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A Look at the Filing Requirements for Candidates

By shining the light on campaign contributions and expenditures of candidates for office, as well as elected officials who continue to raise money, ELEC's efforts help to dispel the perception that everyone in politics is corrupt.

All candidates running for public office in the State of New Jersey, from Governor through fire district commissioner, are required to disclose their financial activity to the Election Law Enforcement Commission (ELEC).

Without doubt among the proudest traditions of New Jersey is home rule. At the heart of this tradition is democracy that works and is responsive at the local level; government closest to the people and accountable to the greatest extent possible.

In the Garden State, ELEC has increasingly become an integral part of the effort to insure that local officials are accountable to their constituents. By shining the light on campaign contributions and expenditures of candidates for office, as well as elected officials who continue to raise money, ELEC's efforts help dispel the perception that everyone in politics is corrupt.

In fact, quite the opposite is true. The vast majority of elected officials, whether at the state or local level, are hard-working, honest, and civic-minded individuals.

And this is especially true at the local level of government where elected officials often serve with little or no compensation, putting in many hours of community service.

In this article, I will focus mainly on the responsibilities of candidates for public office as required under the Campaign Act. Detailed instructions for candidates are available in the "Compliance Manual for Candidates" at www.elec.state.nj.us/pdf/files/forms/compliance/man_cf.pdf. The next election is November 2.

Who must file?

Candidates for all elected public offices in the State of New Jersey must file reports of their campaign financial activity.

Who is a candidate?

A "candidate" is an individual seeking election to a public office of this state or of a county, municipality, or school or fire district at any election. Included in this definition is an individual who runs unopposed, loses an election, withdraws from an election, or raises and/or spends money to run for elected office but never appears on the ballot. If elected to office, the officeholder remains a candidate throughout the period of time the office is held.

Are there limits to the amount of contributions that can be accepted or made?

Yes. A chart designed to assist candidates, committees, and treasurers with the amount of contributions which

may be accepted or made is found at www.elec.state.nj.us/forcandidates/elect_limits.htm. It is also in the Compliance Manual.

How about donations from public contractors?

Under state "pay-to-play" laws, public contractors can be subject to much lower donation limits than other contributors. It depends on local and county ordinances. Contractors generally can contribute no more than \$300 except in municipalities and counties that adopt a "fair and open" contract award process. For more information on "pay-to-play" restrictions, visit ELEC's website at www.elec.state.nj.us and click on the tab that says "Pay-to-Play."

How do I know what reports to file?

The Compliance Manual has detailed instructions on page 40. All candidates have some reporting obligations, though the amount of disclosure depends on how much a candidate spends.

When do I have to file?

Candidates for the general election must file a 29-day pre-election report by Oct. 4, an 11-day pre-election report on Oct. 22, and a 20-day post-election report by Nov. 22.

What are 48-hour notices?

Candidates who receive contributions in excess of \$1,200 from one source starting with the 13th day before an election up to and including the day of the election must disclose that donation within 48 hours to the Commission. These 48-hour notices also are required when a candidate makes, incurs or authorizes an expenditure to support or defeat a candidate or public question in excess of \$1,200 within the same time frame. All 48-hour notices are quickly posted on ELEC's website for public review. Only 48-hour notices can be faxed to the Commission at one of the following numbers: (609) 292-7662, (609) 292-7664, (609) 292-4301 or (609) 292-4416. Other reports will not be accepted by fax.

What about the so-called "90-day rule"?

The "90-Day Rule" often affects incumbent officeholders when they communicate with their constituents during the 90-day period before an election. A common example is when a mayor runs for re-election and his municipality pays for the preparation and distribution of a municipal newsletter.

If the municipal newsletter is distributed within 90 days of the election to persons eligible to vote for the mayor, and it contains statements concerning the governmental/political objectives or achievements of the mayor, and the newsletter has been coordinated with the mayor, the municipality's cost of producing and distributing the newsletter becomes an "in-kind" contribution from the municipality to the mayor.

With elections looming this fall, candidates must keep in mind that even some communications that DO NOT contain an explicit appeal for the election or defeat of a candidate may be deemed to be a political communica-

tion. These are communications that occur within 90 days of an election that meet certain conditions.

Here are the conditions under which the so-called "90-Day Rule" applies:

- if the communication is made within 90 days of any election involving the candidate;
- the recipients are substantially made up of individuals eligible to vote for the candidate;
- the communication refers to the governmental achievements or objectives of the candidate; and,
- the communication is done with the cooperation or consent of the candidate.



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For the upcoming municipal and county elections to be held in November, the 90-day period began on August 4, 2010. For complete information on the 90-day rule, including some exceptions to the rule, see N.J.A.C. 19:25-10.10 and 10.11.

About ELEC ELEC was established in 1973 during the Watergate crisis. It was organized to administer and enforce "The New Jersey Campaign Contributions and Expenditures Reporting Act" (the Campaign Act).

Originally responsible for overseeing the financial activity of candidates for state, county and municipal office, ELEC's authority has steadily broadened over the years. ELEC has responsibility for enforcing the gubernatorial and legislative personal financial disclosure law, the gubernatorial public financing program, the recall law and the law governing professional campaign fundraisers. ELEC also regulates lobbyists and the entities they represent, and plays an important role in enforcing the pay-to-play law. ▲

Please note: The opinions presented here are Jeff Brindles' and not necessarily those of the Commission.

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