



★ VIRGINIA ★  
DEPARTMENT *of* ELECTIONS

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the Handbook

# **Chapter 17**

# **Campaign Finance**

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## 17. Campaign Finance

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<p><b>REFERENCE</b></p> <p><a href="#">Virginia Constitution</a>  <a href="#">Code of Virginia</a>  <a href="#">Charter Provisions</a></p>	<p><b>REGULATIONS</b></p>

### 17.1 CHAPTER ORGANIZATION

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

First, §17.2 sets out the scope of Virginia campaign finance law. §17.3 distinguishes committees that are required to file locally with the office of the general registrar. §17.4 explains how to determine a committee's election cycle. This is key to determining the committee's filing requirements. §17.5 discusses campaign finance reporting requirements. §17.5.1 discusses the methods by which candidates may file and to whom candidates must submit their filings. §17.5.2 and 17.5.3 provides more details on electronic filing respectively.

§17.6 provides an overview of the forms that committees may be required to file. The statement of organization is discussed in §17.6.1; this is the campaign finance form that committees are likely to have to submit first. A detailed explanation of how to process the form is provided. Scheduled reports are discussed in §17.6.2. This section covers timing of reports and how reports are processed. The rest of the sections in §17.6 discuss types of special reports: §17.6.3 covers large pre-election contribution reports, §17.6.4 covers independent expenditure reports, and §17.6.5 covers final reports. This is followed by a discussion of exemption forms in §17.6.6, which addresses who can file for exemption and the types of filings that are covered.

<sup>1</sup> See the Code of Virginia §24.2-945.



§17.7 provides a brief note on the retention of reports. In §17.8 the discussion turns to penalties for CFDA violations. Section 17.9 discusses Chapter 9.5 of the Code of Virginia (commonly referred to as Stand by Your Ad [SBYA]), which sets forth disclaimer requirements for campaign advertisements and telephone calls.<sup>2</sup> Registrars have minimal responsibilities for reporting potential violations under this chapter of the Code. At the end of this chapter of the Handbook, please find appendixes containing templates registrars may use to notify candidates of potential violations.

## 17.2 EXEMPT FROM VIRGINIA CAMPAIGN FINANCE LAW

Candidates for the following offices are exempt from the provisions of CFDA and SBYA<sup>3</sup>:

- Member of the U.S. Congress
- President and Vice President of the United States
- Any town office in a town with a population less than 25,000
  - ☒ unless local ordinance provides that CFDA provisions apply OR
  - ☒ unless the candidate accepts contributions or makes expenditures in excess of \$25,000 within the candidate's election cycle.<sup>4</sup>
- Political party committee officer

All other candidates in the Commonwealth are subject to the provisions of Chapters 9.3 and 9.5 of Title 24.2.

### Frequently Asked Questions



*Who are candidates for the purposes of implementing the CFDA?* "Candidate" includes any person who raises or spends funds in order to seek or campaign for an office of the Commonwealth, or one of its governmental units, in a party nomination process or general, primary, or special election.

*Is a write-in candidate considered a candidate and required to submit reports?* Write-in candidates are included in the definition of candidate, and are subject to the reporting requirements under CFDA and SBYA.

<sup>2</sup> See the Code of Virginia §24.2-101 definition of "candidate."

See the Code of Virginia §24.2-955 et seq.

<sup>3</sup> See the Code of Virginia §24.2-945.

<sup>4</sup> Pursuant to HB 1719 (2019), the provisions of the Campaign Finance Disclosure Act apply to a candidate for town office in a town with a population of less than 25,000 if either of these conditions are met: if the governing body of the town passed an ordinance rendering the CFDA applicable to candidates for town office, or if the candidate accepts contributions or makes expenditures in excess of \$25,000.00.



The provisions of Chapters 9.3 and 9.5 of Title 24.2 also apply to other political entities defined in Code<sup>5</sup>: political action committees (PACS), out-of-state political committees, political party committees, referendum committees, and inaugural committees.

### 17.3 WHICH COMMITTEE TYPES FILE LOCALLY?

All of the entities mentioned above that fall under the provisions of Chapters 9.3 and 9.5 of Title 24.2 are required to file campaign finance reports electronically with the State Board of Elections **except candidate committees for candidates that are no longer seeking office in local or district level races and local political party committees.**

These committee types may file paper reports with their local general registrar's office and are, therefore, the only committee types discussed in this chapter. The discussion below focuses mainly on candidate committees since those are the committees that general registrars are most likely to interact with. Filing requirements for local political party committees are the same as for candidates, except where noted.

### 17.4 ELECTION AND REPORTING CYCLES

The candidate's election cycle is determined by the office for which the candidate decides to run. The election cycle begins on January 1 of the year the candidate first seeks election to that office through December 31 immediately following the election for such office.<sup>6</sup> For a candidate who seeks election in successive elections for the same office, the next election cycle shall begin on January 1 immediately following each election for that office and continue through December 31 immediately following the next successive election for the same office.

The political party committee reporting cycle runs from January 1 through December 31 of each year.<sup>7</sup>

#### 17.4.1 Cycle is Set with the Filing of the SOO

For administrative purposes, a committee that files a statement of organization has ongoing filing requirements until a final report is filed. A candidate committee is responsible for timely filing all required reports in the intervening period, regardless of whether the candidate is actively seeking office. Candidates and parties can close their committee registration at any time by filing a final report.

<sup>5</sup> See the Code of Virginia §24.2-945.1.

<sup>6</sup> See the Code of Virginia §24.2-947.

<sup>7</sup> See the Code of Virginia §24.2-950.



### 17.4.2 Special Elections Campaign Finance Cycles

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

## 17.5 CAMPAIGN FINANCE REPORTING

### 17.5.1 How and to Whom Committees File

ELECT is responsible for maintaining a centralized database to receive campaign finance reports and other required filings that are filed electronically<sup>8</sup>; this electronic campaign finance report creation and filing application is known as COMET (COMmittee Electronic Tracking) COMET enables candidates to electronically file (e-file) required disclosure reports.

Candidates for General Assembly and local or constitutional offices must file their campaign finance reports with the State Board of Elections electronically. Registrars should direct candidates to ELECT's [COMET Quick User Guide](#) to help them get started with online filing.<sup>6</sup> There is no cost for using COMET and all support for this application is provided by ELECT. Additionally, COMET reminds candidates of upcoming reports and prevents them from submitting incomplete reports, which helps prevent candidates from incurring penalties

Candidates for local or constitutional office shall file reports by computer or electronic means.<sup>9</sup> These candidates *shall not be* required to file reports with the general registrar of the locality in which they reside.<sup>10</sup>

Local political party committees may file electronically or on paper with the office of the general registrar.<sup>11</sup> The general registrar's office is wholly responsible for political party committees that file on paper. ELECT takes responsibility for party committees that file electronically.

### 17.5.2 Electronic Filings (through COMET)

**Candidates for General Assembly**, who e-file through COMET, will have their statement of organization sent to their local general registrar. ELECT will process and retain subsequent reports, notifying the locality when such reports are filed.

**Forms submitted by a candidate for local or constitutional office** who e-files through COMET are processed by ELECT, which receives and maintains that candidate's filings.

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<sup>8</sup> See the Code of Virginia §24.2-946.1.

<sup>9</sup> See the Code of Virginia §24.2-947.5.

<sup>10</sup> See Id.

<sup>11</sup> See the Code of Virginia §24.2-950.8.



## 17.6 DISCLOSURE FORMS

Virginia requires public disclosure of all contributions received and expenditures made by regulated political entities. Virginia does not limit contributions.<sup>12</sup> Below is a list of the types of filings, information about those filings, and procedures for processing them. While most of these filings will be made online through COMET, registrars should be familiar with each of these types of filings and the forms on which they are filed.

### 17.6.1 Statement of Organization (SOO)

The statement of organization<sup>13</sup> is the first document that a committee must file. An SOO establishes the committee, to which all future filings and communications are linked.

#### 17.6.1.1 What the SOO Does (Legally)

The statement of organization creates a candidate campaign committee, which becomes the committee designated by a candidate to receive all contributions and make all expenditures for him or on his behalf in connection with his nomination or election for a particular office.<sup>14</sup>

#### 17.6.1.2 When to File an SOO



All individuals within the scope of Virginia campaign finance law must file a statement of organization **within 10 calendar days** of meeting any one of the following conditions<sup>15</sup>:

- Accepting contribution of any amount
- Spending any funds for the campaign (including personal funds)
- Paying a filing fee for any party nomination method
- Filing an ELECT-501 certificate of candidate qualification
- Appointing a campaign treasurer; designating a campaign committee or bank account

Local political party committees are exempt from the reporting requirements of CFDA unless they are either a “county or city political party [committee] for any county or city with a population of more than 100,000” or accept contributions or make expenditures in excess of \$15,000 in a calendar year.<sup>16</sup> Political party committees in counties and cities with a population of more than 100,000 must file an SOO within 10 days of anticipating that it will receive contributions or make expenditures in excess of \$200 in a calendar

<sup>12</sup> Federal law may impose certain prohibitions on state and local elections. E.g. all candidates for elected office in the U.S. are prohibited from accepting contributions from foreign nationals. *See* 8 USC § 441e. Such prohibitions are enforced by the [Office of the United States Attorney](#), to whom any questions about compliance should be directed.

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

<sup>14</sup> *See* the Code of Virginia §24.2-945.1.

<sup>15</sup> *See* the Code of Virginia §24.2-947.1.

<sup>16</sup> *See* the Code of Virginia §24.2-950.1.



year.<sup>17</sup> All other local political party committees must file within 10 days of making aggregate contributions or expenditures in excess of \$15,000.

### 17.6.1.3 How to Amend an SOO



The committee has **10 days** from the date of any change to their current statement of organization to submit an amended statement of organization with new information.<sup>18</sup> You can amend an SOO using the same form used for the initial statement of organization by selecting the “Amended” box at the top of the form, indicating the date the changes took effect, and providing the committee ID number.

### 17.6.1.4 How to Process an SOO

Upon receipt of the **CDFA-947.1 Statement of Organization form for candidates**, the general registrar should do a preliminary check for completeness.

After glancing at the form to ensure the fields are completed, review the form to determine whether fines should be assessed using the following checklist:

1. Type of Statement
  - Is the statement “Amended”? If so, check to make sure the date that changes took effect is less than 10 days from the date of receipt.
  - If it has been more than 10 days, a penalty for late filing should be assessed.<sup>19</sup>
2. Committee Information
  - Has the candidate provided a name for the committee?
  - Has the candidate provided a mailing address for the committee?
3. Candidate Information
  - Has the candidate provided his full name, address?
  - If the candidate is serving as his/her own treasurer, check that (s)he has provided a daytime phone number.
4. Election Information
  - Has the candidate provided the office sought, year, and type of election?
5. Treasurer Information
  - Check that the full name, residence address, and daytime phone number of the treasurer is provided.
6. Campaign Depository
  - Check that the candidate has provided the name of a financial institution located in the Commonwealth.
  - The depository account must be with an institution located in Virginia.<sup>20</sup> If the financial institution is located outside the Commonwealth the information provided is either incorrect or the campaign must find another financial institution. Contact the candidate and have them resubmit their statement.
7. Committee Activity

<sup>17</sup> See the Code of Virginia §24.2-950.2.

<sup>18</sup> See the Code of Virginia §24.2-947.1(D).

<sup>19</sup> See the Code of Virginia §24.2-953.2.

<sup>20</sup> See the Code of Virginia §24.2-947.2(A).





- If the statement is “New,” check to make sure that none of the dates of activity are more than 10 days prior to the receipt of the statement.
- If it has been more than 10 days since one of the dates provided, a penalty for late filing should be assessed.

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

The **CDFA-950.2 Statement of Organization form for political party committees** should also be given an initial check for overall completeness.

After reviewing at the form to ensure the fields are completed, determine whether fines should be assessed using the following checklist:

1. Type of Statement
  - Is the statement “Amended”? If so, check to make sure the date that changes took effect is less than 10 days from the date of receipt.
  - If it has been more than 10 days, a penalty for late filing should be assessed.<sup>21</sup>
2. Committee Information
  - Has the committee provided the name of its party?
  - Has the committee provided a mailing address?
  - Has the committee indicated a local scope (city, county, or local district)?
3. Campaign Depository
  - Check that the committee has provided the name of a financial institution located in the Commonwealth.
  - The depository account must be with an institution located in Virginia. If the financial institution is located outside the Commonwealth the information provided is either incorrect or the campaign must find another financial institution. Contact the candidate and have them resubmit their statement.
  - If it has been more than 10 days since one of the dates provided, a penalty for late filing should be assessed.
4. Address Where Books are Maintained
  - Has the committee provided the address where books are maintained?
5. Treasurer Information
  - Check that the full name, residence address, and business address of the treasurer is provided.
6. Custodian of Books information
  - Check that the full name, residence address, and business address of the custodian of books is provided.

<sup>21</sup> See the Code of Virginia §24.2-953.2.



### 17.6.1.5 Before Finalizing the SOO

Before your office files the statement of organization, check the administrative parameters indicated by the statement using the following procedure:

- Check the “Filing Method” section
  - If the committee indicates they will file paper reports, all future reports will be made on paper to the office of the general registrar.
    - The office of the general registrar will be entirely responsible for filings made by these committees.
  - If the committee indicates it will file electronically, most future reports will be made through the Department of Elections’ COMET system.
    - The office of the general registrar will receive e-mail notifications when a committee files reports, including the time of the filing and a link to the filing.
    - Registrars will also be notified by e-mail when a committee is late or has failed to file.
    - If the notification of intent to file campaign finance reports electronically is indicated on a hand written form the registrar should remind the committee of the need to resubmit their statement on line through COMET and direct the candidate to the *COMET Quick User Guide* for assistance in doing so.<sup>22</sup>
  - If the local political party committee indicates they will file electronically, ELECT will be responsible for all future reports.
- Confirm information in the “Election Information” section of the candidate campaign committee SOO.
  - The “Type of Election” sets the reporting schedule for the committee. COMET sets this schedule automatically for e-filers. Registrars responsible for paper filers must be sure to track this information themselves.
  - The “Office Sought” and “Year of Election” set the election cycle for the committee. COMET sets this cycle automatically for e-filers. Registrars responsible for paper filers must be sure to track this information themselves.

### 17.6.2 Scheduled Disclosure Reports

Scheduled disclosure reports are the most detailed reports that committees must file. These periodic reports disclose contributions received and expenditures made during certain time periods. Virginia laws emphasize transparency and aim to ensure an educated public.

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<sup>22</sup> [COMET Quick User Guide](#).



### 17.6.2.1 When Are Reports Due



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

Political party committees file scheduled reports quarterly.<sup>27</sup>

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

If a candidate has more than one candidate committee open, all committees must file scheduled disclosure reports for all open committees on the same schedule as the active candidate committee.

### 17.6.2.2 How to Process Reports

The general registrar receives and reviews campaign finance reports required to be filed with them according to the procedures outlined in this Chapter.<sup>28</sup> Each report should be kept with the statement of organization for the committee to which it is associated along with any other official communications.

When paper reports are received, you should record the time and date of the filing on the form (e.g. with a time/date stamp) and you should conduct a preliminary check to verify the general completeness of the report.

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

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

<sup>23</sup> See the Code of Virginia §24.2-947.6.

<sup>24</sup> See the Code of Virginia §24.2-947.7.

<sup>25</sup> See the Code of Virginia §24.2-947.8.

<sup>26</sup> [2017 Candidate Reporting Deadlines](#).

<sup>27</sup> See the Code of Virginia §24.2-950.6.

<sup>28</sup> See the Code of Virginia §24.2-946.3(C).



### 17.6.3 Large Pre-Election Contribution Reporting

**Candidates for General Assembly** must file a large pre-election contribution report<sup>29</sup> if they receive a contribution exceeding \$1,000 in the eleven days prior to any nomination or election for which the individual is a candidate.<sup>30</sup>

**Candidates for local or constitutional offices** must file a large pre-election contribution report if they receive a contribution exceeding \$500 in the eleven days before a nomination or election for which the individual is a candidate.<sup>31</sup>

**Candidates running unopposed in a primary or other nominating event** are not required to file large pre-election reports but all candidates in a general election must file these reports, regardless of whether they are unopposed.

**Deadline to file the report** is no later than 11:59 p.m. on the day following receipt or 11:59 p.m. Monday if a contribution is received on a Saturday.<sup>32</sup> The contributions shown on these reports must also be reported on the candidate's next scheduled report.

Political party committees do not file large pre-election contribution reports. **Instead, political party committees must file a large dollar contribution report anytime they receive a single contribution or loan of \$10,000 or more.** The report must be filed within 3 business days of the receipt of the contribution or loan.<sup>33</sup>

### 17.6.4 Independent Expenditure Reports

An independent expenditure is an expenditure made without coordination or involvement of the candidate supported or opposed. "Coordinated or Coordination" is defined as action taken (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.<sup>34</sup> The Code definition does not require that the candidate have knowledge of the expenditure. Independent expenditure reports must be filed on paper.

<sup>29</sup> Form [CFDA-947.9](#) Large Pre-Election Contribution Report.

<sup>30</sup> See the Code of Virginia §24.2-947.9.

<sup>31</sup> See the Code of Virginia §24.2-947.9.

<sup>32</sup> See the Code of Virginia §§24.2-947.9 and 949.6.

<sup>33</sup> See the Code of Virginia §24.2-950.7.

<sup>34</sup> See the Code of Virginia §24.2-945.1.



#### 17.6.4.1 *When Independent Expenditure Reports Due*

Persons, candidate campaign committees, and political committees are required to submit independent expenditure reports<sup>35</sup> after making an independent expenditure that has exceeded the aggregate of \$200 for the election cycle in relation to a local or General Assembly election (\$1000 for a statewide election).<sup>36</sup> This is an aggregate of all independent expenditures and not aggregated solely on a candidate by candidate basis.



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

#### 17.6.4.2 *Where to file Independent Expenditure Reports*

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

### 17.6.5 Final Report

A final report closes out a committee and ends all reporting obligations. A committee must continue to file scheduled campaign finance reports on the appropriate schedule until a final report is filed indicating all debts for the committee have been paid and the committee's balance has been returned to zero.<sup>37</sup>

#### 17.6.5.1 *When to File Final Report*

All candidates are required to file a final report.<sup>38</sup> A candidate committee final report is due when one of the following occurs<sup>39</sup>:

- The candidate no longer seeks election to the same office in a successive election
- The candidate seeks election to a different office
- The candidate is deceased
- The candidate had filed an exemption from reporting and was subsequently elected

Prior to being sworn in to office, successful exempt candidates (see 17.6.6 below) must file a final report detailing activity since the beginning of the campaign. A final report can be filed at any time. It does not have to be filed during a scheduled reporting deadline. A candidate who is running for the same office in successive elections may keep their campaign account open.

<sup>35</sup> Form [CFDA-945.2](#) Independent Expenditure Report.

<sup>36</sup> See the Code of Virginia §24.2-945.2.

<sup>37</sup> See the Code of Virginia §24.2-948.4.

<sup>38</sup> Form [CFDA-948.4](#) Final Report Cover Sheet

<sup>39</sup> See the Code of Virginia §24.2-948.4.



A political party committee that “disbands or determines it will no longer receive contributions or make expenditures during the calendar year in an aggregate amount exceeding \$200” must file a final report.

#### 17.6.5.2 *Disbursement of Surplus Funds*

A committee is authorized to disburse surplus funds by the methods listed below:<sup>40</sup>

- Transfer to a future election for the candidate or to retire the deficit of the current campaign (or transfer to an affiliated organization in the case of a political party committee)
- Return to a contributor in an amount not to exceed the contributor's original contribution
- Donation to any organization described in the Internal Revenue Code<sup>41</sup>
- Contribution to one or more candidates or to any political committee
- Contribution to any political party committee
- Defraying any ordinary, non-reimbursed expense related to the committee (or related to the elective office in the case of an candidate campaign committee).

No candidate may convert any contributed moneys, securities, or like intangible personal property to his personal use in the context of a final report.<sup>42</sup> Prohibited personal use extends to immediate family members.<sup>43</sup>



#### **Written Explanation prepared by the Attorney General**

Shortly after the passage of HB 125 during the 2010 legislative session, the Attorney General’s office provided ELECT with a written explanation of the Campaign Finance Disclosure Act which prohibits “personal use.”<sup>41</sup> The explanation states that “immediately following [the] listed conditions for the disposal of excess campaign funds by a candidate [in § 24.2-948.4], the General Assembly specifically prohibits a candidate from converting “any contributed moneys, securities, or like intangible personal property to his personal use or to a member of the candidate’s “immediate family” as that term is defined in § 30-101. The General Assembly has clearly prohibited the personal use of campaign contributions by candidates, but only in the context of the filing of the required final campaign finance report”(emphasis in the original).

<sup>40</sup> See the Code of Virginia §24.2-948.4(D)

<sup>41</sup> [26 USC § 170\(c\)](#).

<sup>42</sup> See the Code of Virginia §24.2-948.4(D)

<sup>43</sup> *Id.*; See also, the Code of Virginia § 30-101 definition of “immediate family.”



### 17.6.5.3 Termination Statement

When filing a form CFDA-948.4 Final Report Cover Sheet, the committee must sign a *Termination Statement*. This statement is included on the cover sheet. It indicates that all debts have been paid, all monies received and spent have been reported and, if surplus funds remain, the amount and disposition of those funds. The termination statement must be filed on paper even if the committee files their reports electronically.

### 17.6.6 Local Candidate Reporting Exemption Request

A candidate for local office may request an exemption from filing scheduled campaign finance reports.<sup>44</sup> A candidate wishing to file an exemption must file the exemption form by paper with his general registrar. The general registrar will then scan and email a copy of the exempt form to ELECT where the filing schedule will be reset in COMET to allow for the Final Report to be filed electronically.

**Eligibility for Exemption.** The exemption applies if the candidate certifies the following:

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

**Other Reports Required by CFDA.** Even if a candidate is exempt from filing scheduled reports, (s)he is still required to file certain other reports required by CFDA. The candidate must still create a campaign committee by filing a statement of organization and opening a separate bank account. The committee must still file a special report for qualifying independent expenditures.<sup>45</sup> Also, committee must still file a special report for qualifying large pre-election contributions<sup>46</sup> by a candidate to his own campaign. A candidate claiming exemption is prohibited from taking office until a final report is filed by his/her committee.<sup>47</sup> The final report must show all financial activity of the campaign.

**Request to Rescind Exemption.** A candidate who has received an exemption may, at any time, request that exemption be rescinded.<sup>48</sup> A candidate is required to do so before violating any of the terms of the exemption mentioned above. Once an exemption is rescinded the candidate's campaign committee will follow the appropriate reporting schedule for scheduled disclosure reports. The first scheduled report must show all the receipts and expenditures from the first activity date reported on the statement of organization.

<sup>44</sup> See the Code of Virginia §24.2-948.1; Form [CDFA-948.1](#) Request for Exemption from Reporting Requirements.

<sup>45</sup> See §24.2-945.2.

<sup>46</sup> See §24.2-947.9.

<sup>47</sup> See the Code of Virginia §24.2-948.1; See also §24.2-948.4.

<sup>48</sup> See the Code of Virginia §24.2-948.1; Form [CFDA-948.1R](#) Rescind Request for Exemption from Reporting Requirements.



## 17.7 RECORDS RETENTION



Campaign finance reports filed locally must be retained through the next general election for the office to which they pertain unless the candidate has filed a final report. Reports for terminating candidates must be retained at least one year after the final report is filed, or the next general election for the office to which they pertain. After expiration of the applicable retention period, the reports can be destroyed according to the instructions set forth by the Library of Virginia.<sup>49</sup> Please see Chapter 9 (Records Access and Retention) for more information.

## 17.8 PENALTIES

General registrars are required to assess penalties for certain violations of Chapter 9.3 of Title 24.2 by candidates required to file locally.<sup>50</sup> The Code of Virginia provides a range for the amount of each penalty but requires the State Board of Elections to provide uniform schedules for local election officials to follow in carrying out their responsibility to assess civil penalties for campaign finance report violations.<sup>51</sup> You can find schedules of civil penalties for each type of committee on the ELECT website, under Campaign Finance. **No local entity has the authority to waive or reduce these penalties.**<sup>52</sup>

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

### 17.1.1 Late Report

If at the conclusion of a filing deadline a required report or statement is not filed the general registrar is required to assess a penalty. The State Board of Elections has set the amount of an initial late report at \$100.<sup>53</sup> The Code provides that for each subsequent late report in the same election cycle the general registrar must assess a penalty of \$1000.<sup>54</sup>

The general registrar must notify the committee of civil penalty and collection procedures via email or regular postal mail (see Appendix A). If the payment is not received within 60 days of the deadline, the matter is referred to the appropriate Commonwealth's attorney for collection.<sup>55</sup>

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<sup>49</sup> *Records Retention and Disposition Schedule, [General Schedule No. 1, County and Municipal Governments, Voter Registration and Election Records.](#)*

<sup>50</sup> See the Code of Virginia §24.2-946.3(D).

<sup>51</sup> See the Code of Virginia §24.2-946.3(I).

<sup>52</sup> See the Code of Virginia §24.2-946.3, which states that no election official or staff may waive or reduce such penalties, except as provided in the Code of Virginia §24.2-946.3.

<sup>53</sup> See [Minutes of the July 24, 2012 meeting of the State Board of Elections.](#)

<sup>54</sup> See the Code of Virginia §24.2-953.2.

<sup>55</sup> See State Board of Elections Policy 2010-001 [Delinquent Civil Penalties to Commonwealth's Attorney.](#)





### 17.8.1 Failure to File Report

If a required report or statement is not filed within 60 days of the due date, the general registrar will notify the committee via certified mail. An additional penalty of \$400 must be assessed (raising the total penalty to \$500) and the committee will be provided an additional 60 days to submit the report.<sup>56</sup> If, after the additional 60 days has passed, the committee has not filed the report, then the matter is sent to the appropriate Commonwealth's attorney for collection and determination as to whether the violation is willful.<sup>57</sup> The Code provides that for each subsequent failure to file in the same election cycle the general registrar must assess a penalty of \$1000.<sup>58</sup>

If delivery of the certified letter to the committee's primary mailing address is returned undeliverable or the recipient refused to sign, then the matter shall immediately be referred to the appropriate attorney for the Commonwealth by the general registrar.<sup>59</sup>

### 17.1.2 Incomplete Reports

If any required information is not included or the report is not completed properly, the report is incomplete.<sup>60</sup> However, some missing information does not necessarily mean that a report should be considered incomplete for the purpose of levying a civil penalty. The State Board has adopted a "Best Efforts" policy which holds that 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) AND...
- Letters requesting the required information from those contributors are filed with the report.

If these conditions are not met, then the report is considered incomplete and the general registrar should proceed as follows:

- Prepare a certified letter to the committee which outlines the omissions found in the report.
  - See Template C in the Appendix below.
  - The letter should state that an amended report must be received within ten days of mailing the letter or a civil penalty of \$100 will be assessed.<sup>61</sup>

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<sup>56</sup> See [Minutes of the July 24, 2012 meeting of the State Board of Elections](#).

<sup>57</sup> *Id.*

<sup>58</sup> See the Code of Virginia §24.2-953.1.

<sup>59</sup> See [Minutes of the July 24, 2012 meeting of the State Board of Elections](#).

<sup>60</sup> See the Summary of Laws and Policies for [Candidate Campaign Committees](#) and the Summary of Laws and Policies for [Political Party Committees](#) (approved at the [April 23, 2014 meeting](#) of the State Board of Elections).

<sup>61</sup> See the Code of Virginia §24.2-953.3(B).



- Due to the short amount of time involved, it is recommended that the general registrar also attempt to contact the committee via email or telephone to ensure they receive the necessary information.
- Send the letter by Certified Mail – Return Receipt Requested.<sup>62</sup>
- Preserve a copy of the letter and the stamped USPS receipt for certified mail.

The committee must amend the report by the due date or request additional time. Extensions of no more than 14 days can be granted by the general registrar.<sup>63</sup> If the committee fails to amend their report in a timely fashion, a \$100 penalty should be assessed.<sup>64</sup> The Code provides that for each subsequent incomplete report in the same election cycle the general registrar must assess a penalty of \$1000.<sup>65</sup> The general registrar should increase the amount of the penalty by \$500 every 60 days until a fully compliant filing is made.<sup>66</sup> However, the civil penalty imposed for incompleteness relative to any single report should not exceed \$500 “unless the total of the filer’s reportable contributions or the total of the filer’s reportable expenditures is \$10,000 or more.”<sup>67</sup>

## 17.9 POLITICAL ADVERTISEMENTS

The law commonly known as “Stand By Your Ad” (SBYA) is found in Chapter 9.5 of Title 24.2 of the Code and contains the requirements for disclaimers on political advertisements.<sup>68</sup> In contrast to campaign finance reports, the law does not impose any duty on local election officials to report or sanction possible advertising violations. If anyone has questions as to the content and requirements of the law please refer them to Chapter 9.5 and the various *Summary of Campaign Finance Law* documents that can be found on the ELECT website.<sup>69</sup>



### Policy (and Law) Note

All complaints related to failure to properly disclose political advertisements should be referred to the State Board of Elections which has sole authority to assess civil penalties under SBYA. The State Board may also refer possible willful violations to the appropriate Commonwealth’s attorney for investigation. See the Code of Virginia §24.2-955.3(D).

<sup>62</sup> Subsequent identical mail can be sent by regular mail (*See, See* the Code of Virginia §24.2-101.01).

<sup>63</sup> *See* the Code of Virginia §24.2-953.3(D).

<sup>64</sup> *See* the Summary of Laws and Policies for [Candidate Campaign Committees](#) and the Summary of Laws and Policies for [Political Party Committees](#).

<sup>65</sup> *See* the Code of Virginia §24.2-953.3(F).

<sup>66</sup> *See* the Code of Virginia §24.2-953.3(E).

<sup>67</sup> *See* the Code of Virginia §24.2-953.3(A).

<sup>68</sup> *See* the Code of Virginia §24.2-955 et seq.

<sup>69</sup> List of [Summary of Campaign Finance Law](#) documents.



## Appendix A: Letter Templates

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

### Template A: Unfiled Statement of Organization

Candidate/Committee

Address Line 1

Address Line 2

City, VA Zip Code

Dear Filer:

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

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

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

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

Sincerely,

Staff Name

Staff Title



## Template B: Late Filing

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

Dear Candidate/Committee:

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

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

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

Filing Period Ending	Report Deadline	Assessed Penalty
Invoice Number : TOTAL AMOUNT DUE		

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

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

Sincerely,

Staff Name  
 Staff Title



## Template C: Incomplete Report

Candidate/Committee

Address

City, State Zip Code

Dear Filer:

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

Incomplete Required Information	Date Amended Report Due
[description of the missing information]	[Month, Day, Year] (10 days from the mailing of the letter)

Your committee has until the date listed above to re-file the aforementioned completed report, or you will be subject to a civil penalty as established in Virginia Code § 24.2-953.3.

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

Sincerely,

Staff Name

Staff Title



## Template D: Letter to Commonwealth's Attorney

Commonwealth's Attorney

Address Line 1

Address Line 2

City, VA Zip Code

Dear Commonwealth's Attorney:

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

This matter is referred to you for your review. I ask that you please institute proceedings for the collection of the civil penalties assessed and, if you deem it appropriate, prosecution of a Class 1 misdemeanor as provided by § 24.2-953 et seq. of the Code. Civil penalties collected are to be made payable to the treasurer of the [name of locality] and must be forwarded to this office for deposit.

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

Sincerely,

Staff Name

Staff Title



## Appendix B: List of Localities Subject to SB 264 (2018)

### Localities Subject to SB 264 (2018)

Locality	2010 US Census	Liaison Region
<b>Independent Cities</b>		
	<b>Population</b>	
Alexandria City	139,993	5
Chesapeake City	222,209	1
Hampton City	137,467	1
Lynchburg City	75,568	7
Newport News City	180,966	1
Norfolk City	242,803	1
Portsmouth City	95,535	1
Richmond City	204,214	3
Roanoke City	97,032	7
Suffolk City	84,585	1
Virginia Beach City	437,994	1
<b>Counties</b>		
	<b>Population</b>	
Albemarle County	99,010	6
Arlington County	207,627	5
Augusta County	73,750	6
Chesterfield County	316,236	2
Fairfax County	1,081,699	5
Frederick County	78,305	5
Hanover County	99,863	3
Henrico County	306,935	3
Loudoun County	312,311	5
Montgomery County	94,392	7
Prince William County	402,002	5
Roanoke County	92,376	7
Rockingham County	76,314	6
Spotsylvania County	122,397	3
Stafford County	128,961	3

