has not and will not solicit or accept any contribution from any other person or PAC during the course of his campaign
- Has not and will not contribute to his own campaign more than \$1,000
- Has not and will not expend more than \$1,000 during his campaign

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<sup>17</sup> [COMET Quick User Guide](#).

<sup>18</sup> Va Code [§ 24.2-948.1](#). Form [CDFA-948.1](#), Request for Exemption from Reporting Requirements.

- Has and will comply with the requirements of CFDA.

While the candidate is exempt from filing regular reports, he is still required to file other reports required by the CFDA. The candidate must still create a campaign committee by filing a statement of organization and opening a separate bank account. The committee must still file a special report for qualifying independent expenditures.<sup>19</sup> Also, committee must still file a special report for qualifying large pre-election contributions<sup>20</sup> by a candidate to his own campaign. A candidate claiming exemption is prohibited from taking office until a final report is filed by her committee.<sup>21</sup> The final report must show all financial activity of the campaign.

A candidate who has received an exemption may, at any time, request that exemption be rescinded.<sup>22</sup> A candidate is required to do so before violating any of the terms of their exemption mentioned above. Once an exemption is rescinded the candidate's campaign committee will thereafter follow the appropriate reporting schedule. The first regular report must show all the receipts and expenditures from the first activity date reported on the statement of organization.

## 21.2.3 Regular Disclosure Reports

Regular disclosure reports are the most detailed reports that candidates must file. They are the primary means by which Virginia regulates campaign finance activity. Rather than setting limits on contributions and expenditures, it is through the transparent disclosure of all campaign finance activity to the public that Virginia seeks to prevent corruption in political campaigns.

### 21.2.3.1 When Reports are Due

The reporting schedule for a campaign committee is determined by election cycle associated with the office that the candidate is running for and the date of the election. The *Code* provides generalized reporting schedules for candidates in November<sup>23</sup>, May<sup>24</sup>, and special elections<sup>25</sup>. The Department of Elections provides a yearly schedule of specific candidate reporting deadlines on their website.<sup>26</sup>

Paper reports must be submitted by close of business on the date they are scheduled to be due. E-filers have until 11:59 p.m. to submit their electronic reports via COMET.

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<sup>19</sup> See [§ 24.2-945.2](#) and 21.7 below.

<sup>20</sup> See [§ 24.2-947.9](#) and 21.6 below.

<sup>21</sup> Va Code [§ 24.2-948.1](#). See also § 24.2-948.4 and 21.8 below.

<sup>22</sup> Va Code [§ 24.2-948.1](#). Form [CFDA-948.1R](#).

<sup>23</sup> Va Code [§ 24.2-947.6](#).

<sup>24</sup> Va Code [§ 24.2-947.7](#).

<sup>25</sup> Va Code [§ 24.2-947.8](#).

<sup>26</sup> [2015 Candidate Reporting Deadlines](#).

### 21.2.3.2 Processing Reports

The general registrar receives and reviews campaign finance reports required to be filed with them according to the procedures outlined in this Chapter.<sup>27</sup> Each report should be kept with the statement of organization for the committee to which it is associated along with any other official communications.

When reports are initially received, the date must be entered on the form and a preliminary check should be performed to verify the following:

- The report is legible.
- All amounts shown on Schedule G Statement of Funds are itemized on the appropriate schedules and included with the report.<sup>28</sup>
- The report is properly signed and dated by the candidate or treasurer.

A more detailed review must be conducted within 21 days of the report's due date.<sup>29</sup> This review should check for the following:

- Missing information in required fields
  - Blank entries in required fields. Entries such as "N/A," "none," "unknown" etc. are considered "missing information".
  - In fields where "requested," "unable to obtain," or some similar statement is entered, the filer should provide copies of letters to the contributors requesting this information.
- Obvious mathematical errors
- The beginning balance of the current report (Schedule H, Line 16) equals the ending balance of the previous report (Schedule H, Line 19)
- The numbers entered on Lines 19 and 29 of Schedule H match.
- Contributors are listed in alphabetical order on Schedule A and Schedule B.<sup>30</sup>
- All large pre-election contributions or local large contribution reports were reported in a timely manner, if applicable (see 21.2.4 below).
- If the report is filed on paper, then the report must be signed by either the treasurer or the candidate.<sup>31</sup>

Local election officials are not required to review campaign finance reports for General Assembly candidates who file their reports on paper.<sup>32</sup> The Virginia Department of Elections is responsible for reviewing these reports. However, if a required report is not filed or filed late,

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<sup>27</sup> Va Code [§ 24.2-946.3\(C\)](#).

<sup>28</sup> Un-itemized contributions should be included on Schedule G, Lines 3 & 4. Contributions of more than \$100 must be itemized on Schedule A of the Contributions and Expenditures report

<sup>29</sup> Va Code [§ 24.2-946.3\(E\)](#).

<sup>30</sup> Va Code [§ 24.2-947.4\(B\)](#).

<sup>31</sup> A power of attorney may sign the report if the candidate acts as his own treasurer and is incapacitated.

<sup>32</sup> The vast majority of candidates for General Assembly file their reports electronically. Those filing on paper must pay a paper filing fee to ELECT unless waived for indigence under [1VAC20-90-20](#). Those that do file electronically file only with ELECT.

then the GR/EB is required to assess and collect the required civil penalties following the appropriate procedure.

It is recommended that the responsible local election official send an email to the committee acknowledging receipt of the filing and provide the due date for the next report once the filing has been determined to be complete. This is not necessary for e-filers.

Reporting forms may be included with correspondence with candidates. Local election officials are not required to provide forms to candidates for the General Assembly. All required forms are available on the Virginia Department of Elections website.

E-filed reports by local or constitutional candidates will be forwarded to the appropriate locality. The email will include the date the report was submitted, whether or not it was timely, and a link to the report found on the ELECT website to assist the responsible local election official in cataloging and reviewing the report. COMET automatically acknowledges the receipt of electronically filed reports.

## **21.2.4 Special Large Pre-Election Contribution Reporting**

Candidates are required to file a large pre-election contribution report<sup>33</sup> if they receive a contribution exceeding \$1,000 for General Assembly candidates or \$500 for local or constitutional candidates in the eleven days prior to any nomination or election for which the individual is a candidate.<sup>34</sup> Candidates running unopposed in a primary or other nominating event are not required to file large pre-election reports. However, large contribution reports are required for unopposed candidates running in a general election. Candidates running for the General Assembly and filing electronically must file these reports with ELECT. General Assembly candidates who file on paper must file reports with the locality and ELECT. Paper filers must pay a paper filing fee to ELECT unless waived for indigence.<sup>35</sup>

The report must be filed no later than 5 p.m. on the day following receipt or 5 p.m. Monday if a contribution is received on a Saturday. The contributions shown on these reports must also be reported on the candidate's next report.

## **21.2.5 Independent Expenditure Reports**

An independent expenditure is an expenditure made without coordination or involvement of the candidate supported or opposed. "Coordinated or Coordination" is defined as (i) 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

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<sup>33</sup> Form [CFDA-947.9](#), Large Pre-Election Contribution Report.

<sup>34</sup> Va Code [§ 24.2-947.9](#).

<sup>35</sup> [1VAC20-90-20](#).

devising the strategy, content, means of dissemination or timing of the expenditure.<sup>36</sup> The *Code* definition does not require that the candidate have knowledge of the expenditure.

### **21.2.5.1 When Independent Expenditure Reports are Due**

Persons, candidate campaign committees, and political committees are required to submit independent expenditure reports<sup>37</sup> after making an independent expenditure that has exceeded the aggregate of \$200 for the election cycle.<sup>38</sup> This is an aggregate of all independent expenditures and not solely those for the support or opposition of a single candidate.

Expenditure reports are due within 24 hours after the funds are expended, or after advertising materials are published or broadcast to the public; whichever occurs first.

### **21.2.5.2 Where to File Independent Expenditure Reports**

Independent expenditures made to support or oppose a candidate for General Assembly or statewide office must be reported to ELECT. Independent expenditures made to support or oppose candidates for local and constitutional offices must be submitted to the local general registrar. Copies of any independent expenditure reports filed locally should be placed in the existing file for the candidate who is indicated on the report as being supported or opposed.

## **21.2.6 Final Report**

A final report closes out a committee and ends all reporting obligations. It is the last thing a campaign committee must file. A candidate must continue to file regular campaign finance reports on the appropriate schedule until a final report is filed indicating all debts for the campaign have been paid and the committee's balance has been returned to zero.<sup>39</sup>

### **21.2.6.1 When a Final Report is Due**

All candidates are required to file a final report.<sup>40</sup> A final report is due when one of the following occurs:<sup>41</sup>

- The candidate no longer seeks election to the same office in a successive election.
- The candidate seeks election to a different office.
- The candidate is deceased.

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<sup>36</sup> Va Code [§ 24.2-945.1](#).

<sup>37</sup> Form [CFDA-945.2](#), Independent Expenditure Report.

<sup>38</sup> Va Code [§ 24.2-945.2](#).

<sup>39</sup> Va Code [§ 24.2-948.4](#).

<sup>40</sup> Form [CFDA-948.4](#), Final Report (cover sheet).

<sup>41</sup> Va Code [§ 24.2-948.4](#).

- The candidate had filed an exemption from reporting and was subsequently elected.

Exempt candidates must file a final report detailing activity since the beginning of the campaign prior to being sworn in to office. A final report can be filed at any time. It does not have to be filed during a regular reporting deadline. A candidate who is running for the same office in successive elections may keep their campaign account open.

### **21.2.6.2 Disbursement of Surplus Funds**

A campaign committee is authorized to disburse surplus funds by the methods listed below:

- Transfer to a future election for the candidate or to retire the deficit of the current campaign
- Return to a contributor in an amount not to exceed the contributor's original contribution
- Donation to any organization described in the Internal Revenue Code, [§ 26 USC 170\(c\)](#).
- Contribution to one or more candidates or to any political committee
- Contribution to any political party committee
- Defraying any ordinary, non-reimbursed expense related to his elective office

No candidate may convert any contributed moneys, securities, or like intangible personal property to his personal use in the context of a final report. Prohibited personal use extends to immediate family members. The Attorney General's office has provided a written explanation of the provisions of the Campaign Finance Disclosure Act which prohibit "personal use."<sup>42</sup>

### **21.2.6.3 Termination Statement**

When filing a final report, the candidate must sign a *Termination Statement*. This statement is included in the cover sheet to the final report. It indicates that all debts have been paid, all monies received and spent have been reported and, if surplus funds remain, the amount and disposition of those funds. The termination statement must be filed on paper even if the committee files their reports electronically.

## **21.3 Retention of Reports**

Campaign Finance Reports filed locally must be retained through the next general election for the office to which they pertain unless the candidate has filed a Final Report. Reports for terminating candidates must be retained at least one year after the final report is filed, or the next general election for the office to which they pertain. After expiration of the applicable retention

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<sup>42</sup> [Attorney General's Explanation of "Personal Use"](#).

period, the reports can be destroyed according to the instructions set forth by the Library of Virginia.<sup>43</sup>

## 21.4 Penalties

General registrars are required to assess penalties for violations of Chapter 9.3 of Title 24.2 by candidates required to file locally.<sup>44</sup> Specifically, registrars must assess penalties for the types of violations:

- General violation of Chapter 9.3
- Late filing of a required report
- Failure to file a required report
- Incomplete report

The *Code* provides a range for the amount of each penalty but requires the State Board of Elections to provide uniform schedules for local election officials to follow in carrying out their responsibility to assess civil penalties for campaign finance report violations.<sup>45</sup> Penalties must be strictly assessed according to the guidelines provided by the State Board. No local entity has the authority to waive or reduce these penalties.

Committees must make their checks payable to the treasurer of their locality for deposit to their General Fund. The payment does not have to be received from the committee's bank account. Payment can come from any account.

### 21.4.1 General Violation of Chapter 9.3

With the exception of violations for which a specific penalty is provided, any person who violates, or aids, abets, or participates in the violation of chapter 9.3 is subject to a penalty not to exceed \$100.<sup>46</sup>

### 21.4.2 Late Report

If at the conclusion of a filing deadline a required report or statement is not filed the general registrar is required to assess a penalty. The State Board has set the amount of an initial late

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<sup>43</sup> *Records Retention and Disposition Schedule, [General Schedule No. 1](#), County and Municipal Governments, Voter Registration and Election Records.*

<sup>44</sup> Va Code [§ 24.2-946.3\(D\)](#).

<sup>45</sup> Va Code [§ 24.2-946.3\(I\)](#).

<sup>46</sup> Va Code [§ 24.2-953](#).

report at \$100. The *Code* provides that for each subsequent late report in the same election cycle the general registrar must assess a penalty of \$1000.<sup>47</sup>

The general registrar must notify the committee of civil penalty and collection procedures via email or regular postal mail (see Exhibit B and Exhibit C below). 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 (see Exhibit F).

### **21.4.3 Failure to File Report**

If a required report or statement is not filed within 60 days of the due date, the general registrar will notify the committee via certified mail (See Exhibit D). A penalty of \$500 must be assessed 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 (see Exhibit F) for collection and determination as to whether the violation is willful. The *Code* provides that for each subsequent late report in the same election cycle the general registrar must assess a penalty of \$1000.<sup>48</sup>

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 by the general registrar.

### **21.4.4 Incomplete Reports**

When a report is identified as missing required information, the general registrar should proceed as follows:

- Prepare a certified letter to the committee which outlines the omissions/errors found in the report.
  - See Exhibit E below.
  - The letter should state that an amended report must be received within ten days of mailing the letter or a civil penalty of \$100 will be assessed.<sup>49</sup>
  - Due to the short amount of time involved, it is recommended that the general registrar also attempt to contact the committee via email or telephone to ensure they receive the necessary information.
- Send the letter by Certified Mail – Return Receipt Requested.<sup>50</sup>
- Preserve a copy of the letter and the stamped USPS receipt for certified mail.

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<sup>47</sup> Va Code [§ 24.2-953.2](#).

<sup>48</sup> Va Code [§ 24.2-953.1](#).

<sup>49</sup> Va Code [§ 24.2-953.3\(B\)](#).

<sup>50</sup> Subsequent identical mail can be sent by regular mail (see Va Code [§ 24.2-101.01](#))

The committee must amend the report by the due date or request additional time. Extensions of no more than 14 days can be granted by the general registrar.<sup>51</sup> If the committee fails to amend their report in a timely fashion, a \$100 penalty should be assessed. The *Code* provides that for each subsequent incomplete report in the same election cycle the general registrar must assess a penalty of \$1000.<sup>52</sup> The general registrar should increase the amount of the penalty by \$500 every 60 days until a fully compliant filing is made.<sup>53</sup>

## 21.5 Political Advertisements

The law commonly known as “Stand By Your Ad” (SBYA) is found in Chapter 9.5 of Title 24.2 of the *Code* and contains the requirements for disclaimers on political advertisements.<sup>54</sup> In contrast to campaign finance reports, the law does not impose any duty on local election officials to report or sanction possible advertising violations. If anyone has questions as to the content and requirements of the law please refer them to Chapter 9.5 and the various *Summary of Campaign Finance Law* documents that can be found on the ELECT website.<sup>55</sup>

All complaints related to failure to properly disclaim political advertisements should be referred to the State Board of Elections which has sole authority to assess civil penalties and refer possible willful violations to the appropriate Commonwealth’s attorney for investigation.<sup>56</sup>

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<sup>51</sup> Va Code [§ 24.2-953.3\(D\)](#).

<sup>52</sup> Va Code [§ 24.2-953.3 \(F\)](#).

<sup>53</sup> Va Code [§ 24.2-953.3 \(E\)](#).

<sup>54</sup> Va Code [§ 24.2-955 et seq.](#)

<sup>55</sup> List of [Summary of Campaign Finance Law](#) documents.

<sup>56</sup> Va Code [§ 24.2-955.3\(D\)](#).

## 21.6 Letter Templates

The following are recommendations for letters to be sent to delinquent committees.

### 21.6.1 Exhibit A - Unfiled Statement of Organization

Candidate/Committee  
Address Line 1  
Address Line 2  
City, VA Zip Code

Dear Filer:

A statement of organization is required to be submitted within 10 days of undertaking any of the actions referenced in § 24.2-947.1 of the *Code of Virginia*. Our records indicate that your Statement of Organization is past due.

The § 24.2-947.1 also requires that a civil penalty be imposed for failure to file a Statement of Organization within 10 days.

As a result the [name of locality] general registrar must assess a penalty in the amount of [penalty amount]. Please make your check payable to the treasurer of [name of locality] and forward this payment to the [name of locality] office of the general registrar within 10 business days. If payment is not received within 30 days, [name of locality] general registrar will be required to forward this matter to the appropriate Commonwealth's attorney who must initiate proceedings for its collection.

The Statement of Organization must be filed within ten (10) business days from the date of this letter.

If you feel that you have received this letter in error or if you have any further questions, please feel free to contact our office at [phone number].

Sincerely,

Staff Name  
Staff Title

## 21.6.2 Exhibit B - Late Filing

Candidate/Committee  
Address Line 1  
Address Line 2  
City, VA Zip Code

Dear Candidate/Committee:

A careful review of our records shows that [committee name] filed its report on [submission date] which was after the report's required deadline of [report due date].

According to the civil penalty schedule adopted by the Department of Elections, the committee must be assessed a penalty of \$100 for not submitting the required campaign finance report by the deadline. Any future late reports during this election cycle will result in a \$1000 fine.

Finally, the failure to pay the civil penalty within 60 days of the deadline for this filing period will result in the [name of locality] general registrar requesting the Commonwealth's attorney to enforce collection.

<b>Filing Period Ending</b>	<b>Report Deadline</b>	<b>Assessed Penalty</b>
<b>Invoice Number :</b>	<b>TOTAL AMOUNT DUE</b>	

Please make your check in the amount of [amount fined] payable to the treasurer of [name of locality]. Please reference invoice number [fine ID] and forward this payment to the [name of locality] office of the general registrar.

If you feel that you require additional information or have received this letter in error please contact our office as soon as possible at [phone number].

Sincerely,

Staff Name  
Staff Title

### 21.6.3 Exhibit C – Report Not Filed

Candidate/Committee  
Address Line 1  
Address Line 2  
City, VA Zip Code

Dear Candidate/Committee:

A careful review of our records has shown that [committee name] failed to file the report due on [report due date].

According to the civil penalty schedule adopted by the Department of Elections, the committee must be assessed a penalty of \$100 for not submitting the required campaign finance report by the deadline. Failure to submit the report within 60 days of this notification will result in the civil penalty being increased to \$500. Any future late reports during this election cycle will result in a \$1000 fine.

Finally, the failure to pay the civil penalty within 60 days of the deadline for this filing period will result in the [locality name] general registrar requesting the Commonwealth's attorney to enforce collection.

<b>Filing Period Ending</b>	<b>Report Deadline</b>	<b>Assessed Penalty</b>
Invoice Number :	<b>TOTAL AMOUNT DUE</b>	

Please make your check in the amount of [amount of fine] payable to the treasurer of [name of locality]. Please reference invoice number [fine ID] and forward this payment to the [name of locality] general registrar.

If you feel that you require additional information or have received this letter in error please contact your [name of locality] general registrar as soon as possible at [phone number].

Sincerely,

Staff Name  
Staff Title

## 21.6.4 Exhibit D – Failure to File Continues for Greater than 60 Days

Candidate/Committee  
Address Line 1  
Address Line 2  
City, VA Zip Code

Dear Candidate/Committee:

A careful review of our records shows that [committee name] failed to file a required regular campaign finance disclosure report by the deadline of [report due date].

Your committee was notified of this penalty and the need for the required report on [letter date] that if no report was filed within 60 days of the due date, the penalty will increase to \$500. To date, we have not received the required report.

If your committee does not file the report within 60 days of receipt of this letter, then this office will be required to notify the Commonwealth attorney's office to enforce this matter.

Please make your check in the amount of **\$500.00** payable to the treasurer of [name of locality]. You must forward your payment to this office, the office of the general registrar, to forestall future action against your committee.

If you feel that you have received this letter in error, please contact this office as soon as possible.

Sincerely,

Staff Name  
Staff Title

## 21.6.5 Exhibit E - Incomplete Report

Candidate/Committee  
Address  
City, State Zip Code

Dear Filer:

This letter acknowledges receipt of your campaign's [type of report] dated [date report was submitted]. Though filed timely, this report has been reviewed and found to be incomplete. The report is missing the following information required by Virginia Code § 24.2-947.4:

Incomplete Required Information

Your committee has 10 days from the receipt of this letter to re-file the aforementioned completed report or will be subject to a civil penalty as established in Virginia Code § 24.2-953.3.

Please be advised that the penalties required to be assessed for late or incomplete filings are detailed in the *Candidate Campaign Committee Summary of Laws and Policies* which can be found at the Department of Elections' website: [elections.virginia.gov](http://elections.virginia.gov). If you have any questions you may contact this office at [phone number].

Sincerely,

Staff Name  
Staff Title

## 21.6.6 Exhibit F - Letter to Commonwealth's Attorney

Commonwealth's Attorney  
Address Line 1  
Address Line 2  
City, VA Zip Code

Dear Commonwealth's Attorney:

As required by § 24.2-946.3 of the *Code of Virginia*, I am hereby notifying you that [name of campaign committee] has failed to file required reports and has not made payment on a subsequently assessed civil penalty after being duly notified and given an extended opportunity to do so. This office assessed the committee a penalty totaling [penalty amount].

This matter is referred to you for your review. I ask that you please institute proceedings for the collection of the civil penalties assessed and, if you deem it appropriate, prosecution of a Class 1 misdemeanor as provided by § 24.2-953 et seq. of the *Code*.

Civil penalties collected are to be made payable to the treasurer of the [name of locality] and must be forwarded to this office for deposit.

We appreciate your attention to this matter. If you require further information, you may contact the general registrar's office at [GR office phone number].

Sincerely,

Staff Name  
Staff Title