



Candidate Filing Guidelines

Fair Campaign Practices Act ♦ Election 2012

Elections Division ♦ Office of the Secretary of State ♦ State of Alabama

Beth Chapman, Secretary of State

BECOMING A CANDIDATE FOR STATE, COUNTY, OR MUNICIPAL OFFICE FOR PURPOSES OF THE FCPA

The Fair Campaign Practices Act (FCPA) defines a candidate as a person who has:

- 1. Qualified to be listed on an election ballot** by filing qualification forms with a political party or by submitting a petition to run as an independent candidate; or
- 2. Received contributions or made expenditures for an election campaign equal to the following thresholds:**
 - ▶ \$25,000 or more for statewide office
 - ▶ \$ 5,000 or more for circuit or district office
 - ▶ \$10,000 or more for State Senate
 - ▶ \$ 5,000 or more for State House of Representatives
 - ▶ \$ 1,000 or more for municipal or county office

APPOINTING A PRINCIPAL CAMPAIGN COMMITTEE

Within **five (5) days** of becoming a candidate, one must file an **Appointment of Principal Campaign Committee Form** with the Secretary of State, if seeking election to a statewide, circuit, or district office, or with the local probate judge, if seeking election to a municipal or county office.

This form establishes the candidate's finance committee. A candidate may either serve as his or her own committee or may appoint a committee of two to five persons. This committee must report until dissolved.

FILING REPORTS

After exceeding the threshold amount in either contributions or expenditures, a candidate is required to file disclosure reports at specific times. If the filing threshold has not been exceeded, the candidate is not required to file disclosure reports. Failure to comply with FCPA reporting requirements may result in forfeiture of the election by the candidate and may result in a criminal conviction if prosecuted.

PRE-ELECTION REPORTS

Beginning 12 months out from an election, campaign finance disclosure reports

are required once a candidate meets the filing threshold for the office to which he or she is seeking election. These reports must be filed at the following times:

- ▶ the last day of every month beginning 12 months before any election for which the committee receives contributions or makes expenditures with a view toward influencing the election.
- ▶ each Friday beginning the month prior to the election
- ▶ on any one day, beginning 8 days before the election when the committee receives or spends funds in excess of \$5,000 on that day for any legislative, state school board or other statewide election.
- ▶ when a candidate receives a single contribution of \$20,000 or more a report is due within two business days of the date of the receipt of the contribution if it is not included in a monthly, weekly or daily report.

On the summary page, the report should include the amount of cash on hand at the beginning of the reporting period, a total of all contributions and expenditures made during the reporting period, and the ending balance. Contributions and expenditures over \$100 that have been received or expended during the reporting period should be itemized on the following pages of the report.

ANNUAL REPORT

An *Annual Report* is required during both election and non-election years. This report may be filed after January 1 and must be filed no later than January 31.

All candidates who have not dissolved their principal campaign committee and all state, county and municipal elected officials must file this report.

The summary page for the annual report includes two sections:

▶ Section I

Similar to a pre-election report, the candidate uses this section to report any activity since his or her last filing. The beginning balance is the ending balance from the last report filed. Forms 2 through 5 are used to itemize any contributions and expenditures that have not previously been reported.

▶ Section II

In this section, the candidate reports the total contributions and expenditures for the calendar year. The beginning balance is the ending balance from the last annual report filed.

REPORTS FOR ELECTIONEERING COMMUNICATIONS NEW FOR 2012

Candidates who expend more than \$1,000 on an "**electioneering communication**" are required to file disclosure reports. The reports must identify the source or sources of the funds used for the electioneering communication and the recipients of expenditures related to the electioneering communication [*§17-5-8(h)*].

This reporting requirement applies even if the candidate has not yet reached the filing threshold for the office sought by the candidate. However, the candidate is not required to duplicate any reporting. For more information, consult *Campaign Advertising Guidelines*, a document available from the Secretary of State's Elections Division.

RAISING MONEY

Candidates may begin fund raising 12 months prior to the election. They may continue fund raising for 120 days after the election to pay off campaign debts but only to the extent of any campaign debt and only for debts that are directly related to lawful campaign expenditures.

The FCPA prohibits candidates from receiving contributions from other principal campaign committees. However, principal campaign committees are allowed to transfer money from one principal campaign committee to another if the two principal campaign committees are for the same person [*§17-5-15(b)*].

State candidates cannot solicit or receive contributions any time the Alabama Legislature is in session, unless the Legislature is in session within 120 days of an election. Candidates should note, however, that this prohibition does not apply to loans they may make to their own campaign committee. Fundraising by candidates for county and municipal offices is not affected by legislative sessions.

The FCPA limits state and local principal campaign committees from receiving more than \$1,000 from federal campaign committees [*§17-5-15.1*].

DISSOLVING A PRINCIPAL CAMPAIGN COMMITTEE

The chairman or treasurer of the campaign committee should submit a **Statement of Dissolution Form** to the secretary of state or local probate judge to dissolve a committee. The **Statement of Dissolution** must be accompanied by a final report detailing contributions and expenditures not previously reported and stating how excess funds will be distributed.

USE OF CAMPAIGN FUNDS

Candidates may use their campaign funds only as follows [*§17-5-7(a)*]:

- ▶ For necessary and ordinary expenditures of the campaign.
- ▶ For expenditures that are reasonably related to performing the duties of the

office held. Expenditures that are reasonably related to performing the duties of the office held do not include personal and legislative living expenses, as defined in this chapter.

- ▶ For donations to the State General Fund, the Education Trust Fund, or equivalent county or municipal funds. Donations to an organization to which a federal income tax deduction is permitted under subparagraph (A) of paragraph (1) of subsection (b) of Section 170 of the Internal Revenue Code of 1986, as amended, or any other charitable, educational, or eleemosynary cause of Section 501 of Title 26 of the U. S. Code.
- ▶ For inaugural or transitional expenses.

The FCPA prohibits candidates from giving contributions to [*§17-5-15(b)*]:

- ▶ Political action committees
- ▶ 527 organizations
- ▶ Private foundations
- ▶ Principal campaign committees

Principal campaign committees are allowed to transfer from one principal campaign committee to another if the two principal campaign committees are for the same person [*§17-5-15(b)*].

STATEMENT OF ECONOMIC INTERESTS

All candidates are required by the state ethics law (§36-25-14, Code of Alabama, 1975) to file a *Statement of Economic Interests* with the appropriate election official at the same time they become a candidate. For more information on this requirement, contact the State Ethics Commission, P.O. Box 4840, Montgomery, AL 36103-4840, (334) 242-2997.

FEDERAL CANDIDATES

Candidates for federal office must comply with federal laws administered by the Federal Election Commission. The FEC can be reached by phone at 1-800-424-9530. The FEC web site is www.fec.gov.

JUDICIAL CANDIDATES

Judicial candidates are required by Canon 6C of the **Canons of Judicial Ethics** to make some additional filings with the clerk of the Alabama Supreme Court.

DISCLAIMER

This document is not a substitute for the Code of Alabama, 1975, as amended. This document is provided as a guide and is not intended to be an authoritative statement of law. For further legal information, please consult the Code of Alabama, 1975, as amended, or other appropriate legal resources.