★ VIRGINIA ★
DEPARTMENT *of* ELECTIONS

Summary of Laws and Policies
Candidate Campaign Committees

DEPARTMENT OF ELECTIONS
1100 BANK STREET, FIRST FLOOR
RICHMOND, VIRGINIA 23219-3497

Toll-free within Virginia 800-552-9745 or 804-864-8901
Fax Number: 804-786-1364
Visit our website: www.elections.virginia.gov

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

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CHAPTER 1 – General Information

Section 1.1 - Purpose of *Summary*

In accordance with § 24.2-946 of the *Code of Virginia*, the 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 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 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 Department of Elections will also mail a copy of the Summary upon request.

Section 1.2 - Campaign Finance Staff

The 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, please contact:

Tammy Alexander, Campaign Finance Compliance and Training Specialist: tammy.alexander@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 Department of Elections website:
elections.virginia.gov/media/formswarehouse/campaign-finance/comet/COMETUserManual.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 Department of Elections website:
https://www.elections.virginia.gov/candidatepac-info/candidate-bulletins/index.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;
    - The provisions of this chapter shall be applicable to a candidate for a town office in a town with a population of less than 25,000 if the candidate accepts contributions or makes expenditures in excess of $25,000 within the candidate's election cycle, or the governing body of the town adopts an ordinance providing 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) who make contributions from their direct operating or personal funds are not subject to the requirements of CFDA unless they make independent expenditures, in the aggregate during an election cycle, of $1,000 or more for a statewide election or $200 or more for any other election (**see § 24.2-945.2**).

Section 1.5 - Federal Laws and Requirements

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

800-424-9530 (toll-free) or 202-694-1000 (within the Washington, D.C. area)
www.fec.gov – Internet address
1050 First Street, NE, Washington, DC 20463- U.S. Mail

Federal Committees that are registered with the Department of Elections who file their reports with the FEC are not required to file campaign finance reports with the Department of Elections. 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** and **Section 3.7** of this Summary prior to accepting contributions from these types of committees.

The Department of Elections has no authority to provide any guidance regarding federal tax laws. Please contact the Internal Revenue Service if you have questions regarding your committee's tax filing requirements. Their website address is https://www.irs.gov/charities-non-profits/charitable-organizations

Section 1.6 - Cash-Basis Reporting

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 regards 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 the Summary that are of principal importance to candidates and their 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 9.3 (§ 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 (cash and in-kind) 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 – Means 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 cycles 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 any reasonable person can notice 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 influencing the outcome of an election or 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.

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 influencing the outcome of an election or for defraying the costs of the inauguration of a Governor, Lieutenant Governor or Attorney General.

Express Advocacy – A direct or indirect contribution, in-kind contribution, independent expenditure 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 general registrar within 60 days after official notification from the Virginia Department of Elections or local general registrar. 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 Commissioner 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 subject to § 527 of the United States Internal Revenue Code that is not registered as a political committee or candidate campaign committee in Virginia and whose contributions made to political committees and candidate campaign committees registered in Virginia is 50% or more of the committee's expenditures made in the form of contributions. The term does not include federal political action committees.

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 purpose of influencing the outcome of any election. 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 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 influencing the outcome of an election. **Note:** May also be referred to as Political Committee.

Primary Purpose – Means that 50% or more of the committee's expenditures made in the form of contributions shall be made to candidate campaign committees or political committees registered in Virginia. Administrative expenditures and the transfer of funds between affiliated or connected organizations shall not be considered in determining the committee's primary purpose. The primary purpose of the committee shall not be determined on the basis of only one report or election cycle, but over the entirety of the committee's registration.

Print Media – Means billboards, cards, newspapers, newspaper inserts, magazines, printed material disseminated through the mail, pamphlets, fliers, bumper stickers, periodicals, website, electronic mail, and outdoor advertising facilities. If a single print media advertisement consists of multiple pages, folds, or faces, the disclosure requirement of this section applies only to one page, fold, or face.

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 – Means the activity beginning and activity ending 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 assessed by the Department of Elections) 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

Section 2.1 - Becoming a "Candidate"

An individual is **not** required to file a Statement of Organization simply by publicly announcing their candidacy. 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);
- 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 expressly advocating such individual's nomination or election to any office;
- Has been nominated by a Political Party and is thus entitled to a position on the ballot at an election or primary;
- Has otherwise been qualified for placement on the ballot pursuant to Virginia's election laws;
- 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).

It is important to note that these requirements are only related to establishing a campaign finance account. There are other requirements for qualifying as a candidate for purposes of having their name placed on the ballot. The candidate will need to consult the appropriate candidate bulletin available on the Department of Elections website: https://www.elections.virginia.gov/candidatepac-info/candidate-bulletins/index.html

Compliance with Reporting Requirements as a Requirement for Candidacy

Candidates for statewide office or the General Assembly will not be allowed to run for office in a future election if they have failed to file all required campaign finance reports for a previous election for which they participated in the previous five years. They must also pay any outstanding civil penalties.

The Virginia Department of Elections is required to have notified the candidate that they have not filed the required reports at least 60 days prior to the deadline for the person to file the written statement of qualification.

Section 2.2 - Establishing a Candidate Campaign Committee

A candidate must file a Statement of Organization (§24.2-947.1) and register as a candidate for campaign finance purposes within 10 days of meeting any of the requirements listed in Section 2.1.

The candidate will be required to establish a campaign committee even if the committee does not consist of any individual other than the candidate. The committee is simply a term used to identify the entity responsible for receiving all contributions and making all expenditures on behalf of the candidate.

The following information is important information to understand before completing the committee's Statement of Organization:

Candidate Campaign Committee Information

The Statement of Organization will ask for the mailing address of the campaign committee. This will be the address that the Virginia Department of Elections and local general registrar will consider the primary means for contacting the committee. The committee may choose to enter the campaign headquarters, the candidate's residence address or the treasurer's residence address. The campaign may establish a Post Office Box as its primary mailing address.

Registering a Campaign Committee for a Special Election Which Has Not Been Called

No individual can register for an election which has not been called. In the case of a presumed special election, if an individual wants to begin fundraising prior to the election being ordered, then the individual must register as a candidate for the next General Election for that office.

After the special election has been called, the campaign committee must amend their Statement of Organization to reflect the new special election date.

Candidate Information

The candidate must provide their voter registration number so the reviewing authority can verify that the candidate is a registered voter and a resident in the district or locality where they intend to run for office. The voter registration number can be found on the candidate's voter registration card or on our website at www.elections.virginia.gov.

Treasurer Information

A candidate is required to appoint one individual, who is a registered voter in Virginia, as treasurer of their campaign committee. The candidate can choose to serve as their own treasurer.

The treasurer must also provide their voter registration number so the reviewing authority can verify that the treasurer is a registered voter in the Commonwealth. The voter registration number can be found on the treasurer's voter registration card or on our website at www.elections.virginia.gov.

The treasurer must sign the Statement of Organization signifying their acceptance of the appointment. No person can fulfill the duties of the treasurer unless they have signed the *Statement*. Any candidate who fails to appoint and report the appointment of treasurers shall be deemed their own treasurer.

For more information on the duties and responsibilities of the treasurer, see Section 2.5 of this Summary or § 24.2-947.3 of the Code of Virginia.

Establishing a Campaign Depository

Banks require persons setting up a new account to have an Employer Identification Number (EIN). EIN numbers can be obtained online at www.irs.gov or by calling the Helpdesk for political organizations. The phone number is 877-829-5500.

Campaign committees are required to establish a campaign depository in a financial institution located within the Commonwealth. 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 campaign committee. All checks drawn off of the committee's depository must include the name of the campaign committee.

Establishing Secondary Depository Accounts

§ 24.2-947.2 allows for the establishment of a separate Federal Compliance Account in the candidate's designated campaign depository for complying with the requirements of federal campaign finance laws, including restrictions on sources and amounts of campaign contributions applicable to federal candidates and officeholders. All contributions and expenditures on this account must be disclosed on a consolidated basis with the candidate's campaign finance report. The Federal Compliance Account may only be used to facilitate compliance with FEC regulations and may not be used for any other purpose.

§ 24.2-947.2 also allows a campaign committee to transfer funds from the established checking account to another account or instrument for the purpose of earning interest on those funds. This can be done so long as:

- Complete records are maintained for each election cycle;
- All interest earned and fees paid 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?

Candidates for local and constitutional offices have the option to file paper or electronic reports. The committee must select which Filing Method it will use on the Statement of Organization. A local committee that files electronically cannot change its filing method to paper without first notifying the Virginia Department of Elections and their local General Registrar 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.

All candidates in localities with populations of 70,000 or greater are required to file electronically. Candidates for statewide office are required to file campaign finance reports electronically. Candidates for the General Assembly file electronically.

The Statement of Organization must also indicate whether the committee intends to use the Virginia Department of Elections e-filing software to prepare their reports or if they intend to use one of the Virginia Department of Elections Approved Vendors.

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 Virginia Department of Elections 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 purposes of creating campaign finance reports to be filed in Virginia. Once their software is approved, the Virginia Department of Elections will accept campaign finance reports created from the company's software.

Where to File the Statement of Organization

- Candidates for Constitutional or local offices must file their Statement of Organization and any amended Statements with the local general registrar of their county or city of residence and electronic filers file a copy with the Virginia Department of Elections.

- General Assembly candidates must send the original, signed version, and any amended Statements, to the Virginia Department of Elections. A copy of their Statement of Organization is to be sent to the local general registrar of their county or city of residence.

- Statewide office candidates must send their Statement of Organization and any amended Statements to the Virginia Department of Elections.

Amending the Statement of Organization

The committee must file an amended Statement of Organization within 10 days of any change to a candidate's campaign committee information (e.g., a change in address, change of treasurer, etc.) to the appropriate office(s) as listed above.

If there is no change to the information submitted, candidates who are seeking election for the same office in a successive election do not need to file a new Statement of Organization for each successive election. The original Statement of Organization will continue in effect until a Final Report is filed or until a change in the information occurs.

Section 2.3 – Candidate Committees After the Election

Candidates Seeking the Same Office in Successive Election Cycles

At the end of an election cycle, candidates whose campaign accounts are still open automatically proceed to the next election cycle. That cycle begins as of January 1 after the date of the last election for that office.

The first cover page of reports filed in the next election cycle should indicate the next general election date and year for that office beginning with the first report that contains financial activity in the year immediately following the election.

Candidates who have an open account and choose not to run again

If, at any point, the candidate decides not to run for election for the same office then they are still required to file all reports related to that office until such time as they file a Final Report or they will be subject to civil penalties for not filing.

Candidates are encouraged to close their committees as soon as they determine that they will not be running for the same office in the next scheduled election. Most penalties assessed to candidate campaign committees are a direct result of a campaign that has ended and has not filed a final report.

Section 2.4 - Exempt Candidates

Candidates for local office may file a request for exemption from filing campaign finance reports if:

- They do not intend to solicit or accept any contribution from any other person or political committee during the course of the campaign;
- Will not contribute more than $1,000 of their own personal money during the course of the campaign;
- Will not expend more than $1,000 of their own personal money during the course of the campaign; and
- That they will comply with all requirements of the Campaign Finance Disclosure Act.

Candidates that qualify for an exemption are still required to establish a campaign depository. All deposits and all expenditures from the depository are funded from the candidate's $1,000. The only exception is that the exempt candidate may pay the Virginia Department of Elections for a "Registered Voter List" and/or a "List of Those Who Voted" with a check drawn from his/her own personal account. The money spent on the list(s) must be tracked and included in the campaign's records for confirmation that the $1,000 exemption threshold is not exceeded.

> <u>Example</u>: Exempt Candidate X puts $960 of her own money into her campaign account. She then spends $50 of her own money on a voter list. Candidate X is no longer an exempt candidate since she has exceeded the $1,000 personal funding threshold by $10.

If, at any time, the candidate determines that they will engage in one or more of the prohibited activities listed above, they must file a *Rescind a Request for Exemption* form prior to engaging in the activities described above. The first campaign finance report must account for all prior contributions and

expenditures pertaining to the campaign. The committee will then be required to file reports on the appropriate filing schedule.

Exempt candidates are required to file a final report prior to the candidate taking office. The final report must detail all contributions from the candidate's personal funds and all expenditures throughout the life of the campaign. A final report is also required from exempt candidates that were not successful in their nomination or election.

Section 2.5 – Campaign Committee Treasurer

In order to serve as a campaign treasurer, the individual must be a citizen, resident and registered voter of the Commonwealth of Virginia. An individual may serve as treasurer of multiple committees. Each committee must maintain separate campaign depositories.

Once appointed, the treasurer may serve indefinitely. When an appointed treasurer resigns or is replaced, in order to relieve the treasurer from assuming the filing obligations under CFDA, an amended Statement of Organization must be filed with the appropriate office. The candidate is responsible for notifying the proper agencies within 10 days after appointing a replacement.

Duties and Responsibilities of Treasurers

The treasurer is responsible for maintaining the campaign finance records for the campaign committee. The duties of a treasurer can include, but are not limited to:

- Filing complete, accurate and timely campaign finance reports and other required forms;
- Signing campaign finance reports and other required forms;
- Authorizing expenditures;
- Monitoring disclosure to ensure compliance with Virginia Election Laws; and
- Keeping detailed and accurate records so as to comply with all of the requirements of the Campaign Finance Disclosure Act.

All contributions and expenditures received or made by the candidate, or any agent of the campaign committee, must be paid over or delivered to the treasurer.

The ultimate responsibility for compliance with the requirements of the Act always rest with the treasurer and the candidate. It is the treasurer's or candidate's signature that is required on the campaign finance 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, whichever is later.

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 general registrar;
- Copies of checks for expenditures; and
- Completed solicitation forms.

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 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 to accept 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 a committee during an election cycle (begins January 1 after the date of the election) 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.

Contributors who have contributed an aggregate of $100 or less to the committee during an election cycle 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. The contributor will have to be "itemized" if they provide additional contributions which increase their aggregate contribution for the election cycle to be 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.

Designated Contributions

A designated contribution means a contribution that is designated specifically and in writing for a particular candidate or candidates and is made using a political committee solely as the conduit.
For each designated contribution received from a political committee, out of state political committee, or federal PAC, the conduit committee is required to provide the recipient committee the name of the person who designated the contribution and provide the following information:

- The name and address of the person paid;
- A brief description of the purpose of the expenditure;
- The name of the person contracting for or arranging the expenditure;
- The amount of the expenditure; and
- The date of the expenditure.

The recipient committee must report the information provided by the conduit committee for each individual whose contribution exceeds and aggregate of $100.

Anonymous Contributions

If a campaign 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 committee is required to report the following information about each contributor who contributes an aggregate of more than $100 in an election cycle:

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.

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, then 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 is not the title or position of the individual. The report should indicate the type of work 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 "N/A".

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 or debit card on a website, the date that the contribution is considered received is the date that the contributor entered their information into 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 $100 or less, their aggregate contribution may exceed $100 in the future. If the information is obtained at the time of the first contribution, time and energy may be saved in the future.

Recording Contributor's Information

When keeping records of contributions, each committee 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:

John Doe for Virginia

Name: _____

Street Address: _____

City, State, Zip Code: _____

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 (includes 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 itemized 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 itemized 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 when the committee will receive a check which 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 could 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.

Returned Checks

If a contributor's check is returned by the committee's depository for insufficient funds or 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 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 or debit 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 candidate's campaign committee by the card processing agent must be reported separately on the report as an expenditure by the committee. Even if the company charges the 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 made by the committee for the period being reported. "Per transaction" fees can be bundled into a single line item on the Schedule of Expenditures.

Contributions During a Legislative Session

Contributions or promises of contributions may not be made, accepted or solicited by the Governor, Lieutenant Governor, Attorney General, any member of the General Assembly or any person acting on behalf of these individuals on and after the first day of a Regular Legislative Session which annually begins on the second Wednesday in January and continues for no less than 45 days in odd years and 60 days in even years. The Regular Session does not end until the General Assembly agrees to *adjournment sine die* which signifies the end of the Regular Session. Contributions can be made to these committees during Special Sessions or during any other non-Regular Legislative Session including the Veto Session.

These restrictions do not apply to contributions made by the Governor, Lieutenant Governor, Attorney General or any member of the General Assembly from their personal funds or to contributions made to the campaign committee of a candidate in a special election.

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 (FEC) or from an out-of-state political committee, the campaign 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 to the Virginia Department of Elections at cfda@elections.virginia.gov.

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

Section 3.8 – Fundraisers

Many candidates will wish to raise funds for their campaigns by organizing and hosting fundraisers. There are several issues to be aware of when thinking about organizing fundraisers.

Contributions vs. Expenditures

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

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 write one check for each committee participating in the fundraiser. At no time should a contribution be made to both committees on a single check.

Common Fundraising Scenarios

The Act requires that all contributions collected by individuals for a committee be 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 are able to 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 Agriculture and Consumer Services' website for more information: http://www.vdacs.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; and
- Voluntary contributions of office space and equipment.

Voluntary discounts are also 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 $1,000, 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 for the committee – stuffing envelopes, knocking on doors, etc. is not considered an in-kind contribution.

Example 2:

Mrs. Dee Designer, a professional webpage developer, designs a website for John Q. Candidate 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 John Q. Candidate's committee. This $2,500 counts toward Mrs. Designer's aggregate contributions to date to the committee.

Dee Designer still wants to do more to help John Q. Candidate. She volunteers to answer telephones at his campaign 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.

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 the candidate's opponents), but one which has not been coordinated with the candidate or an 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 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 properly report the receipt of the contribution. The required contributor information for reporting in-kind contributors is the same as for reporting cash contributions (See Chapter 3). There are a few differences that are outlined below.

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.

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 goods or services 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 contributions 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.
>
> Fair Market Value:
> This basis is used when an actual cost is not able to be determined.

Aggregate-to-Date

Treasurers must always remember to aggregate a contributor's cash contributions 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.

*Please note that interest income exceeding $100 in a calendar year may be subject to federal tax. Please contact the IRS for more information.

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 a previous expenditure, then it is to be reported on Schedule C. For example, if a committee purchases a computer and the manufacturer rebates the committee $100 after the purchase, then 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 or more for a statewide campaign or $200 or more for any other election within an election cycle for the candidate supported or benefiting from the expenditure, 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 a committee must also be reported on Schedule D of the committee's next required campaign finance report.

Credit Card Expenditures

The Campaign Finance Disclosure Act requires that a committee itemize all credit card expenditures on its 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 actually received the funds through use of the credit card. For example, if the candidate uses a credit card to purchase a hotel stay, the report should list the name of the hotel as the payee and NOT the candidate or the credit card company.

Reimbursements

The treasurer may only reimburse authorized members of the campaign 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 that 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 committee may list the entity which was paid initially on the date that the expenditure was made. 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 an expenditure of $50 to Mr. Staffer.

In the case of reimbursements to a single person which account for multiple expenditures of the same nature by said person, it is proper to report the single expenditure made by the campaign 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 campaign 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 provided. The treasurer may replenish the petty cash fund as needed provided 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 of the campaign finance report.

Section 7.2 - Reporting Loan Receipts and Repayments

Loans received and loans 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 – Candidate Interest Payments

If a candidate loans the campaign money, then the campaign committee shall not pay interest on any loan to the committee made by the candidate or by a member of his immediate family. Paying interest to a candidate will result in civil penalties to the campaign.

Section 7.4 - Forgiving Loans

If there is an outstanding loan to the campaign, 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 enter the full name and mailing address of the creditor, 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 if the report 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 or a failure to report or properly disclose in-kind contributions.

CHAPTER 10 – Schedule I: Disbursement of Excess Funds

Section 10.1 - Filing a Final Report

All committees are required to file a Final Report when the committee disbands or closes, in order to discontinue filing campaign finance reports for a committee. The Final Report must be received by the appropriate receiving office (reference "*Where to File the Final Report*" on the Final Report cover sheet for the appropriate receiving office). The Final Report cover sheet is located on the Virginia Department of Elections website.

A candidate must file a Final Report when he or she:

- No longer seeks election to the same office in a successive election; or
- Seeks election to a different office; or
- Is deceased. In this case, the campaign treasurer must sign the Final Report. If the deceased candidate was serving as his/her own treasurer, the executor of the candidate's estate should file and sign the Final Report.

The receiving office will close a campaign committee only if:

- There is no balance, deficit, outstanding debts, or outstanding loans (including loans from the candidate); and
- Surplus funds have been properly disbursed and reported; and
- There are no outstanding reports or civil penalties due.

Negative Balances, Outstanding Debts and Loans

Neither the Virginia Department of Elections nor a locality's general registrar will accept a Final Report if the report shows a negative balance. In this case, the campaign must first amend the appropriate reports and resolve the problem before the Final Report will be accepted. A negative balance is usually due to a failure to report all income (including money from the candidate) or a failure to report or properly disclose in-kind contributions.

If there is an outstanding loan to the campaign, the lender has the option of forgiving the loan and converting it to 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 to the campaign must be repaid prior to filing a final report.

Section 10.2 – How to Dispose of Surplus Funds

Once a campaign has decided to submit a Final Report, the committee must no longer be active in fund-raising. If there is no debt, any money remaining is considered surplus funds and must be properly disposed of by one or any combination of the following methods:

- Transferring the excess for use in a succeeding election or to retire the deficit in a preceding election;
- Returning the excess to a contributor in an amount not to exceed the contributor's original contribution;
- Donating the excess to any organization described in §170(c) of the Internal Revenue Code;
- Contributing the excess to one or more candidates or to any political committee that has filed a statement of organization;
- Contributing the excess to any political party committee; and
- Defraying any ordinary, non-reimbursed expense related to his elective office.

It is be 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.

Disbursement 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 the sale must be reported as a rebate on Schedule C and used to pay off the debts of the campaign or as part of a surplus distribution.
- If the committee is indebted to the candidate, the items may be transferred to the candidate to satisfy any or all of the debt.
- The items may be distributed as non-cash surplus to any eligible recipient described above.
- If any item is leased, the campaign committee should simply return the item and discontinue the leasing agreement. If any item is loaned to the campaign committee, it should discontinue use and return the item.

CHAPTER 11 – Non-Regular Reports

Section 11.1 – Types of Non-Regular Reports

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

Section 11.2 - Large Pre-Election Contribution Reports

A Large Pre-Election Contribution report is required to be filed by a candidate's campaign committee if they receive a cash or in-kind contribution or a loan if the contribution or loan amount is:

- $5,000 or more if a candidate for Statewide office; or
- $1,000 or more if a candidate for the General Assembly; or
- $500 or more if a candidate for any other office,

And the contribution or loan is received by the campaign committee between:

- The 11th day preceding any nominating event (e.g. mass meeting, caucus, etc.) and the date of the nominating event unless the candidate is running unopposed for the nomination; or
- The 11th day preceding the primary related to the general election; or
- The 11th day preceding a November election and the election date; or
- The 11th day preceding any other election in which the individual is a candidate and the Election Day.

Nominating Events

A Large Pre-Election Contribution Report is not required if the candidate for the nomination is or has become, by virtue of withdrawal of the opponent(s), running unopposed for the nomination.

Nominating events include, but are not limited to: caucus, mass meeting, or other event at which the party's nomination shall be finally determined or an event at which delegates are chosen who pledge their support of a specified candidate on a ballot at a subsequent convention.

Section 11.3 - Reporting Large Pre-Election Contributions

The information required on Large Pre-Election Contribution reports is the same as required for cash and in-kind contributions or for loans. All contributions and loans reported in this manner must also be reported on the committee's next required regular campaign finance report.

When to File Large Pre-Election Contributions

Large Pre-Election Contribution reports are due no later than 11:59 pm on the next day after the committee has received the contribution.

If the large pre-election contribution is received on a Saturday, then the report is not due until 11:59 pm on the following Monday.

If the large pre-election contribution is received on the day before the election, then the report is due on that day.

Where to File Large Pre-Election Contributions

Candidates for local office which file electronically file Large Pre-Election Contributions electronically. Paper filers submit their reports with the county or city general registrar only. Faxed copies are not acceptable in order to meet this deadline. An original, signed copy must be submitted to the local general registrar in person.

General Assembly candidates, who report their regular campaign finance reports electronically, report their Large Pre-Election reports electronically with the Virginia Department of Elections only.

Statewide candidates report Large Pre-Election Contributions electronically with the Virginia Department of Elections only.

Section 11.4 - Independent Expenditure Reports

An Independent Expenditure report is required if the committee makes independent expenditures that support, oppose or benefit a candidate 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.

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

Independent Expenditure reports are only available to file on paper.

The Independent Expenditure Report is to be filed 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 general registrar 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, signed 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

Non-Election Year Reporting Schedule

Candidates for an office that is not being decided in the current calendar year must adhere to the following filing schedule:

ACTIVITY BEGINNING	ACTIVITY ENDING	REPORT DUE DATE*
Date of Inception or January 1	June 30	July 15
July 1	December 31	January 15

*Report due dates that fall on a holiday or weekend will be moved to the next business day.

November General Election Schedule

Candidates for an office to be decided at a November General Election during the current calendar year must adhere to the following filing schedule:

ACTIVITY BEGINNING	ACTIVITY ENDING	REPORT DUE*
January 1	March 31	April 15
April 1	12 Days Before a Primary	8 Days Before a Primary
11 Days Before a Primary	June 30	July 15
July 1	August 31	September 15
September 1	September 30	October 15
October 1	12 Days **Before** General Election	8 Days **Before** General Election
Last Regularly Filed Report	23 Days **After** General Election	30 Days **After** General Election
Last Regularly Filed Report	December 31	January 15

*Report due dates that fall on a holiday or weekend will be moved to the next business day.

May General Election Schedule

Candidates for an office to be decided at a May General Election during the current calendar year must adhere to the following filing schedule:

ACTIVITY BEGINNING	ACTIVITY ENDING	REPORT DUE*
January 1	***If Primary Called** 11 Days **Before** Primary	***If Primary Called** 8 Days **Before** Primary
January 1	March 31	Not Later than April 15
***If Primary Called** Last Regularly Filed Report ***If No Primary Called** January 1	11 Days **Before** Election	8 Days **Before** Election
Last Regularly Filed Report	June 10	June 15
June 11	June 30	July 15
July 1	December 31	January 15

*Report due dates that fall on a holiday or weekend will be moved to the following next day.

Special Election Reporting Schedule

If a special election is held on a regular election date then the committee must adhere to the filing schedule for the regular election. However, candidates for nomination or election to an office to be filled by a Special Election held on a date other than a regularly scheduled general election for that office must adhere to the following schedule:

ACTIVITY BEGINNING	ACTIVITY ENDING	REPORT DUE*
Inception	11 days **Before** Special Election	Eight Days **Before** Special Election
10 Days **Before** Special Election	Election Day	30 Days **After** Special Election**

*Report due dates that fall on a holiday or weekend will be moved to the next business day.

**Winning candidates for an office decided in a Special Election held on a date other than a regular election date cannot take office until such time as their committee has filed a post-election report.

Immediately following the filing of the special election's post-election report, the candidate must refer to the normal filing schedule for that office's general election. For example, for a candidate who participates in a special election for the House of Delegates, the candidate will be responsible for filing campaign finance reports on the November election schedule for the next year in which that office is scheduled for election immediately after filing a post-election report.

Section 12.2 - Reports as Condition to Qualification for Office

No person will be allowed to take office until their committee has filed the required reports from the applicable schedule listed above. Further, no officer authorized by the laws of Virginia to issue certificates of election shall issue one to any person determined to be elected to any such office, until copies of the reports cited above have been filed as required.

However, a person who is elected to fill a vacancy at a special election held on a general election day (May or November) may qualify for the office and be issued a certificate of election in advance of filing the 30-day post-election report, upon the filing of that post-election report complete through the Election Day.

Section 12.3 - Where to File Campaign Finance Reports

- **Candidates for local office** who file electronically file with the Virginia Department of Elections only. Candidates who are in a locality served by a General Registrar with a population of over 70,000 must file electronically. Paper filers file with the county or city general registrar only. Faxed copies are not acceptable in order to meet the deadline. An original, signed copy must be submitted to the local general registrar in person.
- **General Assembly Candidates file electronically** with the Virginia Department of Elections.
- **Statewide Candidates** file electronically with the Virginia Department of Elections.

Section 12.4 – When to File Reports

When a report's due date falls on a weekend or holiday, or if the local office where the candidate committee files is closed on the report's due date, then the report is due the first business day immediately following the report's due date.

- **Reports filed with the general registrar** must be received in the office of the General Registrar by the close of business on or before the due date. Faxed copies and postmarked dates are not acceptable.
- **Reports that are electronically filed with the Virginia Department of Elections** must file their electronic reports no later than 11:59 on the report's due date.

Section 12.5 - Extension of the Filing Deadline

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

- If a candidate or treasurer who is required to file a report spouse, parent, grandparent, child, grandchild, or sibling dies within the 72 hours before the deadline. (The Virginia Department of Elections or the local general registrar is authorized to grant an extension of the filing deadline for a period not to exceed five days for good cause shown by the filer and found by the Commissioner of the Virginia Department of Elections or board sufficient to justify the granting of the extension.);

- In emergency situations that interfere with the timely filing of reports. The extension is limited in scope to the areas and times affected by the emergency. The extension will be applicable only 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.;

- A candidate who serves as his own campaign treasurer and who is a member of a uniformed service of the United States called to active duty during a reporting period will be granted a reasonable period, to be set by The Commissioner of the Virginia Department of Elections.

- In the event of a failure of the computer or electronic filing system that prevents timely filing, the extension will not exceed a period of up to five days after restoration of the computer or filing system to operating order. A receipt stating the date of restoration is required (only the State Board of Elections can grant extensions in this instance).

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, without a declaration of a state of emergency by the Governor of Virginia or the President of the United States;

- The loss of data due to, but not limited to: failure to back-up database, creating multiple databases, or failure to transfer data to a new or different computer.

- Treasurer or committee officer transition that may result in a "paper shuffle;"

- Candidate committee's lack of knowledge of how to file, the need to file or due date of filing; or

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

Section 12.6 - No Activity Reports

All committees are required to file a report on the required deadlines even if there is no financial activity for the committee, except for bank interest or bank fees, during the reporting period. In such cases, a committee which files reports on paper can simply file a cover sheet and fill out the "No Activity" box 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.

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 Commissioner of Elections, or the general registrar, 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 Commissioner 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.

1st Penalty	Subsequent Penalty in Same Election Cycle
$100.00	$1000.00

"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 the date of the mailing of the written notice by the Virginia Department of Elections or the local general registrar. 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 Civil Penalties for Campaign Finance Reports

1st Late Report = $100 civil penalty automatically imposed after the conclusion of the report's filing deadline. The Virginia Department of Elections or the local general registrar 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.

2nd Late Report = $1000 civil penalty automatically imposed after the conclusion of the report's filing deadline. The Virginia Department of Elections or the local general registrar 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 general registrar will notify the committee via certified mail. The penalty will increase to $1000 for 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 general registrar board of a county or city will notify the Commonwealth's Attorney for the county or city in which the general registrar 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 Incomplete Reports

Best Efforts Policy

Once reports are received, the Virginia Department of Elections and the local general registrars 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 general registrar are required to review the following:

- the report is legible;
- the report is signed by the treasurer;
- 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;
- 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);
- 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;
- 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 A 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.

<u>AND</u>

- Letters requesting the required information from those contributors is 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 – Additional Penalties for Statewide Offices

The Act requires that candidates for statewide office be assessed penalties in addition to candidates for other offices.

Procedure to Collect Additional Penalties for Candidates for Statewide Office

Delinquent Completed Report (Statewide Office)

- An incomplete report for statewide candidates is defined as a report that is filed timely with the Virginia Department of Elections but is missing required information or contains mathematical errors.

- Prior to assessing a penalty, the Commissioner of the Virginia Department of Elections must notify the candidate and their treasurer within 14 days of the deadline for the required report, via certified mail, that an amended and completed report must be filed, citing the omissions from the report. No penalty will be assessed if the report or information required to complete the report is filed within seven days of the date of mailing the written notice.

- If the campaign committee fails to file the required report within seven days of the date of the written notice, these penalties will assess against the candidate and treasurer, who will be jointly and severally liable, for each day of non-compliance in addition to the prescribed penalties for candidate campaign committees.

- The Commissioner of the Virginia Department of Elections has the authority to extend the seven day time period for filing the completed report if good cause is shown. However, no additional time may be granted if the report was due eight days prior to a primary, general or special election.

Late Report (Statewide Office)

- A late report will automatically be assessed a $100 penalty.

- After 7 days, if report is still not filed, the Virginia Department of Elections will send an official notification to the committee.

- If the campaign committee fails to file the required report within seven days of the date of the official notice, a penalty of $500 per day of non-compliance will be assessed against the candidate and treasurer, who will be jointly and severally liable, in addition to the $100 previously assessed.

The Commissioner of the Virginia Department of Elections has the authority to extend the seven day time period for filing the completed report if good cause is shown. However, no additional time may be granted if the report was due eight days prior to a primary, general or special election. These penalties are to be assessed to candidates for statewide office in addition to the penalties enumerated above.

Section 13.5 – 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 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 13.6 - 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 general registrar.

CHAPTER 14 – Political Advertisement Disclosure

Section 14.1 - When Disclosure Statements are Required

A disclosure statement is required for all political advertisements which uses express advocacy to support the election or defeat 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 Disclosure 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

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 election or defeat 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 will require 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 Disclosure Requirements for Candidates

The visual statement required on print media advertisements must be displayed in a conspicuous manner. 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.

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 a candidate that appears in Print Media must state who paid for the advertisement. The statement must include the name of the candidate or the candidate's campaign committee. The committee can replace the "Paid for by…" statement with "Authorized by…"

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 Disclosure Requirements for Candidates

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 § 24.2-957.1 of the Code of Virginia.

If the sponsor of the advertisement does not have control over the audio then the disclosure requirements must be the same as for Print Media. The statements must be made 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…" Visual Statement

Every political advertisement sponsored by a candidate that appears on television must visually state who paid for the advertisement. The statement must be 20 scan lines in size and must include the name of the candidate or the candidate's campaign committee.

If the candidate or his campaign committee is the sponsor of the advertisement AND the advertisement does not refer to any other clearly identified candidate, then the committee can replace the "Paid for by…" statement with "Authorized by…"

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

"Authorized by…" Spoken Statement

For any political advertisement appearing on television and sponsored by a candidate who refers to a clearly identified candidate or candidates other than the candidate who is sponsoring the advertisement must include a disclosure statement spoken by the candidate which states "I am… (or "This is…") [Name of candidate], candidate for [name of office], and I (or 'my campaign') sponsored this ad." There must be a full-screen, un-obscured photographic picture or actual appearance of the candidate throughout the entire spoken statement.

It is not required to state whether the candidate authorized the advertisement if the candidate referred to in the advertisement is not the sponsoring candidate's opponent or if the candidate referred to in the advertisement is not being expressly advocated.

The spoken statement can be spoken at any time during the advertisement unless the duration of the advertisement is more than 5 minutes. In this case, the spoken statement must be delivered at the beginning and the end of the advertisement.

If more than one candidate is sponsoring the advertisement, then at least one candidate must speak the disclosure statement.

Section 14.5 - Radio Disclosure Requirements for Candidates

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 § 24.2-9957.1 of the Code of Virginia. The disclosure statement must last at least two seconds and must be spoken so that its contents can be easily understood.

In the case of a radio advertisement that has one or more sponsors, the disclosure statement must name all of the sponsors and the candidate must speak the disclosure statement. If more than one candidate is sponsoring the advertisement, then at least one candidate must speak the disclosure statement.

Spoken Statement

For any political advertisement airing on radio and sponsored by a candidate which refers to a clearly identified candidate or candidates, other than the candidate which is sponsoring the advertisement, must include a disclosure statement spoken by the candidate which states "I am… (or "This is…") [Name of candidate], candidate for [name of office], and I (or 'my campaign') paid for this ad."

If the candidate or his campaign committee is the sponsor of the advertisement AND the advertisement does not refer to any other clearly identified candidate, then the committee can replace the "Paid for by…" statement with "Authorized by…"

It is not required to state whether the candidate authorized the advertisement if the candidate referred to in the advertisement is not the sponsoring candidate's opponent or if the candidate referred to in the advertisement is not being expressly advocated.

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 disclosure requirements will not void any election.

It is unlawful for any person, corporation or political committee making campaign 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 candidate or campaign 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 candidate or campaign 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 name of the candidate(s) or candidate campaign committee(s) paying for the call;
- The name of the candidate(s) or candidate campaign committee(s) who authorized the calls.

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, in a public hearing, shall determine whether to find a violation of this chapter and to assess a civil penalty. At least 10 days prior to such hearing, the Virginia Department of Elections shall send notice by certified mail to persons whose actions will be reviewed at such meeting and may be subject to civil penalty. Notice shall include the time and date of the meeting, an explanation of the violation, and the maximum civil penalty that may be assessed.

Section 15.2 - Penalties for Candidates for Statewide Office

The following penalties will apply only to statewide candidates or statewide campaign 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; and
- $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 disclosures will be $2,500.

Section 15.3 - Penalties for Candidates for General Assembly or Local Office

The following penalties will apply only to General Assembly or local candidates and/or their campaign 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

Violators whose total expenditures for the election cycle are less than $10,000 will be assessed a penalty of $500 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 $1,000.

Violators whose total expenditures for the election cycle are $10,000 or more will be assessed a penalty of $1,000 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 $2,500.

Radio

Violators whose total expenditures for the election cycle are less than $10,000 will be assessed a penalty of $250 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 $500.

Violators whose total expenditures for the election cycle are $10,000 or more will be assessed a penalty of $500 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 $1,000.

Campaign Telephone Calls

The penalty for violating required campaign telephone call disclosures will be $2,500 per occurrence.