



How to Run for Political Office: A Campaign Manual for Pennsylvania Candidates February 2008

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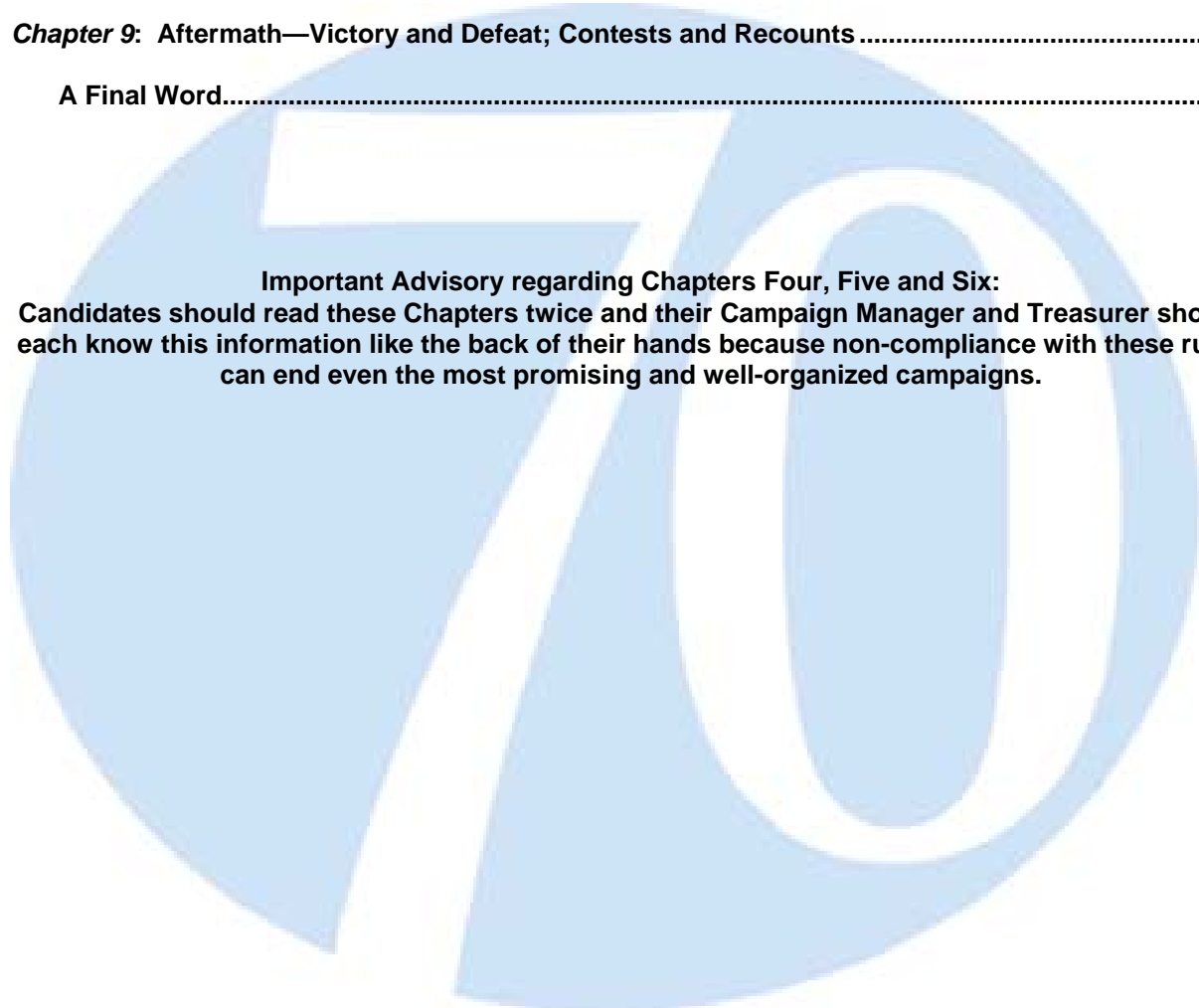
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**Important Advisory regarding Chapters Four, Five and Six:
Candidates should read these Chapters twice and their Campaign Manager and Treasurer should each know this information like the back of their hands because non-compliance with these rules can end even the most promising and well-organized campaigns.**



FOREWORD

In designing the American political system, the Founding Fathers placed the power of government in the hands of the people to ensure the protection of “Life, Liberty, and the pursuit of Happiness.” The right to vote, long considered one of the most fundamental American rights, serves as a valuable guide and restraint on political power. It enables citizens to influence government policy through their elected officials. Nevertheless, the ability of citizens to influence government is not limited to voting: they may also run for office. Pennsylvanians who wish to participate in the political system, who desire good government, and who do not feel that they are adequately represented by their elected officials should run for office! The purpose of this manual is to show you how.

NOTE: This manual intended for state-wide use. Philadelphia is often used as an example for specific locally-based election issues, but the Pennsylvania election laws referenced in this manual apply to all counties. The Philadelphia examples are intended help raise awareness and provide context for local procedures. Please be aware that if you are running a city and/or county-level campaign, you must consult your municipality’s local rules, as well as your local county board of elections for area-specific procedures and regulations. ALL LAWS CITED IN THIS MANUAL ARE CURRENT AS OF MARCH 1, 2008.

We try to be as accurate and up to date as possible. If you encounter an error in this publication, have any suggestions about content, or become aware of a change in election law or practice in Pennsylvania, please contact Sarah E. Stevenson, Esq, at sstevenson@seventy.org or 215-557-3600, ext. 104.

Special thanks to law intern Marissa Parker, Temple University Beasley School of Law Class of 2007, for all of the work she contributed to revising and expanding this publication. Special thanks also to Cassandra Belter, Villanova University School of Law Class of 2008, and John Fuller, Villanova University School of Law for their additions and revisions.

CHAPTER 1 – USING THIS MANUAL AND OTHER SOURCES

Citizens who decide to run for office need to inform themselves on a variety of election topics before starting their campaigns. For example, they should be knowledgeable about the responsibilities and duties of the office they seek, the qualifications necessary for that office, and the legal requirements that affect a campaign. They should also familiarize themselves with certain traditions and unofficial practices that may make running--and winning office--less onerous.

This manual was designed to provide information on both the written and unwritten rules of running for office. Of course, no single manual can provide all of the information necessary to conduct a successful campaign. Any written source, in particular, cannot always keep pace with amendments to the Election Code or with court decisions that may alter how a political campaign must be conducted. In the event legislative action changes the information contained herein, the Committee of Seventy will make every attempt to update this material.

Some pertinent information about running for office is specifically not included in this manual. For example, we do not discuss the essential steps of renting office space and equipment, setting up telephone and fax lines, scheduling, purchasing insurance, obtaining street lists (a listing of registered voters) from the County Board of Elections, or contacting ward leaders and committeepeople for their support, all of which are important. Moreover, *How to Run* is not intended to be a substitute for the services of a professional political consultant. Many successful candidates have benefited from individuals with experience in the field, particularly regarding the complex requirements of campaign finance reports. Depending on the level of office you seek, a professional consultant may be advisable.

Reading this manual is an important first step for all candidates. After you are informed about the general requirements and specific details for your office, you may consult the various state and local agencies listed below for advice and assurance that your official and unofficial information is accurate and up-to-date. Finally, you should seek the assistance of trusted advisors who have the experience to help you establish and run a proper campaign.

GENERAL INFORMATION

The Committee of Seventy - www.seventy.org

Eight Penn Center, Suite 1002 Philadelphia, Pennsylvania 19103, (215) 557-3600

The Pennsylvania Department of State - www.dos.state.pa.us

Bureau of Elections North Office Building, Room 304 Harrisburg, Pennsylvania 17120, (717) 787-5280

The Philadelphia County Board of Elections – www.phila.gov/commissioners

City Hall, Room 142 Philadelphia, Pennsylvania 19107, (215) 686-1500

Philadelphia Board of Ethics - www.phila.gov/ethicsboard

The Packard Building, 1441 Sansom Street, Second Floor, Philadelphia, Pennsylvania 19102 (215) 686-9450

For a complete listing of County Boards of Elections across Pennsylvania, visit the “Voting in PA” link on the PA Department of State website listed above.

CHAPTER 2 – CHOOSING THE OFFICE: JOB DESCRIPTIONS AND REQUIRED INFORMATION

INTRODUCTION

Every one of the offices described in this manual is an important office. However, each position has different responsibilities and serves different constituencies. For example, the Judge of Elections in your division is responsible to his or her voters for the conduct of a fair election; the Governor of Pennsylvania serves approximately twelve million citizens of the Commonwealth as its chief executive. Each office also has its own requirements. For example, Inspectors of Elections must be eighteen years old; the Mayor of Philadelphia must be twenty-five. Finally, each office described in the manual serves a particular geographic area; this factor should be carefully weighed when selecting an office.

A candidate can maximize the strength of a personal reputation or following by running for an office in a smaller local district such as the Pennsylvania House of Representatives. On the other hand, a larger district offers a greater opportunity to affect public policy. An individual State Senator, for example, is theoretically more influential than a State Representative because Senators are fewer in number and serve larger districts. It may be wise, however, to start with a campaign for local office before seeking citywide or statewide positions. The information provided below should help in making that determination.

You should also note that only two out of all the offices described in this manual require special training; these are the Attorney General and District Attorney, both of whom must be lawyers. Every other position described here is open to any citizen who meets the particular age and residency requirements.

(1) POLLING PLACE OFFICIALS IN PHILADELPHIA

Although it may surprise many people, polling place officials -- the Judge of Elections and the Majority and Minority Inspectors -- are elected by the voters of their division. Based on size and population, cities and towns are subdivided into divisions, and each division has its own polling place officials. In Philadelphia, the city is partitioned into 1,681 election divisions, a synonym for voting precinct, with a full board of officials in each. The four-year term of office for these polling officials runs along with those of the District Attorney and City Controller, so they are up for election in alternating "municipal elections," that is, in 2001, 2005, 2009, etc.¹ (Note: In general, elections are a two-part process, beginning with a primary election in the spring and concluding with an election in November. The elections in odd-numbered years are known as "municipal" elections because their major focus is on local officials.² Elections in even-numbered years are known as "general" elections because they focus on national and state candidates.³ The difference between primary and November elections is discussed in Chapter 3.)

Newcomers to the political process should consider pursuing one of these local offices for several reasons. First, polling place officials play an important role by ensuring the integrity of the electoral system and guaranteeing the public's right to a fair and honest election. Second, most election divisions have fewer than 800 registered electors (however, the Election Code has been modified to permit divisions with as many as 1,200 registered voters), so a candidate without large resources or an established reputation can contact nearly every person who may vote for him or her. Third, these positions provide an excellent opportunity to gain political experience and to demonstrate one's ability to serve as a public official. Fourth, these positions require only a modest time commitment. Finally, election board officials receive monetary compensation for their time.⁴

¹ See 25 PA. CONS. STAT. § 2671 (2007).

² See PA. CONST. art. VII, § 3; see also 25 PA. CONS. STAT. § 2602(j) (2007).

³ See PA. CONST. art. VII, § 2; see also 25 PA. CONS. STAT. § 2602(h). (2007).

⁴ See 25 PA. CONS. STAT. § 2682.2 (2007).

⁶ See 25 PA. CONS. STAT. § 2684 (2007).

Once elected, these officials must complete a short training program on the operation of voting machines and the general requirements of running a polling place on Election Day.⁶ The responsibilities of the individual election board officers are listed below.

Judge of Elections

The Judge of Elections heads the election board for a given division and supervises the conduct of the polling place. He or she ensures that voters are registered within the division, prevents fraud and other errors, and accurately tabulates the votes at the end of Election Day.⁷ Judges of Election are elected for a four year term during the Municipal election when the District Attorney is at the top of the Philadelphia ticket (2005, 2009, 2013 etc.).

Inspectors of Elections

Two Inspectors are elected for each polling place. In the Municipal election (2005, 2009, 2013 etc.), the candidate receiving the highest number of votes becomes the "Majority" Inspector. The candidate receiving the second highest vote total assumes the position of "Minority" Inspector.⁸ The Inspectors form a bipartisan board under the Judge of Elections, and serve a four-year term. On Election Day, typically one Inspector checks voters' registration documents while the other Inspector prepares the certificates authorizing voters to cast their ballots.

Finally, election officials may not run for any other civil office, but can run for re-election while serving as an election officer.⁹ Election officials are not restricted, however, from running for party office, such as committeeperson, at the same time as serving as an election official.¹⁰ An election official may serve as a committeeperson and as an Election Day official, at the same time;¹¹ however, while serving as a member of the election board, a committeeperson must behave in a strictly non-partisan fashion throughout Election Day.

Judges and Inspectors of Elections must meet the following qualifications:

1. *must reside and be registered within the division;*
 2. *must be at least eighteen years old;*
 3. *must resign any city, county, state, or federal position at least two (2) months before the election.*¹²
-

(2) CITY OFFICES IN PHILADELPHIA

This section offers some background information on the elected offices in the City of Philadelphia; many localities across Pennsylvania will have numerous offices in common with those listed below. For further information about the offices in your local area, contact your County Board of Elections or municipal government.

⁷ See 25 PA. CONS. STAT. § 2677 (2007).

⁸ See 25 PA. CONS. STAT. § 2671 (2007).

⁹ See 25 PA. CONS. STAT. § 2672(a) (2007).

¹⁰ See *In re Ganzman*, 574 A.2d 732, 733 (Pa. Commw. 1990) (holding Majority Inspector of Elections could also run for party office within the same district).

¹¹ See *In re Ganzman*, 574 A.2d 732, 734-45 (Pa. Commw. 1990) (noting that as long as election official is capable of maintaining impartiality, she may serve as committeeperson at same time).

¹² 25 PA. CONS. STAT. § 2672(a) (2007). Note that under § 2672(b), a county may now appoint up to 2 students per polling place to serve in the capacity of clerk or a machine inspector, provided that they reside in the county, are at least 17 years old, and comply with the other requirements of the subsection.

Candidates campaigning for city offices face two important restrictions: (1) they may not hold any other elected or appointed paid public office (other than a party position such as committeeperson);¹³ and (2) they may not campaign for any other public office without first resigning their position.¹⁴ Obviously, you need not resign from office to run for re-election.¹⁵ These restrictions apply to every elected city official except the Register of Wills.¹⁶

City Administrative Offices

City officers are elected to four-year terms during the Mayoral municipal elections (2007, 2011, etc.), and all city officer candidates must reside in Philadelphia at the time of their nomination and election.¹⁷

City Commissioner

All of Pennsylvania's sixty-seven counties were at one time governed by their County Commissioners. However, since the adoption of its Home Rule Charter in 1951, Philadelphia has been governed by a Mayor and City Council. The Charter retains the Commissioners,²¹ and legislation enacted by City Council requires them to serve as the City's Board of Elections and Registration Commission. In this role, the Commissioners are responsible for the conduct of elections and the registration of voters.²² They receive and file election documents and campaign finance reports, train election officials, certify the official returns, and maintain voter registration records.²³ The Election Code prohibits any party from filling more than two of the three Commissioner positions.²⁴ Therefore the City Commissioners always form a bipartisan board.²⁵

Prior to the November election, candidates for the office of City Commissioner must be:

1. *at least twenty-five years old; and*
 2. *qualified electors and city residents for at least three years.*²⁶
-

Register of Wills

The Register of Wills determines whether documents offered for probate should be received as the deceased's last and final testament. If a will does not name an executor, the Register determines who should be given that responsibility.²⁷

¹³ Note: City officials can generally hold the following positions: notary public, any office in the military or naval service of the United States or the Commonwealth of Pennsylvania, or an *ex officio* office held by virtue of another office or position. Philadelphia Home Rule Charter, adopted by the electors April 17, 1951, § 8-301. (The Home Rule Charter will be cited hereafter as PHILA. H.R.C. § _____. The Charter may also be found at 351 Pa. Code § 1.1-100 *et seq.*).

¹⁴ See PHILA. H.R.C. § 10-107(5).

¹⁵ See PHILA. H.R.C. § 10-107(5).

¹⁶ See *Walsh v. Tate*, 282 A.2d 284, 289 (Pa. 1971) (Register of Wills office is not subject to the Philadelphia Home Rule charter unless Philadelphia votes to change it by referendum).

¹⁷ See 53 PA. CONS. STAT. § 12195 (first class city code).

²¹ See PHILA. CODE § 2-112(1)(2007).

²² See PHILA. CODE § 2-112(4) (2007).

²³ See 25 PA. CONS. STAT. § 1203 (2007).

²⁴ See 25 PA. CONS. STAT. § 1203(b)(3) (2007).

²⁵ See PHILA. CODE § 2-112(1).

²⁶ See PHILA. CODE § 2-112(2).

²⁷ See 20 PA. CONS. STAT. § 901 (2007); see also Register of Wills, <http://www.phila.gov/wills/> (last visited June 17, 2008).

Clerk of Quarter Sessions

The Clerk of the Quarter Sessions serves the Criminal Courts of Common Pleas and Municipal Courts, as well as the Juvenile Division of Family Court. The Clerk maintains the records of the court systems, including fine and bail collection, issues subpoenas, and provides information to prisoners, attorneys and judges.²⁸

Sheriff

Although the Philadelphia Police Department is the chief law enforcement agency in the City, the Sheriff's Office serves as the enforcement arm of the courts. In the criminal courts, the Sheriff's deputies guard and transport persons on trial, transport convicted persons to prison, and provide courtroom security.²⁹ In the civil courts, the deputies serve complaints, subpoenas, and court orders; they also carry out court orders, including the seizure and public sale of property, and crowd control for picketing and demonstrations.³⁰

Candidates for Register of Wills, Clerk of Quarter Sessions, and Sheriff must be:

1. *at least eighteen years old;*³¹ *and*
 2. *residents of the city.*³²
-

Public Watchdogs

The City Controller and District Attorney are often considered "Public Watchdogs" because their offices provide for the financial (Controller) and physical (District Attorney) security of City residents. These officials hold four-year terms³³ and are elected at non-mayoral municipal elections (2005, 2009, 2013, etc.).

City Controller

The City Controller is the chief auditor of Philadelphia's financial affairs. Philadelphia's Home Rule Charter requires the Controller to conduct annual audits of every City office and agency, and it authorizes him or her to offer recommendations for improving the efficiency and economy of City government.³⁴ The Controller is not elected at the same time as the Mayor and City Council, therefore, he or she can be an effective independent watchdog over the City's finances.

District Attorney

The District Attorney serves as the "Attorney for the People" in the criminal courts of Philadelphia. The District Attorney's staff investigates and prosecutes violations of state law within Philadelphia

²⁸ See Clerk of Quarter Sessions, <http://www.phila.gov/quartersessions/> (last visited June 17, 2008).

²⁹ Though not codified in the Philadelphia Home Rule Charter or First Class Cities Code, these are traditional roles for the Sheriff. See 70 Am. Jur. 2d Sheriffs, Police and Constables §§ 2, 3.

³⁰ See Office of the Sheriff, <http://www.phillysheriff.com> (last visited June 17, 2008).

³¹ Both the Philadelphia Home Rule Charter and the Pennsylvania First Class City Code (53 PA. CONS. STAT. § 12101, *et seq.*) are silent as to an age requirement for these offices. However, the County Code, 16 PA. CONS. STAT. § 413, provides that the age requirement for holding county office is eighteen; although this Code does not apply to First Class Counties such as Philadelphia (16 PA. CONS. STAT. § 102), presumably this would also be the minimum age for holding office in Philadelphia.

³² See 53 PA. CONS. STAT. § 12195 (2007).

³³ See 53 PA. CONS. STAT. §§ 12421, 13152 (2007); see also PHILA. H.R.C. § 3-401.

³⁴ See PHILA. H.R.C. §§6-400-05.

county boundaries.³⁵ The District Attorney must be a resident of the City for at least one year.³⁶ He or she must also be admitted to practice law for at least two years and a member of the Pennsylvania Supreme or Pennsylvania Superior Court Bar at the time of filing his or her nomination petition for office.³⁷

Legislative And Executive Offices

The Mayor and City Council carry out the executive and legislative functions of City government. These officers serve four year terms³⁸ and are elected in the mayoral municipal election years (2003, 2007, 2011, etc.).

City Councilmember

Similar to the Senate and House of Representatives on the state or federal level, City Council forms the legislative branch of City government.³⁹ City Council creates the ordinances (local laws) that govern the City. City Council's duties include considering and approving: the annual budget, construction projects, tax rates, zoning ordinances, and many other projects and laws. The Mayor is empowered to veto any legislation passed by City Council; however, a two-thirds (2/3) majority vote of all members of Council can override that veto.⁴⁰

City Council is comprised of seventeen members, ten representing specific geographic areas (councilmanic districts) and seven "at-large" members elected by and representing the entire City of Philadelphia.⁴¹ Each voter has the right to vote for one candidate seeking district council office and for five councilmembers at-large. To guarantee minority party representation on City Council, Philadelphia's Home Rule Charter provides that one political party may not nominate more than five at-large candidates.⁴²

*Councilmembers must meet the following qualifications prior to election:*⁴³

1. *be at least twenty-five years old; and*
2. *reside within the City for at least one year.*⁴⁴

In addition, District Council candidates must live in the district they want to represent for at least one year prior to being elected⁴⁵ and throughout their term(s) of office.⁴⁶ At-large members must simply reside somewhere in the city.

Mayor

The Mayor serves as the chief executive of the City.⁴⁷ He or she is responsible for the

³⁵ 16 PA. CONS. STAT. § 9952; see also District Attorney's Office, <http://www.phila.gov/districtattorney/AboutUs/about.html> (last visited June 17,, 2008).

³⁶ 16 PA. CONS. STAT. §§ 7701-02.

³⁷ 16 PA. CONS. STAT. §§ 7701-02.

³⁸ See PHILA. H.R.C. §§ 2-100, 3-200.

³⁹ See PHILA. H.R.C. § 1-101.

⁴⁰ See PHILA. H.R.C. § 2-202.

⁴¹ See PHILA. H.R.C. § 2-100.

⁴² See PHILA. H.R.C. § 2-101.

⁴³ See PHILA. H.R.C. § 2-101.

⁴⁴ See PHILA. H.R.C. § 2-103.

⁴⁵ See PHILA. H.R.C. § 2-103.

⁴⁶ See PHILA. H.R.C. § 2-103.

⁴⁷ See PHILA. H.R.C. § 4-100.

administration of the City and the enforcement of state and local laws within the City's boundaries.⁴⁸ The Mayor appoints a four member cabinet consisting of the City Solicitor, City Representative, Finance Director, and Managing Director to assist in the governance of the City.⁴⁹ Through the cabinet, the Mayor prepares city budgets, operates the police and fire departments, collects taxes, and performs countless other city services. As detailed above, the Mayor also fulfills a legislative role with the power to veto bills passed by City Council.⁵⁰

To serve as Mayor, a citizen must meet the following qualifications prior to the election:

1. *be at least twenty-five years old; and*
 2. *reside in the City for at least three years.*⁵¹
-

(3) STATE OFFICES IN PENNSYLVANIA

Many of the local government services Philadelphians receive are authorized by the State General Assembly in Harrisburg. Certain state officials, for example our State Senators and State Representatives, are elected from local districts throughout the State; other officials, such as the Governor, are elected on a statewide basis by all Pennsylvania voters.

The Pennsylvania General Assembly

The General Assembly forms the legislative branch of Pennsylvania's state government.⁵² It drafts and passes the laws for the Commonwealth of Pennsylvania, subject to the Governor's veto power.⁵³ Although legislative posts in the General Assembly were created as part-time offices, many legislators consider these offices full-time positions. The General Assembly meets at the state office complex in Harrisburg to conduct the official business of the Commonwealth. Many members also maintain local offices within their districts.

The General Assembly is comprised of two chambers, the House of Representatives and the Senate. There are 203 representatives in the House⁵⁴ (in 2008, twenty-eight Representatives serve the City of Philadelphia);⁵⁵ and fifty members in the Senate⁵⁶ (in 2008, seven Senators serve the City of Philadelphia).⁵⁷

State Representatives

Members of the House each serve a local constituency of approximately 59,000 citizens. Members are elected for two-year terms⁵⁸ at every general election (2006, 2008, 2010, etc.).⁵⁹

⁴⁸ See PHILA. H.R.C. § 4-100.

⁴⁹ See PHILA. H.R.C. § 3-102. As of February 6, 2008, Mayor Nutter has introduced a proposal to change the City Charter that would separate the functions of the City Representative and the Commerce Director, which are currently placed in the same individual. If the amendment is approved by Philadelphia voters, the Commerce Director will also be a cabinet level position.

⁵⁰ See PHILA. H.R.C. § 2-202.

⁵¹ See PHILA. H.R.C. § 3-300.

⁵² See PA. CONST. art. II, § 1.

⁵³ See PA. CONST. art. IV, § 15.

⁵⁴ See PA. CONST. art. II, § 16.

⁵⁵ See Pennsylvania General Assembly, *Philadelphia County PA Legislators*, http://www.legis.state.pa.us/cfdocs/legis/home/findyourlegislator/county_list.cfm?CNTYLIST=Philadelphia (last visited June 17, 2008).

⁵⁶ See PA. CONST. art. II, § 16.

⁵⁷ See Pennsylvania General Assembly, *Philadelphia County PA Legislators* http://www.legis.state.pa.us/cfdocs/legis/home/findyourlegislator/county_list.cfm?CNTYLIST=Philadelphia (last visited June 17, 2008).

⁵⁸ See PA. CONST. art. II, § 3.

⁵⁹ See PA. CONST. art. II, § 2.; see also 25 PA. CONS. STAT. § 2751 (2007).

A representative must meet the following qualifications prior to election:

1. *be at least twenty-one years old;*
2. *reside in Pennsylvania for at least four years; and*
3. *reside within the district for at least one year.*⁶⁰

*While in office, Representatives must also maintain district residence and may not hold any other salaried office in state or federal government.*⁶¹

State Senators

State Senators each serve a local constituency of approximately 240,000 citizens. Although state senatorial districts are much larger than state representative districts, the legislative functions of Senators are very similar to those of Representatives. In order for proposed legislation to become law, both the House and Senate must approve it.⁶² State Senators are elected to four-year terms.⁶³ Senators of even-numbered districts (districts 2, 4, 6, etc.) are elected in the gubernatorial general election (2002, 2006, 2010, etc.). Senators from odd-numbered districts (districts 1, 3, 5, etc.) are elected in the non-gubernatorial general election (2004, 2008, 2012, etc.).⁶⁴

A State Senator must meet the following qualifications prior to election:

1. *be at least twenty-five years old;*
2. *reside in Pennsylvania for at least four years; and*
3. *reside in the senatorial district for at least one year.*⁶⁵

*Similar to State Representatives, State Senators must remain district residents throughout their tenure and may not hold any other salaried state or federal offices.*⁶⁶

State Fiscal Offices

Two officers manage the financial affairs of State government: the State Treasurer and the State Auditor General. These officials serve four-year terms⁶⁷ and may not serve continuously for more than two terms. They are elected in non-gubernatorial general elections (2004, 2008, 2012, etc.).

State Treasurer

The Treasurer is the chief administrator of the Treasury Department.⁶⁹ He or she manages the collection, investment, and disbursement of the Commonwealth's funds.⁷⁰ From a Harrisburg office, the Treasurer also maintains the ledger and pays the bills of the Commonwealth in accordance with the taxing and spending decisions of the General Assembly and the Governor.

⁶⁰ See PA. CONST. art. II, § 5.

⁶¹ See PA. CONST. art. II, §§ 5-6.

⁶² See PA. CONST. art. III, § 4.

⁶³ See PA. CONST. art. II, § 3.

⁶⁴ See 25 PA. CONS. STAT. § 2209 (2007).

⁶⁵ See PA. CONST. art. II, § 5.

⁶⁶ See PA. CONST. art. II, §§ 5-6.

⁶⁷ See PA. CONST. art. IV, § 18.

⁶⁹ See 71 PA. CONS. STAT. § 66 (2007).

⁷⁰ 71 PA. CONS. STAT. § 321 (2007); see also 72 PA. CONS. STAT. §§ 301-308, 1501-1503 (2007).

State Auditor General

The Auditor General oversees the finances of state departments and agencies.⁷¹ Similar to the Controller on the city level, the Auditor General conducts annual and special audits of the various state departments.⁷² He or she may also investigate any local government organization that collects or receives state funds.⁷³ The Auditor General's office is located in Harrisburg.

The Treasurer and Auditor General must meet the following qualifications prior to election:

1. *be at least eighteen years old; and*
2. *reside in Pennsylvania.*⁷⁴

State Law Enforcement Office

State Attorney General

Similar to the District Attorney on the city level, the Attorney General is the chief law enforcement officer of the Commonwealth.⁷⁵ The Attorney General's duties include prosecuting state officials and employees charged with crimes involving the performance of their official duties, prosecuting indictments returned by grand juries, and in some instances, filling the role of District Attorney in local criminal matters.⁷⁶ The Attorney General also furnishes legal advice to the Governor and the heads of the Commonwealth agencies concerning the exercise of their official powers. He or she represents the Commonwealth in actions brought by or against it.⁷⁷

Until 1980, the Attorney General was appointed by the Governor (with the advice and consent of the Senate). Today the Attorney General is elected in the non-gubernatorial general election for a four-year term (2004, 2008, 2012, etc.), and may not serve more than two successive terms.⁷⁸

The Attorney General must meet the following qualifications prior to election:

1. *must be at least thirty years old, and*
2. *must have resided in the Commonwealth for seven years preceding the election (unless non-residence resulted from federal or state government service).*⁷⁹
3. *must be a member of the Bar of the Supreme Court of Pennsylvania.*⁸⁰

*Finally, the Attorney General may hold no other state or federal office while serving as Attorney General.*⁸¹

⁷¹ See 72 PA. CONS. STAT. §§ 401-03 (2007).

⁷² See 72 PA. CONS. STAT. § 402 (2007).

⁷³ See 72 PA. CONS. STAT. §§ 401-03 (2007).

⁷⁴ Absent a specific age and residence requirement for these offices, it is presumed that to hold either office, one must be a qualified elector, i.e., be eighteen years of age and a resident of Pennsylvania.

⁷⁵ See 71 PA. CONS. STAT. § 732-206(a) (2007).

⁷⁶ See 71 PA. CONS. STAT. § 732-205 (2007).

⁷⁷ See 71 PA. CONS. STAT. §§ 732-204(a)(1)-(c) (2007).

⁷⁸ See PA. CONST. art. IV, § 4.1.

⁷⁹ See PA. CONST. art. IV, § 5.

⁸⁰ See PA. CONST. art. IV, § 5.

⁸¹ See PA. CONST. art. IV, § 6.

State Executive Offices

The executive power of state government rests with the Governor and Lieutenant Governor.⁸² The Governor and Lieutenant Governor are responsible for the daily operation of state government, the enforcement of its laws, and the provision of its services. The Governor and Lieutenant Governor are elected to four-year terms⁸³ at the gubernatorial general election (2002, 2006, 2010, etc.). Similar to the manner in which voters choose the United States President and Vice-President, the Governor and Lieutenant Governor are elected as paired candidates. In other words, an individual may not vote for a candidate for Governor from one party while choosing a candidate for Lieutenant Governor from another party.⁸⁴ Moreover, the Governor and Lieutenant Governor may not hold any other state or federal position while in office.⁸⁶

Lieutenant Governor

Similar to the relationship of the Vice-President to the President of the United States, the primary responsibility of the Lieutenant Governor is to assume the office of Governor should the elected Governor be unable to complete the term.⁹² Otherwise, the Lieutenant Governor's constitutional duty is to preside over the State Senate, where he or she may vote only in the event of a tie.⁹³ One should recognize, however, that as a member of the Executive branch, the Lieutenant Governor can be an important source of advice and assistance to the Governor in policy formation and administration. However, the Lieutenant Governor's actual role depends upon the Governor.

Governor

The Governor serves as the chief executive officer of the Commonwealth,⁹⁴ and through his or her cabinet, controls all state departments and agencies. The Governor's legislative authority includes the preparation of state budgets,⁹⁵ the proposal of legislation to the General Assembly, and the power to veto legislation (subject to the override of a two-thirds majority in each General Assembly chamber).⁹⁶ The Governor's law enforcement powers include command of the State Police and the Pennsylvania National Guard.⁹⁷ The Governor also has the power to grant pardons and reprieves of convicted criminals.⁹⁸

⁸² See PA. CONST. art. IV, §§ 1, 2, 4.

⁸³ See PA. CONST. art. IV, §§ 3, 4.

⁸⁴ See PA. CONST. art. IV, § 4.

⁸⁶ See PA. CONST. art. IV, § 6.

⁹² See PA. CONST. art. IV, § 13.

⁹³ See PA. CONST. art. IV, § 4.

⁹⁴ See PA. CONST. art. IV, § 2.

⁹⁵ See PA. CONST. art. IIX, § 12.

⁹⁶ See PA. CONST. art. IV, § 15.

⁹⁷ See PA. CONST. art. IV, § 7.

⁹⁸ See PA. CONST. art. IV, § 9.

A candidate for Governor or Lieutenant Governor must meet the following qualifications prior to election:

1. *be at least thirty years old;*
 2. *reside in the Commonwealth for at least seven years (unless nonresidence resulted from federal or Pennsylvania State government service).*⁹⁹
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(4) PARTY OFFICES: CITY, STATE, NATIONAL

The political system in this country is usually described as a two-party system. Although third, and even fourth, parties have developed large followings at various points in our history, the dominance of two major parties has been a fact of our political life. Currently, only the Democratic and Republican parties operate a complete system of local, state, and national offices.

The party offices described below - with the exception of ward leader, and city and state chairpersons - are filled through a popular vote at primary elections.¹⁰⁷ Party officials must be registered party members, at least eighteen years old, and residents of the geographic area which their offices serve.¹⁰⁸

City Divisional Committeeperson

The division (often called a "precinct") is the smallest political unit of the City, normally comprising between 600 and 800 registered voters. In 1997, however, the Election Code was amended to permit the formation of election districts containing no less than 100 and no more than 1,200 registered electors.¹⁰⁹ The Democratic and Republican party organizations start at this grassroots level with the office of committeeperson. The registered voters of each party in a division elect two divisional committeepersons at primary elections.¹¹⁰

The responsibilities of a committeeperson run up and down the party ladder. Committeepersons transmit to the party leaders the opinions of the people in their division (their neighbors). This process enables the party leaders to remain in touch with the views of the people and adapt accordingly. In turn, the party leadership reaches down to the grassroots level through the divisional committeepersons to seek out and register new voters in the party, to provide a variety of services to voters, and to "get out the vote" at every election in support of party candidates. In this respect, committeepersons perform their duties year-round. Good committeepersons are

⁹⁹ See PA. CONST. art. IV, § 5.

¹⁰⁷ See 25 PA. CONS. STAT. §§ 2837, 2838.1 (2007).

¹⁰⁸ See 25 PA. CONS. STAT. §§ 2832, 2870 (2007).

¹⁰⁹ See 25 PA. CONS. STAT. § 2702 (2007). Note that because Ward and division redistricting has not taken place in Philadelphia since the 1960s, there are many divisions with substantially more or substantially fewer registered voters than the normal range.

¹¹⁰ See Rules of the Republican Party of the City and County of Philadelphia, [hereinafter "Repub. City Rules"], Rule III, art. 1; see also Rules of the Democratic Party of the City and County of Philadelphia, [hereinafter "Dem. City Rules"] Rule III, art. 1, § B-C.

valuable assets in a division, and at this level, they have an excellent opportunity to participate in local politics.

City Ward Leaders

The ward is the second smallest political unit of the City. A ward represents a collection of divisions.¹¹¹ Philadelphia was reorganized into its current alignment of sixty-six wards in 1965.¹¹² Each ward is represented by a Republican and Democratic ward leader, who are selected by their party's committeepeople from the ward's division.¹¹³ Every four years, shortly after committeepeople are elected into office, they elect a party member to serve as their "ward leader."¹¹⁴

The ward leaders form the party's policy-making organization on the city level. This group is generally referred to as the City or County Committee.¹¹⁵ They elect the party's city chairperson, who supervises the full-time operations of the party office and also serves as the "voice of the party." In addition, each City Committee usually selects ("endorses") candidates for organizational support among those competing for its party nomination in the primary, fills vacancies when nominated candidates are unable to run in a final election, and nominates candidates for special elections to fill vacancies in public office.

State Committeemembers

The Democratic and Republican parties operate similar committee structures at the state level to develop statewide party policy, coordinate county activities, and endorse statewide candidates for party nomination. Republican Party members elect state committeepeople during the primary in even numbered years every two years (2006, 2008, 2010 etc.).¹¹⁶ By contrast, Democratic state committeepeople are elected by party members during the gubernatorial primary election every four years (2006, 2010, 2014 etc.).¹¹⁷ Both the Democratic and Republican parties apportion state seats on a county basis.¹¹⁸

A member of a State Committee must be a registered voter enrolled in that particular party.¹¹⁹ Moreover, both parties also impose certain additional requirements with respect to past and present party loyalty.¹²⁰ The rules concerning party loyalty vary considerably and change from time to time, so interested citizens should contact their party's City Committee to verify the current qualifications.

Delegates to the National Party Convention

The major parties hold national conventions at least every four years to nominate party candidates for President and Vice President of the United States. These conventions are usually held during the summer immediately preceding each Presidential general election (2008, 2012, 2016 etc.). Party conventions are dramatic events that often dominate newspaper headlines and

¹¹¹ 1992 Annual Report of the City Commissioners to the People of Philadelphia.

¹¹² 1965 Report of the Ward Realignment Commission.

¹¹³ See *Repub. City Rules*, Rule III, art. 2, §A; see also *Dem. City Rules*, Rule III, art. 1.

¹¹⁴ See *Repub. City Rules*, Rule III, art. 2, § A; see also *Dem. City Rules*, Rule III, art. 1, § A.

¹¹⁵ See *Repub. City Rules*, Rule II, arts. 1, 3; see also *Dem. City Rules*, Rule II, art. 3, §A.

¹¹⁶ See 25 PA. CONS. STAT. § 2834 (2007); see also Rules of the Republican Party of the Commonwealth of Pennsylvania, revised as of February 12, 1994 [hereinafter "*Rep. State Rules*"], Rule 2.3(d).

¹¹⁷ See 25 PA. CONS. STAT. § 2834 (2007); see also Rules of the Democratic Party of the Commonwealth of Pennsylvania, amended as of March 19, 2005 [hereinafter "*Dem. State Rules*"], Rule III, § 2.

¹¹⁸ See 25 PA. CONS. STAT. § 2834 (2007); see also *Rep. State Rules*, Rule 2.3(d); *Dem. State Rule III*, § 2.

¹¹⁹ See *Rep. State Rules*, Rule 2.2; see also *Dem. State Rules*, Rule 1, § 2.

¹²⁰ See *Rep. State Rules*, Rule 10.1; see also *Dem. State Rules*, Rule 1, § 2

prime-time television. Although the party nomination is usually determined long before the convention, party members utilize the setting to generate support, stir emotions, and gain media exposure for the party and its candidates.

In theory, the delegates to the convention develop the party's official platform, including the proposals and policies of the national organization, and establish or amend party regulations. Although local party organizations and elected officials have controlled the delegate positions in the past, there has been an expansion of opportunities for citizens to become convention delegates in recent years. The majority of the delegates are elected by the general public. Any citizen can run for election in the spring primary for a convention seat. Publicly elected delegates represent the United States Congressional Districts in which they reside and are elected by the party members of those districts. The selection rules of the party, however, can be complicated and are subject to change from time to time. They may contain filing requirements with earlier deadlines than those specified in the Election Code. Note, however, that Pennsylvania law requires that parties certify their rules for the selection of convention delegates and transmit them to the Secretary of the Commonwealth thirty days before the first day on which delegate nomination petitions may be circulated.¹²¹ In other words, the public may obtain rules regarding convention delegate elections from the Secretary of State's office in late December of the year before the convention.

Delegate positions offer an exciting and rewarding chance for citizens to participate in national politics, and a unique opportunity for party members to develop political connections within their party.

NOTE ABOUT GOVERNMENT EMPLOYEES AND POLITICS

Before deciding to run for office or enlisting the support of friends, one should be aware that most government employees are severely restricted in the extent to which they can become involved in an election. Restrictions vary considerably and depend primarily on the government agency involved and the position held by the employee. Detailed explanations of the restrictions should be obtained directly from the public agencies involved.

The following general rules apply to many -- but not all -- employees of the federal government, the Commonwealth of Pennsylvania, and the City of Philadelphia:

First, many government employees are prohibited from seeking public or party offices in partisan elections.¹²² Elections for all officials in Pennsylvania officials are considered "partisan." This prohibition (as well as the following prohibitions) also applies to all court employees.¹²³

Second, many government employees are prohibited from engaging in partisan campaign-related activities, including making speeches, organizing rallies, soliciting votes, distributing literature, and serving as a candidate's campaign finance chairperson.¹²⁴

¹²¹ See 25 PA. CONS. STAT. § 2838.1 (2007).

¹²² See 5 C.F.R. § 734.304 (2002); see also 71 PA. CONS. STAT. § 741.905b(b)(6) (2007); PHILA. H.R.C. § 10-107(4)-(5).

¹²³ See *In re Dobson*, 534 A.2d 460 (Pa. 1987) (explaining that court-appointed employees, including law clerks, tipstaff and secretaries, cannot be involved in any form of partisan political activity); *In re Prohibition of Political Activities by Court-Appointed Employees*, 375 A.2d 1257 (Pa. 1977) (according to directives issued by Court Administrator of Pennsylvania, prohibited partisan activity by court-appointed employees included running for elected office, holding position in the organizational structure of political party, and working on behalf of party or candidate).

¹²⁴ See 71 PA. CONS. STAT. § 741.905b(b) (2007); see also PHILA. H.R.C. § 10-107(3)-(5).

¹²⁶ See 71 PA. CONS. STAT. § 741.905b(b)(1)-(2) (2007); see also PHILA. H.R.C. § 10-107(4).

Third, many government employees are prohibited from actively participating in partisan politics. In this respect, government employees cannot participate in the activities of party committees, either as elected officials (such as committeeperson) or as members.¹²⁶ Of course, voting, retaining membership in a political party or body, and expressing personal opinions are permitted.¹²⁷

The above list should not be considered complete; many other serious prohibitions limit the political and partisan activity of government employees, and the penalties for disregarding these restrictions are very serious. For example, a government employee who violates the legal prohibition against partisan political activity may be removed from his or her position, fined, and in some instances, face criminal prosecution.¹²⁸ Therefore, it is very important that government employees consult their supervisors before pursuing the offices described in this manual.

Apart from the specifications of the prohibitions, one should understand the nature of the laws establishing these restrictions. These limitations are conditions of employment which must be satisfied if an individual wishes to remain as a public employee. These restrictions are not, however, part of the Pennsylvania Election Code, and therefore, do not affect one's eligibility to pursue an elected office. In essence, a candidate cannot be denied a place on the ballot simply because he or she is a public employee and is violating his or her terms of employment by running for office. A candidate may lose his or her government position (and may be subject to criminal prosecution), but this result is not required by the Election Code. In other words, if a government employee runs for elected office despite a job-related prohibition, the remedy is to report this fact to the candidate's supervisor, so that the candidate may be required to cease campaigning or resign his or her position; the remedy is not to challenge the candidate's right to run for elected office under the Pennsylvania Election Code.

¹²⁷ See 71 PA. CONS. STAT. § 741.905b(c) (2007).

¹²⁸ See 5 U.S.C. § 7326 (2000); see also 71 PA. CONS. STAT. § 741.906 (2007); PHILA. H.R.C. §§ 10-107(6), 10-109.

CHAPTER 3 – DECIDING HOW TO RUN: OPTIONS AVAILABLE TO CANDIDATES

INTRODUCTION

Any citizen who makes the decision to become a candidate for elected office must next choose the form of candidacy he or she will pursue. This chapter describes the various methods of conducting a campaign.

Candidates for public office (i.e., local, city, state office) have three options:

- (1) party nomination in a primary election;
- (2) independent petition for a November election; or
- (3) write-in candidacy for either the primary or November election.

Candidates for party office have two alternatives:

- (1) ballot, or
- (2) write-in

This chapter explains the advantages and disadvantages of each option.

PUBLIC OFFICE: THE TRIPLE OPTION

As noted above, the three methods for pursuing public office are: (1) competing for a party's nomination in the primary election; (2) bypassing the primary (and political parties) and petitioning to enter one's name on the final election ballot; or (3) conducting a write-in campaign in the primary or final election.

An individual deciding to pursue public office should bear in mind that these ballot options are somewhat exclusive. For example, an unsuccessful primary candidate may not enter his or her name as an independent candidate on the November ballot for any office,¹²⁹ but may seek election for that office (or any other) in November as a write-in candidate.¹³⁰

(1) Party Nomination in the Primary

The most common strategy is to enter the primary and place one's name on the ballot in an attempt to capture a party nomination for the final election. A candidate (other than a candidate for party office) does not need to be registered with the party whose nomination he or she seeks.¹³¹ The winner of the primary election appears on the November ballot as the only official candidate of that party for that office. This is how nominations are won for every public office but those of U.S. President and Vice President. The President and Vice President are chosen by the delegates of the national conventions.

By choosing to run in the primary election, candidates realize a few clear advantages. Specifically, a candidate who wins the primary nomination secures the support of the party and usually gains access to the party's financial resources to help achieve victory in November. The individual will also gain public recognition as the candidate of a major party, an important factor that enables candidates of the two major parties to prevail in most elections.

An important disadvantage of running in the primary, however, is that party primaries are not necessarily open contests. Usually, one candidate will receive the endorsement of the party organization prior to the primary. Other candidates for the party nomination may find it very difficult to overcome this advantage. However, there are many examples of outsiders defeating endorsed candidates in party primaries on the

¹²⁹ See 25 PA. CONS. STAT. §§ 2911(e)(5), 2936 (2007); see also *Baronett v. Tucker*, 365 A.2d 179 (Pa. Commw. 1976).

¹³⁰ See 25 PA. CONS. STAT. § 2911(e)(5) (2007). There is no statutory prohibition against write-in candidates who have been unsuccessful in a primary running again in the general election as write-in candidates.

¹³¹ See 25 PA. CONS. STAT. § 2870(g). Only candidates running for party office need to be registered and enrolled members of the designated party.

local and state level. In many cases, a candidate's assessment of his or her chances for success is more accurate than that of the party professionals. In this respect, candidates should not be deterred from this option simply because party "regulars" support another candidate.

(2) Independent Petition for November Election

A candidate may also decide to avoid party politics and affiliations and enter the final election in November as an independent candidate. Utilizing this option, candidates are guaranteed a spot on the November ballot without having to compete in the primary.

Again, there are certain disadvantages to this option. First, a candidate may not enter an election as an independent if he or she is a registered member of a political party. Additionally, a candidate must withdraw his or her membership from the party at least thirty (30) days before the primary election and must remain unaffiliated until after the November election.¹³²

The most significant disadvantage to the "independent" option is that within our two-party system, most elections are won by Democratic or Republican Party nominees. In the November election, an independent candidate will confront two official party nominees backed by the entire support, financial and otherwise, of these political organizations. An independent may find it to his or her advantage to assemble a similar organization, rather than rely exclusively on public recognition and approval of his or her candidacy. An independent candidate must also remember that other independent candidates may also enter, and thus, complicate the race. Finally, independent candidates must collect a significantly greater number of signatures to appear on the November ballot than party candidates seeking a ballot position for the primary. See Chapter 4 for signature requirements by office.

The principle advantages of the independent option are the following: (1) avoidance of a depletion of campaign resources in the primary contest; (2) knowledge of the primary results before entering the election (the deadline for filing as an independent is August 1);¹³³ and (3) the assurance that, with the required number of signatures, one's name will appear on the November ballot, an extremely important consideration should an individual feel that he or she will not gain party support by winning the primary election.

(3) Write-In Campaign

The final possibility is for candidates to conduct a "write-in" campaign in the primary or November election, or both. In this option, the candidate's name does not appear on the official ballot, but voters write the candidate's name on the paper ballot portion of the voting machine. This option provides a candidate with "two bites of the apple," that is, opportunities for success in the primary, and if necessary, the final election. Administratively, a candidate who runs a write-in campaign is not required to file nomination documents before the election -- a distinct benefit.

However, there are major disadvantages to conducting a write-in campaign. First, a write-in candidate faces the overwhelming task of garnering enough political recognition to convince voters to ignore the names printed on the ballot. Second, write-in candidates face a daunting task in educating voters about how to "write-in" their votes. Operating the voting machine buttons confuses many voters; to write-in a vote, voters must push the write in button for the office for which they want to write-in a vote, and then press the red write-in button at the top of the machine, which will cause the write-in window to open, and the voter can then write or stamp the candidate's name on the exposed paper and finally pull the window shut to record the vote. A potential write-in candidate should also note that to succeed in a write-in

¹³² See 25 PA. CONS. STAT. § § 2911(e)(6), 2911.1 (2007).

¹³³ Although section 2913(c) of the Pennsylvania Statute provides: "All nomination papers must be filed on or before the second Friday subsequent to the primary", the deadline for nomination papers has been extended to August 1 or the Monday immediately following August 1st when it falls on a Saturday or Sunday. This date is not contained in the Election Code, it comes from two consent decrees signed by the Secretary of the Commonwealth. *Hall v. Davis*, No. 84-1057 (E.D. Pa. 1984) and *Libertarian Party of Pennsylvania v. Davis*, No. 84-0262 (M.D. Pa. 1984).

primary campaign, he or she must not only outpoll all opponents, but also receive a number of votes at least equal to the number of signatures required on a nominating petition for that office.¹³⁴

PARTY OFFICE: THE DOUBLE OPTION

The two options available to candidates for party office are the following:

- (1) *placing one's name on the primary ballot; or*
- (2) *conducting a write-in campaign in the primary election.*

Party officers are always elected in primaries, therefore, the third alternative of entering the November election as an independent, does not apply.

The difference between campaigning for public office and campaigning for party office highlights the dual purpose of primary elections. With respect to public offices (for example, the Mayor and State Representatives), primaries allow the voters of each party to nominate a candidate to represent their party in the final November election. By contrast, primary elections for party offices are the sole opportunity for parties to elect their internal officials. In short, primaries represent one step in the election of public officials, but are the *only* step for electing party officials.

Candidates may either enter their names on the ballot or conduct write-in campaigns win office during the primary election. In general, there are no advantages to the write-in alternative, and as noted previously, the disadvantages are numerous. Of course, if one decides to run only after the deadline for getting on the ballot has passed, the write-in alternative is all that remains.

A FINAL NOTE ON CAMPAIGN OPTIONS

Success in public or party elections through any of the discussed methods depends primarily on public recognition of a candidate and his or her reputation. Similarly, candidates should realize that public recognition will be maximized in small, local elections. In this case, even a write-in candidacy, usually a poor alternative for pursuing office, may result in a victory. Regardless of the conditions, however, individuals should not be deterred from pursuing public or party office.

INTRODUCTION TO CHAPTERS FOUR, FIVE, & SIX

The next three chapters describe the procedures for pursuing public office and conducting campaigns. Candidates must observe the requirements described in these chapters with painstaking accuracy -- especially with respect to the preparation and filing of necessary documents. Prospective candidates should review the three chapters together to gain a complete understanding of what documents must be filed and the deadlines for filing them.

¹³⁴ See 25 PA. CONS. STAT.. § 3155 (2007).

CHAPTER 4 – GETTING ON THE BALLOT: NOMINATION PETITIONS AND PAPERS

INTRODUCTION

All candidates who wish to appear on the ballot must file what are known as "nomination petitions" or "nomination papers." Many candidates must also file a "Statement of Financial Interests" along with their nomination petitions or papers. This chapter focuses on the preparation and filing of nomination petitions and papers. Chapter 5 describes how to prepare and file the Statement of Financial Interests.

Obviously, write-in candidates are not required to file nomination petitions or papers since they hope to win the election without entering their names on the ballot. In contrast, primary contestants and independents who wish to secure a ballot position must prepare and file nomination papers or petitions.

Candidates should be aware of the distinction between nomination petitions and nomination papers. Nomination petitions are documents that candidates must file to secure a ballot position in a primary election.¹³⁵ Thus, if a candidate hopes to be chosen as a party's nominee for a public office (for example, Mayor or polling official), he or she must file a nomination petition in order to secure a position on the primary ballot. Similarly, a candidate must file a nomination petition if he or she wishes to be elected to a party office in the primary (for example, committeeperson). On the other hand, nomination papers are filed by candidates seeking public office as independents in the November election.¹³⁶ Both of these items are described more fully throughout this chapter; for now, one should bear in mind that the filing requirements for getting on the ballot are different in some respects depending upon whether a candidate is filing nomination papers or petitions.

Before conducting a signature drive for petitions or papers, candidates should review the legal requirements of the Election Code governing the filing and preparation of these documents. Pre-printed forms of both nomination petitions and papers are available from the county board of elections (for local offices) and the Bureau of Elections of the Department of State in Harrisburg (for state offices). These forms greatly facilitate compliance with the law. For example, the Election Code provides that every signature sheet of a nomination petition or paper must be accompanied by a circulator's affidavit. This affidavit is printed on the reverse side of every pre-printed nomination petition and paper. Candidates for national convention delegate positions are governed by separate regulations and should contact the city or state committee of their party for information about procedures and documents.

(1) NOMINATION PETITIONS FOR PRIMARY ELECTION BALLOT POSITION

Candidates wishing to secure a position on the primary ballot must file a properly completed nomination petition.¹³⁷ As the name suggests, nomination petitions are documents signed by registered electors of a certain party petitioning the local county board of elections to print a candidate's name on the official primary ballot. For each office, the Election Code requires a specific number of voter signatures to obtain a ballot position (Table 1).¹³⁸ Only signatures of voters registered in the party and residing within the district of the office will be counted toward the total number of signatures.¹³⁹

The time deadlines for filing petitions are extremely important and are strictly enforced. The Election Code provides only three weeks for candidates to complete and file nomination petitions. This period begins on the thirteenth Tuesday before the primary.¹⁴⁰ Candidates must file the petitions three weeks

¹³⁵ See 25 PA. CONS. STAT. § 2867 (2007).

¹³⁶ See 25 PA. CONS. STAT. § 2911(a) (2007).

¹³⁷ See 25 PA. CONS. STAT. § 2867(2007).

¹³⁸ See 25 PA. CONS. STAT. § 2872.1(2007).

¹³⁹ See 25 PA. CONS. STAT. § 2868(2007).

¹⁴⁰ See 25 PA. CONS. STAT. § 2868(2007).

later, on or before the tenth Tuesday prior to the election.¹⁴¹ This procedure is both onerous and important and must be carefully monitored.

Table 1: Number of Signatures Needed for Nomination Petitions

Polling Place Offices	
Judge of Elections	10
Inspector of Elections	5
City Offices	
Register of Wills	1,000
Clerk of Quarter Sessions	1,000
Sheriff	1,000
City/County Commissioners	1,000
District Attorney	1,000
City Controller	1,000
District Councilmember	750
Councilmember At-Large	1,000
Mayor	1,000
State Offices	
State Representative	300
State Senator	500
State Treasurer	1,000*
State Auditor General	1,000*
Governor	2,000**
Lieutenant Governor	1,000*
State Attorney General	1,000*
Party Offices	
City Divisional Committeeperson	10
State Committeemember	100
Delegate to National Party Convention	250

*This petition must include 100 signatures from each of at least five counties.

** This petition must include 100 signatures from each of at least ten counties.

(2) NOMINATION PAPERS FOR INDEPENDENT CANDIDATES

An independent candidate can secure a position on the November ballot by filing a properly completed nomination "paper."¹⁴² Similar to a nomination petition, a nomination paper is a collection of signatures of registered voters residing in the district of the office, requesting that a candidate's name be entered on the November ballot.¹⁴³ In contrast to petitions, nomination papers may be signed by members of any party, as well as voters who are registered non-partisan.¹⁴⁴

Independent candidates may begin collecting signatures on the tenth Wednesday before the primary; no signatures may be collected before then.¹⁴⁵ Nomination papers must be filed on or before August 1.¹⁴⁶ In

¹⁴¹ See 25 PA. CONS. STAT. § 2873(d) (2007).

¹⁴² See 25 PA. CONS. STAT. § 2911(a) (2007).

¹⁴³ See 25 PA. CONS. STAT. §§ 2911(c), 2912(2007)

¹⁴⁴ See 25 PA. CONS. STAT. § 2911(c) (2007).

¹⁴⁵ See 25 PA. CONS. STAT. § 2913(b) (2007).

¹⁴⁶ Although section 2913(c) of the Pennsylvania Statute provides: "All nomination papers must be filed on or before the second Friday subsequent to the primary", the deadline for nomination papers has been extended to August 1 or the Monday immediately following August 1st when it falls on a Saturday or Sunday. This date is not contained in the Election Code, it comes from two consent decrees signed by the Secretary of the Commonwealth. *Hall v. Davis*, No. 84-1057 (E.D. Pa. 1984) and *Libertarian Party of Pennsylvania v. Davis*, No. 84-0262 (M.D. Pa. 1984).

the event that August 1 falls on a Saturday or Sunday, nomination papers must be filed on the first Monday of August.

The number of valid signatures which must be entered on nomination papers is fixed by a formula in the Election Code and is different than the number required for nomination petitions. If you are a candidate for a statewide office (Governor or State Attorney General, for example), the formula requires that you look to the most recent past election at which candidates for any statewide office -- either the office you seek or any other -- were elected. Next, the formula requires that you gather signatures equal to at least two percent of the largest vote cast for any elected statewide candidate in that election.¹⁴⁷

If you seek an office which represents a particular geographical area within Pennsylvania, you must be guided by the most recent past election at which candidates (not including judges) seeking to represent that same area were elected. The formula requires that you gather signatures equal to at least two percent of the largest vote cast for any candidate elected from the same area for any office (except judge).¹⁴⁸ For example, an independent candidate running for Philadelphia City Controller would use the City of Philadelphia as the relevant geographical area (or "election district") and would measure two percent of the winner's total in the municipal election two years before, from the races for Mayor, for the city administrative offices, or for any of the seven at-large City Council seats (whichever was highest). Independent candidates for the General Assembly or for district City Council seats would use the figures from the last election in which the seat they seek was filled, since those districts are not included in other public elections.

Whichever office a candidate seeks, he or she should always contact either the Bureau of Elections of the Department of State (for state offices) or the County Board of Elections (for all other offices) to learn the specific number of required signatures based upon the official returns, rather than relying upon unofficial estimates.

The two percent requirement should not present a serious obstacle for candidates seeking Election Board offices (Judges and Inspectors of Elections) since divisions are the smallest political units and turnouts on the divisional level are often very low. In contrast, candidates for citywide offices in Philadelphia may need 5,000 to 10,000 signatures on a nomination paper if the previous turnout in a Philadelphia race was in the hundreds of thousands. The structure of the two percent rule illustrates the Election Code's intention to permit only serious contenders to enter the political process as independents. It also illustrates one of the ways in which our laws preserve the two-party system by discouraging independent candidates in major races.

THE POLITICAL BODY

Citizens signing nomination papers of independent candidates comprise a "political body" as described by the Election Code.¹⁴⁹ The Code does not permit candidates to enter the race for political office entirely on their own; they must appear as the candidate of either a political party or political body. Note that a political body is permitted to nominate more than one candidate with a single nomination paper. In practice, a political body can enter a complete slate of candidates for every office on the ballot.¹⁵⁰

In addition to other filing requirements, nomination papers must designate a name for the political body, not to exceed three words, which will appear on the November ballot.¹⁵¹ The Election Code prohibits

¹⁴⁷ See 25 PA. CONS. STAT. § 2911(b) (2007)..

¹⁴⁸ See 25 PA. CONS. STAT. § 2911(b) (2007).; see also *Moore v. Osser*, 233 A.2d 579 (Pa. 1967) (holding that number of qualified electors of the electoral district signing nomination papers had to be at least equal to two percent of the largest entire vote cast for any officer elected at the most recent election in the district where the nomination papers are filed).

¹⁴⁹ See 25 PA. CONS. STAT. § 2831(c) (2007)..

¹⁵⁰ See 25 PA. CONS. STAT. §§ 2911(c), 2831(c) (2007)..

¹⁵¹ See 25 PA. CONS. STAT. § 2912(2007).

political bodies from adopting a name deceptively similar to any other party or body.¹⁵² Many political bodies designate themselves by the name of their candidates (for example, "Smith for Mayor" or "Citizens for Jones"). Nomination papers must also name three to five registered voters as the "committee" of the organization.¹⁵³ These persons are empowered to fill vacancies in the slate of the political body in the event that a vacancy occurs before the final election.¹⁵⁴

Voters and candidates interested in independent political action through political bodies should recognize the potential that this hybrid organization has to institute change. While political bodies are usually formed to advance an individual candidate or a small slate of candidates in a single election, political bodies can become political parties, under the definition of the Election Code, if they achieve and maintain a sufficient voter turnout for their candidates.¹⁵⁵ In a municipal or general election, a political body can become a county-wide party if the number of votes cast for one of its candidates equals at least five percent (5%) of the largest vote cast for any elected candidate in the county.¹⁵⁶

A political body can become a statewide party if, at a general election, one of its candidates: (a) receives in each of at least ten counties, at least two percent of the largest vote cast in each county for any election candidate; and (b) receives at least two percent of the largest vote cast in the State for any elected candidate.¹⁵⁷

There are two classes of political parties: major political parties and minor political parties. A "major" political party is a party whose statewide registration is fifteen percent or more of the total registered voters in the State.¹⁵⁸ In Pennsylvania, there are only two major political parties: the Democratic and Republican parties. A "minor" political party is a party whose statewide registration is less than fifteen percent of the total registered voters in the State.¹⁵⁹ Two examples of minor political parties are the Green Party and the Libertarian Party.

To run as a nominee of a minor political party, a candidate must be selected by that party to appear on the November ballot and then must obtain nominating signatures from registered electors in the district which the candidate seeks to represent. The signature requirement is the same as if the candidate were running as an independent candidate of a political body. As is true for political bodies, all registered voters, regardless of their party affiliation, can sign a minor political party's nomination document. If successful, the minor political party candidate's name will appear on the November ballot.¹⁶⁰

A minor political party differs from a political body in three important respects: First, there is no disaffiliation requirement for the original nominees of minor political parties: minor political party candidates may be registered as Democrats or Republicans. Second, in the event that an original nominee of a minor political party resigns or dies after he or she has been nominated, the organization must choose a substitute candidate according to the rules applicable to major political parties, not the rules governing political bodies.¹⁶¹ Third, in the November election, a new party will be entitled to an exclusive row or column on the ballot for its candidates. In contrast, political bodies may be required to share their rows or columns with other political bodies.¹⁶²

¹⁵² See 25 PA. CONS. STAT. § 2912(2007).

¹⁵³ See 25 PA. CONS. STAT. § 2912 (2007).

¹⁵⁴ See 25 PA. CONS. STAT. § 2912 (2007).

¹⁵⁵ See 25 PA. CONS. STAT. § 2831(a) (2007).

¹⁵⁶ See 25 PA. CONS. STAT. § 2831(b) (2007).

¹⁵⁷ See 25 PA. CONS. STAT. § 2831(a) (2007).

¹⁵⁸ Cf. 25 PA. CONS. STAT. § 2872.2(a) (2007).

¹⁵⁹ See 25 PA. CONS. STAT. § 2872.2(a) (2007).

¹⁶⁰ See 25 PA. CONS. STAT. §§ 2872.2, 2911 (2007).

¹⁶¹ See 25 PA. CONS. STAT. §§ 2872.2, 2939 (2007).

¹⁶² See 25 PA. CONS. STAT. § 3010(h) (2007).

Status as a political party is not permanent. For a county-wide party, being classified as a political party lasts through the next general or municipal election, at which time the new party must once again capture the voting percentage described above or lose its party status.¹⁶³ For a statewide party, party status lasts through the next general election (that is, for two years since general elections occur only in even-numbered years), when the minimum vote totals must be achieved once again.¹⁶⁴

A political body need not achieve this level of strength to effect change. A group of citizens in a single neighborhood can form an influential organization by nominating a complete slate of candidates.¹⁶⁵ This strategy enables citizen groups to broaden their spheres of influence without immediately confronting the daunting task of influencing citywide politics.

HOW TO COMPLETE NOMINATION PETITIONS AND PAPERS: CIRCULATION AND ACCOMPANYING DOCUMENTS

The legal guidelines for circulating nomination petitions and papers are the most detailed requirements which a candidate will encounter in a campaign. Candidates must ensure that their circulators (people who canvass to collect signatures for candidate) are apprised of the complete requirements pertaining to the dissemination of petitions or papers.

Circulators must be informed of the dates when they may begin to collect signatures as well as the deadline for collecting signatures. Any signatures dated before or after this time period will be deemed invalid. For nomination petitions, candidates have three weeks to gather signatures; the first circulation date is the thirteenth Tuesday before the primary.¹⁶⁶ For nomination papers, candidates have significantly more time to gather signatures; the first circulation day is the tenth Wednesday before the primary.¹⁶⁷ The last circulation day is the last day on which the petition or paper can be filed; this is the tenth Tuesday before the primary for nomination petitions¹⁶⁸ and August 1 for nomination papers.¹⁶⁹

Circulators must also be certain that the documents they circulate completely identify their purposes in accordance with the law. The most important advice for a candidate to follow is to ensure that if he or she does not personally take the petition or paper around to obtain the necessary signatures, that those who do ("circulators") are carefully instructed on what is required.

Pre-printed petitions or papers must include the following details:

1. *candidate's name, residence, and occupation;*
2. *party or political body;*
3. *date of the Election Day;*
4. *office sought; and*
5. *election district that the office serves.*¹⁷⁰

¹⁶³ See 25 PA. CONS. STAT. § 2831(b) (2007).

¹⁶⁴ See 25 PA. CONS. STAT. § 2831(a) (2007).

¹⁶⁵ See 25 PA. CONS. STAT. § 2911(c) (2007).

¹⁶⁶ 25 PA. CONS. STAT. § 2868 (2007).

¹⁶⁷ 25 PA. CONS. STAT. § 2913(b) (2007).

¹⁶⁸ 25 PA. CONS. STAT. §§ 2868, 2873(d) (2007).

¹⁶⁹ Although 25 section 2913(c) of the Pennsylvania Statute provides: "All nomination papers must be filed on or before the second Friday subsequent to the primary", the deadline for nomination papers has been extended to August 1 or the Monday immediately following August 1st when it falls on a Saturday or Sunday. This date is not contained in the Election Code, it comes from two consent decrees signed by the Secretary of the Commonwealth. *Hall v. Davis*, No. 84-1057 (E.D. Pa. 1984) and *Libertarian Party of Pennsylvania v. Davis*, No. 84-0262 (M.D. Pa. 1984).

¹⁷⁰ 25 PA. CONS. STAT. §§ 2867, 2912 (2007).

Circulators should be sure that signers of nomination petitions or papers are registered voters of the particular district served by the office. Furthermore, in the case of nomination petitions, potential signers must be registered in the party whose nomination the candidate seeks.¹⁷¹ Signers of nomination papers can belong to any party or be registered non-partisan.¹⁷² Circulators should also be certain that each signer enters his or her signature, residence, and date of signature, legibly and accurately.¹⁷³

Circulators should also employ three additional precautions. First, since affidavits by the circulators must accompany each individual signature sheet of a petition or paper, no two circulators should handle the same sheet. Second, no sheet for an office covering more than one county should be used in more than one county.¹⁷⁴ Third, circulators should be aware that there is a limit to how many petitions and papers a registered elector can sign for the same office, and should alert potential signers to any limit appropriate for the office that the circulator's candidate is pursuing. For offices where only one person will be elected (Mayor or District Councilmember, for example), an individual can sign only one nomination petition and one nomination paper.¹⁷⁵ Where two or more persons are to be elected to the same office (City Commissioner, for example), an individual can sign nomination petitions or papers for as many candidates as he or she can vote for in the upcoming election.¹⁷⁶

Finally, we offer some helpful suggestions for candidates and circulators to help ensure that a petition or paper will be deemed to have the appropriate number of valid signatures and can withstand objections. First, the petition or paper should include a wide margin for error so any subsequent striking of invalid signatures does not jeopardize the validity of the petition or paper. A good rule of thumb would be to secure at least twice the required number of signatures. Note that the Election Code does not place any upper limit on the number of signatures which candidates can gather.¹⁷⁷

Second, the easiest method for ensuring that persons are qualified to sign is to canvas from door to door within the district to cover the residence qualification and to follow the voter registration "street lists" to cover the registration qualifications. "Street lists" are lists of every registered voter in a division indicating each person's address and party affiliation. Philadelphia street lists may be obtained from the County Board of Elections at 520 North Delaware Avenue in Philadelphia. The county boards of each county in the state provide similar lists of voters in their jurisdictions.¹⁷⁸

With the documents completed, circulators must complete one affidavit for each individual sheet of a petition or paper that they have circulated.¹⁷⁹ This process includes signing the affidavit under oath before a notary public.

Each circulator's affidavit must provide:

- 1. that the circulator is a qualified voter of the district. In the case of a party nomination petition, the circulator must also state that he or she is registered with the party;*
- 2. the circulator's residence -- city, borough, or township, as well as the street and house or apartment number;*
- 3. that the signers of the petition or paper signed with full knowledge of its contents;*

¹⁷¹ 25 PA. CONS. STAT. § 2868 (2007).

¹⁷² See 25 PA. CONS. STAT. § 2911(c) (2007).

¹⁷³ See 25 PA. CONS. STAT. §§ 2868, 2911(c) (2007). Additionally, where the political district named is entirely within any city, borough or township, signer only need to provide their residential street address.

¹⁷⁴ See 25 PA. CONS. STAT. §§ 2869, 2911(d) (2007).

¹⁷⁵ See 25 PA. CONS. STAT. §§ 2868, 2911(c) (2007).

¹⁷⁶ See 25 PA. CONS. STAT. §§ 2868, 2911(c) (2007).

¹⁷⁷ See 25 PA. CONS. STAT. §§ 2872.1, 2911(b) (2007).

¹⁷⁸ For full contact information regarding all Pennsylvania County Board of Elections offices, please visit: www.dos.state.pa.us/voting/cwp/view.asp?a=1195&q=443005&votingNav=%7C (last checked January 25, 2007).

¹⁷⁹ See 25 PA. CONS. STAT. §§ 2869, 2911(d) (2007).

4. *that the signers' respective residences are correctly stated therein;*
 5. *that the signers reside in the county named in the affidavit;*
 6. *that each signer signed on the date opposite his or her name; and*
 7. *that to the best of the circulator's knowledge and belief, the signers are qualified voters of the district (and members of the party in the case of a party nomination petition).¹⁸⁰*
-

Each of these affidavits must be attached to a corresponding signature sheet.¹⁸¹ Some pre-printed signature sheets already have an unsigned circulator's affidavit on the reverse side. All of the documents should be bound together with the petition sheets numbered consecutively, beginning with number one, at the foot of each sheet.¹⁸² A common mistake in collecting signatures for nomination petitions is to wait until the last Sunday to gather the completed sheets. One suggestion is to organize three meetings in each of the three weeks of permitted circulation and to hand out fresh sheets for each new week. At the second and third meetings, a notary should be present to ensure proper notarization of the circulated signature sheets from the previous week.

This completed package of signature sheets and circulators' affidavits must be accompanied by a single affidavit signed by the nominated candidate.¹⁸³ The candidate's affidavit for a nomination petition must provide different information than that for a nomination paper.

*For a nomination petition, the **candidate's affidavit** must set forth:*

1. *the candidate's residence, with street number and postal address;*
2. *the election district in which the candidate resides;*
3. *the office for which the candidate is filing;*
4. *that the candidate is eligible for the office stated in the petition;*
5. *that the candidate will not knowingly violate any provision of the Election Code or any other law regulating or limiting election expenses or prohibiting corrupt practices in connection therewith;*
6. *that the candidate is not a candidate for nomination of any other party for this office (there are special exceptions for some judicial candidates who are permitted to cross-file, an issue that is beyond the scope of this manual);*
7. *that if the candidate is seeking a party office (committeeperson or national party delegate, for example), he or she is a registered and enrolled member of the designated party;*
8. *that the candidate is aware of the requirement that pre- and post-election reports be filed concerning campaign contributions and expenditures; and*
9. *that he or she is not a candidate for an office which he or she already holds, the term for which will not expire in the same year as the office subject to the affidavit.¹⁸⁴*

A candidate for delegate or alternative delegate to the national party convention must also indicate the Presidential candidate whom he or she supports, or indicate that he or she is uncommitted.¹⁸⁶

¹⁸⁰ See 25 PA. CONS. STAT. §§ 2869, 2911(d) (2007).

¹⁸¹ See 25 PA. CONS. STAT. §§ 2869, 2911(d) (2007).

¹⁸² See 25 PA. CONS. STAT. §§ 2869, 2911(d) (2007).

¹⁸³ See 25 PA. CONS. STAT. §§ 2870, 2911(e) (2007).

¹⁸⁴ See 25 PA. CONS. STAT. § 2870(2007).

¹⁸⁶ See 25 PA. CONS. STAT. § 2870 (2007).

Independent candidates filing nomination papers must file an accompanying **affidavit** setting forth:

1. the election district in which candidate resides;
 2. the office for which the candidate is filing;
 3. that the candidate is eligible for the office;
 4. that the candidate will not knowingly violate any provision of the Election Code or any other law regulating or limiting election expenses or prohibiting corrupt practices in connection therewith;
 5. that the candidate's name has not been presented by any nomination petition as a candidate for any public office voted for in the primary, and that the candidate has not been nominated by any other nomination papers filed for any such office;
 6. that the candidate was not (or will not be) a registered and enrolled member of any political party within thirty days before the primary at which the parties select his or her opponents; and
 7. that he or she is not a candidate for an office which he or she already holds, the term for which will not expire in the same year as the office subject to the affidavit.¹⁸⁷
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HOW TO FILE NOMINATION PETITIONS AND PAPERS

As a rule of thumb, nomination petitions and nomination papers are filed at the offices from which the blank forms were originally obtained. Thus, petitions and papers for Philadelphia-based offices like committeeperson and polling place official must be filed with the County Board of Elections at City Hall in Room 142.¹⁸⁸ Petitions and papers for state public offices and state party offices including national convention delegates must be filed with the Secretary of the Commonwealth in Harrisburg.¹⁸⁹ Once again, the deadline for filing petitions is the tenth Tuesday before the primary. The deadline for filing nomination papers is August 1.¹⁹⁰

Filing petitions or papers for many public and party offices also requires the payment of a filing fee.¹⁹¹ The amount of the fee varies from office to office. For example, as of January 2007, a candidate for Judge of Elections or Philadelphia divisional Committeeperson was not required to pay a filing fee; a candidate for City Council or the General Assembly was required to pay \$100 and the cost for becoming a candidate for Governor was \$200.¹⁹² Candidates filing with their local County Board of Elections may pay the fee in cash, certified check, or money order (payable to "The County of _____").¹⁹³ Candidates filing with the Secretary of State must pay the filing fee with a certified check or money order (payable to "Commonwealth of Pennsylvania").¹⁹⁴ Please be aware that personal checks are never accepted, and only county boards will accept cash.

Note: a candidate required to submit a Statement of Financial Interests (See Chapter 5) must append a copy to his or her nomination petition or paper.¹⁹⁵ In addition, certain local candidates expecting to receive and spend minimal amounts of money may wish to file an affidavit discussed in Chapter 6 which

¹⁸⁷ See 25 PA. CONS. STAT. § 2911(e) (2007).

¹⁸⁸ See 25 PA. CONS. STAT. §§ 2873(a), 2913(a) (2007).

¹⁸⁹ See 25 PA. CONS. STAT. §§ 2873(a), 2913(a) (2007).

¹⁹⁰ Although section 2913(c) of Pennsylvania Statute provides: "All nomination papers must be filed on or before the second Friday subsequent to the primary", the deadline for nomination papers has been extended to August 1 or the Monday immediately following August 1st when it falls on a Saturday or Sunday. This date is not contained in the Election Code, it comes from two consent decrees signed by the Secretary of the Commonwealth. *Hall v. Davis*, No. 84-1057 (E.D. Pa. 1984) and *Libertarian Party of Pennsylvania v. Davis*, No. 84-0262 (M.D. Pa. 1984).

¹⁹¹ See 25 PA. CONS. STAT. §§ 2873(b.1), 2914 (2007).

¹⁹² See 25 PA. CONS. STAT. §§ 2873(b.1), 2873(b.2), 2914 (2007).

¹⁹³ See 25 PA. CONS. STAT. §§ 2873(b.1), 2914 (2007).

¹⁹⁴ See 25 PA. CONS. STAT. §§ 2873(b.1), 2914 (2007).

¹⁹⁵ See 65 PA. CONS. STAT. § 1103 (2007).

excuses them from having to submit detailed reports concerning their campaign finances; that affidavit must be filed along with the nomination petition or papers.¹⁹⁶

FOLLOW-UP TO FILING

After the last day for filing petitions and papers has passed, several other important deadlines approach. After the filing date, candidates have five days to submit requests to list their occupations and/or addresses on the ballot. This additional identification is granted only to candidates running for the same office who have identical or similar surnames.¹⁹⁷ While this is not a common occurrence, when it happens the affected candidates should make their requests to the office where they originally filed.¹⁹⁸

A candidate or any registered voter in the district, regardless of party affiliation, has until seven days after the filing date to submit objections to another candidate's petition or paper.¹⁹⁹ Any registered voter who resides in the particular district in which the candidate is running, regardless of his or her party affiliation, may file objections.²⁰⁰ Additionally, candidates may file objections against their opponents, enabling candidates to challenge their opponents before the election occurs.²⁰¹ Candidates should review the documents of their opponents to determine if they meet the required standards. Petitions and papers are public documents available for inspection by any interested citizen at the office where they are filed.

Voters or candidates who become involved in objection proceedings, either by filing objections against another candidate or by having objections filed against them, should obtain the advice of experienced legal counsel. The laws and procedures governing objection proceedings are extremely complicated, and these proceedings move forward very rapidly once they begin. An inexperienced participant may jeopardize his or her chances for success without competent legal assistance.

Objections to petitions or papers must be filed in two places: (1) the office where the petitions or papers were originally filed; and (2) the court with jurisdiction over the matter. For example, objections to candidates for Philadelphia city offices must be lodged with the County Board of Elections and the Philadelphia Court of Common Pleas.²⁰² For state offices, objections are filed with the Secretary of the Commonwealth and the Commonwealth Court in Harrisburg.²⁰³

The Election Code requires that the court conduct a hearing on the objections within ten days after the last day for filing petitions and papers, and that it rule on the objections within fifteen days after the last filing date.²⁰⁴ Candidates and objectors must be notified of the hearing and are permitted to appear when it is conducted.²⁰⁵

Objections must relate to the statutory requirements previously discussed for petitions or papers. That is, whether the signers were registered voters within the district, enrolled in the proper party, and signed and dated the petitions or papers themselves. One should note that the only way to check the authenticity of a voter's registration is to compare a first-generation copy of the signature on the nomination petition (or paper) with the voter's signature at it appears on his or her original voter registration card. The original voter registration forms are maintained on file with the local county board of elections.²⁰⁶ For example, if

¹⁹⁶ See 25 PA. CONS. STAT. § 3246.1 (2007).

¹⁹⁷ See 25 PA. CONS. STAT. § 2965 (2007).

¹⁹⁸ See 25 PA. CONS. STAT. § 2965 (2007).

¹⁹⁹ See 25 PA. CONS. STAT. § 2937 (2007).

²⁰⁰ See *Independence Party Nomination*, 57 A. 344 (Pa. 1904) (ruling that electors need not be members of the same political party in order to file objections to nominations of said political party candidates).

²⁰¹ See *In re Shuli*, 525 A.2d 6, 9 (Pa. Commw. 1987) (determining that by virtue of being a candidate's opponent, that opponent has standing under 25 PA. CONS. STAT. § 2937 to challenge the candidate's nominating petition before the primary election).

²⁰² See 25 PA. CONS. STAT. § 2937 (2007).

²⁰³ See 25 PA. CONS. STAT. § 2937 (2007).

²⁰⁴ See 25 PA. CONS. STAT. § 2937 (2007).

²⁰⁵ See 25 PA. CONS. STAT. § 2937 (2007).

²⁰⁶ For the mechanics of striking signatures from petitions, see *In re Duffy*, 635 A.2d 111 (Pa. 1993).

the court decides to strike signatures as invalid, leaving an insufficient number of valid signatures, or finds that blank petitions were circulated for signatures, then the petitions or papers under objection will be set aside and that candidate's name will be removed from the ballot.²⁰⁷

Candidates should be aware of two aspects of the physical printing of the ballot. First, candidates draw for ballot positions. This drawing occurs shortly after the last filing day at the office where petitions and papers are filed -- either at the local county board of elections or at the office of the Secretary of the Commonwealth in Harrisburg. Many observers believe there is an advantage to higher positions among the numbered slots occupied by candidates for the same office; hence, the Election Code requires that each candidate be notified of and represented at the drawing of lots for positions so as to protect his or her right to a fair draw. Candidates can attend in person or be represented by an agent duly authorized by a letter of attorney.²⁰⁸

Following the drawing, official ballots must be printed no later than the Thursday before the election and specimen ballots must be made available for public inspection at the local county board of elections.²⁰⁹ These large pink sheets show the candidates for each office and their respective ballot positions. On the last Thursday before a primary election, each candidate is entitled to receive (upon request) three free specimen ballots for each election division within the county where he or she is running for office.²¹⁰ On the last Thursday before a November election, representatives of the county organization of each political party or body are also entitled upon request to receive two free specimen ballots for each election division within the county where candidates of that party or body are running for office.²¹¹ Specimens should be picked up promptly and checked for accuracy so that any deficiencies can be corrected before the following Tuesday's election.

A FINAL NOTE ON PRIMARIES AND ELECTIONS

This chapter applies to primary and November elections. It does not apply to special elections held to fill unexpected vacancies created by the resignation or death of an elected official. The filing deadlines and other provisions applicable to special elections are not covered in this manual, and a candidate seeking to run in such an election should contact his or her local county board of elections or the State Bureau of Elections to determine the specific requirements.

CHAPTER FOUR CHECKLIST

- Nomination petitions are used to secure a ballot position in a primary election.
- Nomination papers are used by independent candidates to secure a ballot position in the November election.
- Pre-printed petition and paper forms are available from the County Board of Elections (e.g., Room 142 City Hall in Philadelphia) for local offices, and the Bureau of Elections of the Department of State (Room 304, North Office Building, Harrisburg) for state offices.
- Every signature sheet of a nomination petition or paper must be accompanied by a circulator's affidavit. The number of signatures required on a nomination petition is contained in Table 1; the number of signatures required on a nomination paper is set by a formula.
- All signatures on nomination petitions must be made within a three-week period beginning on the thirteenth Tuesday before the primary and ending on the tenth Tuesday prior to the election. (We suggest setting up three meetings to accomplish this; see main text).
- Independent candidates may begin collecting signatures for nomination papers on the tenth Wednesday before the primary. Papers must be filed on or before August 1.
- Completed nomination petitions or papers must include: the candidate's name, the candidate's residence, and occupation; the candidate's party or political body; the date of the

²⁰⁷ See 25 PA. CONS. STAT. §§ 2936, 2937 (2007).

²⁰⁸ See 25 PA. CONS. STAT. § 2875 (2007).

²⁰⁹ See 25 PA. CONS. STAT. § 2968(a) (2007).

²¹⁰ See 25 PA. CONS. STAT. § 2968(b) (2007).

²¹¹ See 25 PA. CONS. STAT. § 2968(c) (2007).

- election; the office which the candidate seeks; and the election district which the office serves.
- Precautions for Circulators: (1) affidavits must accompany each signature sheet, NO TWO CIRCULATORS SHOULD HANDLE THE SAME SHEET; (2) no sheet for an office covering more than one county should be used in more than one county; and (3) a registered elector may sign nomination papers or petitions for only as many candidates as the voter may vote for in the election.
 - Helpful Suggestions for Circulators: (1) petitions and papers should include a wide margin for error (we suggest twice the number of required signatures); and (2) the easiest method for ensuring that signers are qualified is to canvas from door to door within the district and utilize the voter registration "street lists" to cover the registration requirements. Note: signers of petitions must be registered in the party for which the candidate seeks office; signers of papers may belong to any party or be registered non- partisan.
 - Circulators' affidavits must provide: (1) the circulator is a qualified voter of the district; (2) the circulator's residence; (3) the signers had full knowledge of the content of the petition or paper; (4) the residence of the signer; (5) the county of residence of the signer; (6) the date of the signing; and (7) that to the best of the circulator's knowledge and belief, the signers are qualified voters of the district.
 - Candidates filing nomination petitions must file an accompanying affidavit setting forth: (1) the candidate's residence; (2) the election district of the candidate's residence; (3) the office contested; (4) that the candidate is eligible for the office; (5) that the candidate did not knowingly violate any election laws; (6) that the candidate is not a candidate for nomination of any other party for this office; (7) that the candidate is aware that campaign contribution and expenditure reports must be filed; and (8) if the candidate is seeking a party office, that he or she is a registered member of the party.
 - Independent candidates filing nomination papers must file an accompanying affidavit setting forth: (1) the election district of the candidate's residence; (2) the office for which the candidate is filing; (3) that the candidate is eligible for the office; (4) that the candidate will not knowingly violate any election laws; (5) that the candidate's name has not been presented by the nomination petition as a candidate for public office voted for in the primary; (6) that the candidate has not been nominated by any other nomination papers filed for any such office; and (7) that the candidate was not a registered member of any political party within thirty before the primary.
 - Petitions and papers for local, party, and polling place offices must be filed with the County Board of Elections. Petitions and papers for State public or party offices including national convention delegates must be filed with the Secretary of the Commonwealth in Harrisburg.
 - Candidates filing with the County Board of Elections may pay their filing fee with cash, certified check, or money order. Candidates filing with the Secretary of State must pay the fee with a certified check or money order.
 - Candidates have five days after the filing date to request to list their occupations and/or addresses on the ballot. (This additional identification is granted only to candidates running for the same office who have identical or similar surnames).
 - Candidates have seven days after the filing date to submit objections to another candidate's petition or paper.
 - Objections must be filed at: (1) the office where the petitions or papers were filed; and (2) the court with jurisdiction over the office.

CHAPTER 5 – FILING THE STATEMENT OF FINANCIAL INTERESTS

INTRODUCTION

In addition to a nomination petition or paper, all candidates for public office other than candidates for party office and polling place officials must also file a "Statement of Financial Interests" ("Statement"). This Statement is a pre-printed form which is intended to reveal any potential conflicts which that candidate may bring to the office which he or she is seeking. If this Statement is required for a particular office, no candidate for that office will be placed on the ballot before he or she files the Statement.²¹² Furthermore, a victorious candidate who has not filed a required Statement will not be allowed to take office;²¹³ this limitation also applies to unopposed and write-in candidates.²¹⁴ This chapter describes which candidates are required to file the Statement, how to obtain the pre-printed form which must be used to comply with the law, when and where to file the Statement, and what it must include.

FILING REQUIREMENTS

The disclosure requirement applies to all candidates for public office except the Judges and Inspectors of Elections.²¹⁵ Candidates for party offices, such as committeeperson or national delegate, are also exempt.²¹⁶

LOGISTICS OF FILING

The State Ethics Commission prepares the Statement of Financial Interests form,²¹⁷ and distributes it through the County Board of Elections (Riverview Place, 520 North Delaware Avenue, Philadelphia 19123) and the State Ethics Commission (Room 309, Finance Building, Harrisburg 17120). Candidates must file the Statement on or before the last day for filing their nomination documents.²¹⁸ Additionally, each candidate must append a copy of the Statement to his or her nomination petition or paper.

Write-in candidates must file a Statement with the Ethics Commission within thirty days of having been nominated or elected, unless the candidate declines the nomination or office within that period of time.²¹⁹

FILING THE STATEMENTS

The form itself divides into two copies, a white and a yellow copy. Candidates for State office (including candidates for the General Assembly) must file the white copy with the Ethics Commission (The State Ethics Commission, P.O. Box 11470, Harrisburg, PA 17108-1470). Candidates for State office must also append the second (yellow) copy to their nomination petition or paper filed with the State Bureau of Elections. In Philadelphia, candidates for local office must file the white copy of the Statement with the Department of Records (Room 156, City Hall, 19107) and append the yellow copy to their nomination petition or paper filed with the County Board of Elections (Room 142, City Hall, 19107). Candidates should check before filing if the County Board is still the appropriate recipient.

Candidates elected to public office must continue to file Statements annually, before May 1 of each year in which the official holds office.²²⁰ A final Statement must be filed by May 1 after the official leaves his or her position.²²¹

²¹² See 65 PA. CONS. STAT. § 1104(b) (2007).

²¹³ See 65 PA. CONS. STAT. § 1104(d) (2007); see also 51 PA. CODE § 15.2(b) (2008).

²¹⁴ 51 PA. CODE § 15.3(c)(e) (2008); see also *Commonwealth State Ethics Com. v. Landauer*, 496 A.2d 862, 864 (Pa. Commw. 1985) (discussing scope of financial disclosure requirement as intending to make available for public consideration certain financial information regarding *all* candidates, and allowance of case-by-case exemptions would contradict the purpose of the law).

²¹⁵ See 65 PA. CONS. STAT. § 1102 (2007) (excluding judge of election, inspector of elections and officials of political parties from the definition of "candidate" for purposes of requiring financial disclosure).

²¹⁶ See 65 PA. CONS. STAT. § 1102 (2007) (excluding judge of election, inspector of elections and officials of political parties from the definition of "candidate" for purposes of requiring financial disclosure).

²¹⁷ See 65 PA. CONS. STAT. § 1105(a) (2007).

²¹⁸ See 65 PA. CONS. STAT. § 1104(b) (2007); see also 51 PA. CODE § 15.3 (2008).

²¹⁹ See 51 PA. CODE § 15.3(e) (2008).

INFORMATION REQUIRED TO BE DISCLOSED

Statements of Financial Interests detail the financial activities of candidates and officers during the prior calendar year.²²² Under oath, the candidate must attest to the accuracy of the information provided in the Statement.²²³

A completed **Statement of Financial Disclosure** includes the following information:²²⁴

1. name and address of the candidate;
 2. candidate's occupation or profession;
 3. any direct or indirect interest the candidate holds in real estate: a. sold or leased to the Commonwealth of Pennsylvania, its agencies or political subdivisions; b. bought or leased from the Commonwealth of Pennsylvania, its agencies or political subdivisions; or c. subject to condemnation proceedings by the Commonwealth of Pennsylvania, its agencies or political subdivisions;
 4. name and address of each creditor to whom the candidate owes in excess of \$6,500 and the interest rate on the debt. However, candidates are not required to reveal the amount of the debts. Loans between immediate family members (parent, spouse, child, or sibling)²²⁵ and mortgages upon the principal or secondary residence of the candidate need not be reported;
 5. name and address of every direct or indirect source of income in excess of \$1,300 the candidate received. This provision includes employers and other sources of income. However, the Statement does not require the disclosure of confidential information protected by statute or professional ethics. Similar to loans, candidates are not required to reveal the specific amount of income;
 6. name and address of every source from which the candidate received gifts exceeding \$250. The dollar value and circumstances of each gift must be reported. Candidates do not have to report personal gifts from friends or relatives when the circumstances surrounding the gifts indicate that the motivation for the action was personal. However, the term "friend" does not include registered lobbyists or employees of registered lobbyists;
 7. name and address of the source and the amount of any payment for or reimbursement of actual expenses for transportation and lodging or hospitality received in connection with public office or public employment where such expenses exceed \$650. This does not apply to expenses reimbursed by a governmental body or by an organization of public officials.
 8. any office, directorship, or other employment held in any business;
 9. any financial interest held by the candidate in any form of business for profit. The law defines "financial interest" as owning more than 5% of the equity of the business or 5% of the assets of the economic interest in indebtedness,²²⁶ and
 10. any financial interest in a business with which the candidate has been associated in the preceding year which has been transferred to a member of the candidate's immediate family.²²⁷
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I.R.S. FILING REQUIREMENTS

A recent tax law imposes three different reporting and disclosure requirements on most political organizations subject to tax under Section 527 of the Internal Revenue Code. The requirements are:

- (1) an initial notice;
- (2) periodic reports on contributors and expenditures; and
- (3) modified annual returns.

²²⁰ See 65 PA. CONS. STAT. § 1104(a); see also 51 PA. CODE § 15.2(a).

²²¹ See 65 PA. CONS. STAT. § 1104(a) (2007); see also 51 PA. CODE § 15.2(a) (2008).

²²² See 65 PA. CONS. STAT. § 1105(b) (2007).

²²³ See 65 PA. CONS. STAT. § 1105(a) (2007).

²²⁴ The amounts listed are effective as of January 2007, and are subject to change.

²²⁵ See 65 PA. CONS. STAT. § 1102 (2007).

²²⁶ See 65 PA. CONS. STAT. § 1102 (2007).

²²⁷ See 65 PA. CONS. STAT. § 1105(b) (2007).

(1) Initial Notice is filed using I.R.S. Form 8871 -- Political Organizations -- Notice of Section 527 Status

Who Must File -- Every political organization **except** for:

- An organization that reasonably expects its annual gross receipts **to always be less than \$25,000**;
- A political committee required to report under the Federal Election Campaign Act of 1972; or
- A tax exempt organization described in Section 501(c) that is treated as having political organization taxable income under Section 527(f)(1).

(2) Periodic Reports on Contributors and Expenditures are filed using I.R.S. Form 8872 -- Political Organizations -- Report Of Contributions And Expenditures

Who Must File -- Every Section 527 political organization that accepts a contribution or makes an expenditure for an exempted function during the calendar year must file Form 8872, **except**:

- A political organization that is not required to file Form 8871, or
- A state or local committee of a political party or political committee of a state or local committee.

(3) Modified Annual Returns are filed using I.R.S. Form 1120-POL -- U.S. Income Tax Return For Certain Political Organizations

Who Must File -- A political organization **must file** Form 1120-POL if the organization has:

- any political organization taxable income over \$100, or
- annual gross receipts of \$25,000 or more.

For more information on these requirements, contact the IRS.

A FINAL NOTE ON STATEMENTS OF FINANCIAL INTEREST

Candidates' personal financial affairs are matters of legitimate public interest because of the nature of the trust invested in elected office-holders. No candidate for elected office can rightfully expect to retain the degree of personal privacy granted to ordinary citizens. The law in Pennsylvania reflects these considerations, and therefore, requires most candidates to file a Statement of Financial Interests. Once filed, Statements become public documents open to public inspection and copying.²²⁸

Statements of Financial Interests are only one part of the requirements of the comprehensive Public Official Employee Ethics Act.²²⁹ This Act attempts to prevent public officials and employees from realizing improper personal financial gain from their public positions. The law is also designed to reveal and prevent actual and apparent conflicts of interest. As its title suggests, the law applies to candidates as well as to elected and appointed officials and employees. For example, the law prohibits any individual or party from offering anything of monetary value to a candidate, public official, or public employee in order

²²⁸ See 65 PA. CONS. STAT. § 1104(e) (2007).

²²⁹ See 65 PA. CONS. STAT. §§ 1101-1113 (2007).

to influence his or her official actions. It also prohibits any candidate or public official or employee from accepting such an offering.²³⁰ A complete description of the conduct which the law prohibits and the classes of persons to whom it applies is beyond the scope of this manual. However, candidates for public office have a responsibility to understand and observe the limitations on their conduct under the law.



²³⁰ See 65 PA. CONS. STAT. § 1103(b)- (c) (2007).

CHAPTER 6 – ORGANIZING AND FINANCING A POLITICAL CAMPAIGN

Introduction

Regardless of the size of the campaign, almost all candidates will become involved with fundraising and campaign finances at some point during the race. For some candidates, expenditures may be limited to the filing fee and receipts for small donations collected from concerned neighbors. For others conducting a national campaign, money raised may be spent on television advertisements, mass mailings, and literature and funds are solicited from every available source. Regardless of the scenario, candidates and their campaign organizations must be familiar with the finance provisions of the Election Code and take care to obey them. These provisions regulate five areas: (1) the organization of campaign finance; (2) the solicitation of money; (3) campaign expenditures; (4) the preparation of finance reports; and (5) audits of finance reports. These provisions apply to every candidate for public office with the exception of candidates for Judge or Inspector of Elections.²³¹ These provisions also do not apply to candidates for party offices.²³²

Campaign finance forms are available from the Bureau of Elections of the Department of State in Harrisburg (Room 304, North Office Building, Harrisburg, PA 17120) or from local county boards of elections (520 North Delaware Avenue, Philadelphia, PA 19123). In addition, the Pennsylvania Department of State offers an extremely useful pamphlet entitled, *Guide to the Campaign Expense Reporting Law*. This manual describes campaign expense reporting laws and provides examples of recommended bookkeeping procedures. Additionally, candidates for certain public offices in the City of Philadelphia should be aware of local campaign finance rules enacted by City Council.²³³

CAMPAIGN FINANCE IN PHILADELPHIA

As announced on Jan. 16, 2008, the Ethics Board made adjustments to city campaign finance laws, effective immediately, limiting contributions to \$2,500 for individuals and \$10,000 for political action committees and businesses.²³⁴ The next adjustment will take place in 2012.²³⁵ The Finance Director who bases all adjustments on the "CPI Multiplier" using the latest available figures for the Consumer Price Index for all urban Consumers (CPI-U) for Philadelphia, as measured by the United States Department of Labor, Bureau of Labor Statistics.²³⁶ For the purposes of 20-1002(2), the donating person may be a partnership, corporation, sole proprietorship or other form of business organization.²³⁷

In years where the election for a particular office is not occurring, a candidate is also subject to campaign finance limitations. Mayoral candidates may receive political committee contributions totaling no more than \$250,000 per year.²³⁸ District Attorney and City Controller candidates may receive political committee contributions totaling no more than \$100,000 per year.²³⁹ Candidates for City Council, Register of Wills, Sheriff, Clerk of Quarter Sessions Court and City Commissioner may receive political committee contributions totaling no more than \$75,000 per year.²⁴⁰

A contribution made to a political committee that: (a) has been transferred to a candidate for City elective office, becoming available for expenditure; and (b) was made before the candidate actually became a

²³¹ See 25 PA. CONS. STAT. § 3241(a) (2007).

²³² See 25 PA. CONS. STAT. § 3241(a) (2007). The statute does not explicitly refer to party offices because they are not public offices and are therefore exempt from these financial reporting requirements.

²³³ See PHILA. CODE §§ 20-1001 (2008), *et. seq.*; see also PHILA. CODE §§ 17-1400 (2008), *et. seq.*

²³⁴ Meeting of the Philadelphia Ethics Board, Jan. 16, 2008.

²³⁵ Meeting of the Philadelphia Ethics Board, Jan. 16, 2008.

²³⁶ See PHILA. CODE § 20-1002(8) (2008).

²³⁷ See PHILA. CODE § 20-1001(11) (2008).

²³⁸ See PHILA. CODE § 20-1002(3)(i) (2008).

²³⁹ See PHILA. CODE § 20-1002(3)(ii) (2008).

²⁴⁰ See PHILA. CODE § 20-1002(3)(iii) (2008).

candidate is also known as a “pre-candidacy contribution.”²⁴¹ Candidates may not spend any excess pre-candidacy contributions to influence the outcome of a coveted election in which he or she is a candidate. Similarly, candidate political committees may not spend any excess pre-candidacy contributions for purposes such as paying their own expenses.²⁴² Any pre-candidacy contributions made in the same calendar year that a person becomes a candidate will count toward the \$2,500 and \$10,000 contribution limits discussed above.²⁴³

Contribution limitations do not apply to contributions from a candidate’s personal resources into the candidate’s candidate political committee.²⁴⁴ However, if contributions from a candidate’s personal resources total \$250,000 or more, regardless of when contributions were made, then the contribution limits for all other candidates for that City elective office will double.²⁴⁵ None of these limitations apply to volunteer labor.²⁴⁶

A candidate for City elective office may not have more than one political committee and one checking account for the city office being sought. All contributions and all expenditures related to that office are to be made from this account.²⁴⁷ If the candidate for office maintains other political or non-political accounts for which contributions are solicited, those funds may not be used to influence the outcome of a coveted election.²⁴⁸

Any person residing in Philadelphia, including the City Solicitor, may bring an action for injunctive relief to enjoin any violations of, or to compel compliance with, the campaign finance limitations.²⁴⁹ The deciding court may award to a prevailing plaintiff in such an action his or her costs of litigation, including reasonable attorney’s fees.²⁵⁰

Whenever a candidate, treasurer of a political committee, or other person files a required report of receipts and expenditures with the City Commissioners pursuant to Article XVI of the Pennsylvania Election Code, or with the Secretary of the Commonwealth they must simultaneously file a copy of all information in the report with the Board of Ethics in an electronic format.²⁵¹ That filing must be accompanied by a written statement, signed by the person making the filing, which swears to the information set forth in the filing.²⁵² When the Board of Ethics receives the filing, it must issue a written receipt to the person making the filing.²⁵³ The Board of Ethics will then publish all of that information on the City’s official website after the Board receives such information, no later than five business days after receipt.²⁵⁴ The failure to file this information, or the making of material misstatements or omissions in any filing, is a violation of Chapter 20-600 (Standards of Conduct and Ethics) and subject to enforcement and the imposition of penalties.²⁵⁵

A violation of any of these rules is punishable by a civil penalty in the amount set forth in § 29-612 (relating to violations of the Standards of Conduct and Ethics).²⁵⁶ The above provisions are subject to the

²⁴¹ See PHILA. CODE § 20-1001(13) (2008).

²⁴² See PHILA. CODE § 20-1002(4) (2008).

²⁴³ See PHILA. CODE § 20-1002(5) (2008).

²⁴⁴ See PHILA. CODE § 20-1002(6) (2008).

²⁴⁵ See PHILA. CODE § 20-1002(6) (2008).

²⁴⁶ See PHILA. CODE § 20-1002(7) (2008).

²⁴⁷ See PHILA. CODE § 20-1003 (2008).

²⁴⁸ See PHILA. CODE § 20-1003 (2008).

²⁴⁹ See PHILA. CODE § 20-1005 (2008).

²⁵⁰ See PHILA. CODE § 20-1005 (2008).

²⁵¹ See PHILA. CODE § 20-1006(1) (2008).

²⁵² See PHILA. CODE § 20-1006(1) (2008).

²⁵³ See PHILA. CODE § 20-1006(1) (2008).

²⁵⁴ See PHILA. CODE § 20-1006(2) (2008).

²⁵⁵ See PHILA. CODE § 20-1006(4) (2008).

²⁵⁶ See PHILA. CODE § 20-1008 (2008).

jurisdiction of the Board of Ethics under § 20-606, including, but not limited to, the Board's powers and duties relating to education, training, issuance of advisory opinions, receipt of complaints, investigations, referral, and adjudication.²⁵⁷

In addition to criminal penalties, any person in violation of these rules will be subject to a civil penalty of \$1,900 for each violation committed during calendar year 2008, and \$2,000 for each violation committed thereafter.²⁵⁸ Any person in violation of this Chapter is forever disqualified from holding any elected or appointed City office or employment with the City, its agencies, authorities, boards or commissions, with certain exceptions under §20-610.²⁵⁹ Any person who commits a violation on more than one occasion is guilty of a separate offense of Repeat Violation, and for each such Repeat Violation, shall be subject to a fine of not more than \$300, or imprisonment for not more than 90 days, or both.²⁶⁰ A person is guilty of a Repeat Violation regardless whether the second or subsequent violation occurs before or after a judicial finding of a first or previous violation.²⁶¹ Each violation, after the first, constitutes a separate Repeat Violation offense.²⁶²

ORGANIZING THE CAMPAIGN'S FINANCES

The first decision a candidate must make about campaign financing is whether or not there will be any money raised or spent on behalf of the candidacy. Obviously, candidates who neither spend nor raise campaign funds have little need to worry about the reporting requirements in this area and no need for a campaign finance organization. Most candidates, however, will choose to spend money to advance their cause. Candidates will invest in themselves at least to the extent of paying the filing fee for the nomination papers or petitions. Ordinarily, though, candidates spend as much as they raise, and raise as much as they can.

Candidates may either control their campaign finances directly or delegate that responsibility to a "Candidate's Political Committee," which is a specific group of persons formally authorized by the candidate to receive contributions and make disbursements on his or her behalf.²⁶³

Candidates should consider two important factors in determining the control of their campaign finances. First, fundraising and spending must be conducted in accordance with the requirements of the Election Code. Second, the candidate's time and attention should be concentrated as much as possible on the campaign itself. If only a minimal amount of money is to be raised or spent, the candidate can personally meet the legal requirements without being too greatly distracted from campaigning, policy-making and public appearances. If, however, a candidate intends to conduct an elaborate campaign, he or she should seriously consider forming a political committee. Detailed reporting is required of any campaign which raises or spends more than \$250.²⁶⁴ Some candidates consider this sum a useful cut-off point for deciding on the finance structure of their campaign; however, every candidate must consider the issue on the basis of his or her personal circumstances.

Although legal training is not a requirement for understanding the provisions governing campaign finances, some candidates may want to obtain the services of an experienced attorney in this field if the campaign expects to raise and spend substantial funds. The County Board of Elections and the Committee of Seventy can answer many finance questions. However, candidates can avoid most legal

²⁵⁷ See PHILA. CODE § 20-1008 (2008).

²⁵⁸ See PHILA. CODE § 20-612(1) (2008).

²⁵⁹ See PHILA. CODE § 20-612(1) (2008).

²⁶⁰ See PHILA. CODE § 20-612(3) (2008).

²⁶¹ See PHILA. CODE § 20-612(3) (2008).

²⁶² See PHILA. CODE §§20-612(3) (2008).

²⁶³ See 25 PA. CONS. STAT. § 3241(h), (m) (2007).

²⁶⁴ See 25 PA. CONS. STAT. § 3246(a) (2007).

problems with detailed planning and the expert advice of an attorney, accountant, or political fundraiser familiar with Pennsylvania law.

If a candidate decides to establish a political committee, the candidate must first authorize a committee to receive and disburse funds.²⁶⁵ This authorization must be done in writing on a form available from the Bureau of Elections in Harrisburg or the local County Board.²⁶⁶ Until the form has been completed and authorization exists, the candidate's political committee is prohibited from receiving money on the candidate's behalf.²⁶⁷ Candidates for state office (such as Governor or State Senator) must file completed authorization forms with the Secretary of the Commonwealth (at the Bureau of Elections in Harrisburg) as well as with the county board in the county where the candidate resides.²⁶⁸ Candidates for City office (such as City Commissioner or Mayor) must file authorization forms with their local county board of elections.²⁶⁹ In most counties in Pennsylvania, a candidate is free to authorize as many political committees as he or she sees fit; however, in Philadelphia a candidate may only have one committee.²⁷⁰

Note: This pattern of filing requirements -- two places for state candidates, one place for local candidates -- applies to all forms discussed throughout this chapter, whether they are prepared by the candidate or by his or her political committee.²⁷¹ As a general rule: if the candidate must file his or her nomination petition or paper with the Secretary of the Commonwealth, then the campaign finance forms filed by that candidate and his or her political committee(s) must be filed with both the Secretary and the candidate's local county board. If, on the other hand, the candidate must file his or her nomination papers or petition with the local county board, then the candidate and his or her committee's campaign finance forms need only be filed locally.

A candidate forming a political committee must also designate a "sole treasurer" as the individual responsible for receiving and disbursing the committee's funds.²⁷² The reference to "sole treasurer" signifies that regardless of the number of political committees a candidate forms, they must all have the same treasurer. This requirement assures that full responsibility for the financial affairs of a candidate's campaign rests with one person. Although the treasurer may delegate his or her authority in writing to any number of assistant treasurers, the treasurer alone retains legal responsibility for their actions.²⁷³ Note: the treasurer should be someone with experience in keeping books of account or in supervising data entry and processing, with competence in the use of computer software. Normally, the treasurer should not be the lawyer for the campaign.

A candidate must also designate a chairperson for each of his or her political committees. In contrast to the treasurer position, each political committee may have a different chairperson.²⁷⁴ If a vacancy exists in either position, chairperson or treasurer, the political committee is prohibited from receiving contributions or making expenditures.²⁷⁵ To prevent interruptions in a political committee's activities, a candidate should designate automatic successors to these positions to avoid complications in the event of an unexpected vacancy.²⁷⁶

²⁶⁵ See 25 PA. CONS. STAT. § 3243 (2007).

²⁶⁶ See 25 PA. CONS. STAT. § 3243 (2007).

²⁶⁷ See 25 PA. CONS. STAT. § 3243 (2007).

²⁶⁸ See 25 PA. CONS. STAT. § 3251 (2007).

²⁶⁹ See 25 PA. CONS. STAT. § 3251 (2007).

²⁷⁰ See 25 PA. CONS. STAT. § 3242(b) (outlining Pennsylvania's general rule); *but see*, PHILA. CODE § 20-1003 (2008) (limiting campaign practices in Philadelphia) and *Nutter v. Dougherty*, 938 A.2d 401 (Pa. 2007) (upholding Philadelphia's right to limit campaign practices more strictly than state statute).

²⁷¹ See 25 PA. CONS. STAT. § 3251 (2007).

²⁷² See 25 PA. CONS. STAT. § 3242(b) (2007).

²⁷³ See 25 PA. CONS. STAT. § 3242(a)-(b) (2007).

²⁷⁴ See 25 PA. CONS. STAT. § 3242 (2007).

²⁷⁵ See 25 PA. CONS. STAT. § 3242(a) (2007).

²⁷⁶ See 4 PA. CODE § 176.5(b) (2008).

Even if a candidate forms a political committee, he or she may still raise and spend money personally.²⁷⁷ Contributions and expenditures made to or by the candidate may be deposited in the candidate's private personal account.²⁷⁸ However, a better practice is for candidates to channel as many financial transactions as possible through their political committees. In this manner, although both candidates and political committees will be required to submit reports of their respective campaign finances,²⁷⁹ candidates can minimize the paperwork that they will personally have to manage by funneling transactions through their political committees. Additionally, this procedure will facilitate the evaluation of the financial condition of the campaign.

In addition to personal political committees, candidates should be familiar with two other types of political committees: (1) party committees of a political party or body, and (2) political action committees (PACs).²⁸⁰ Examples of party committees are the Democratic and Republican City Committees in Philadelphia. For primary elections, party committees cannot receive money on behalf of particular candidates without receiving written authorization from those candidates; such authorization is not required for November (or any special) elections.²⁸¹

The second type of political committee, the "Political Action Committee" or PAC, is any political committee that receives contributions or makes expenditures on behalf of one or more candidates, but is neither a candidate's own political committee nor a regularly constituted party committee.²⁸² For example, a local organization of individuals formed to provide financial support on an ongoing basis to candidates of their choice would constitute a PAC. Similarly, unincorporated associations (such as labor unions and social clubs) are required to establish separate funds in order to distribute campaign contributions.²⁸³ PACs cannot receive money on behalf of a particular candidate without written authorization from the candidate.²⁸⁴ However, a PAC does not require candidate authorization to receive money given in general support of its work, even though money provided as general support may ultimately be used by the PAC to promote the election of a particular candidate.²⁸⁵

Similar to candidates' own political committees, party committees and PACs must file campaign reports and observe legal restrictions on their campaign-related activities.²⁸⁶ The precise rules applicable to party committees and PACs exceed the scope of this manual. As a candidate, your primary responsibility rests with your personal finances and with those of your political committee(s).

RAISING MONEY

Regardless of whether a candidate organizes a political committee, all campaign fundraising should be conducted in strict observance of the Election Code. The Election Code prohibits the acceptance of contributions of certain types and from certain sources, describes the proper procedure for accepting legal contributions, and requires detailed record-keeping of most contributions. These various provisions are discussed below. First, the candidate should have a clear understanding of what is and what is not a "contribution."

IDENTIFYING CONTRIBUTIONS

The Election Code contains a lengthy definition of "contribution." As an introduction, candidates should realize that money is not the only form of a contribution. Valuable items such as equipment, supplies,

²⁷⁷ See 25 PA. CONS. STAT. § 3242(b) (2007).

²⁷⁸ See 4 PA. CODE § 176.5(a) (2008).

²⁷⁹ See 25 PA. CONS. STAT. § 3246(a) (2007).

²⁸⁰ See 25 PA. CONS. STAT. § 3241(l) (2007).

²⁸¹ See 25 PA. CONS. STAT. § 3243. (2007).

²⁸² See 25 PA. CONS. STAT. § 3241(l) (2007).

²⁸³ See 25 PA. CONS. STAT. § 3253(a), (c) (2007).

²⁸⁴ See 25 PA. CONS. STAT. § 3243 (2007).

²⁸⁵ See 25 PA. CONS. STAT. § 3243 (2007).

²⁸⁶ See 25 PA. CONS. STAT. § 3246(a), (j) (2007).

advertising, and the services of personnel paid by others are also considered contributions.²⁸⁷ Furthermore, contributions include more than outright donations. Loans, forgiven debts, and other transactions which benefit a campaign also fall within the definition.²⁸⁸ Thus, a loan by a candidate to his or her political committee is considered a loan to the committee (and an expense for the candidate).

The following items are also **contributions**:

1. any payment, gift, subscription, assessment, contract, payment for services, dues, loan, forbearance, advance or deposit of money or any item of value that is made to a candidate or political committee for the purpose of: (a) influencing any election in Pennsylvania; or (b) paying debts which a candidate or political committee incurs before or after the election;
 2. the purchase of tickets for fundraising events such as dinners, luncheons, and rallies;
 3. the granting of discounts or rebates which are not available to the general public;
 4. the granting of discounts or rebates by television and radio stations and by newspapers, which are not extended on an equal basis to all candidates for the same office;
 5. payments provided for the benefit of the candidate (For example, if an employer makes his or her clerical staff available to a candidate's campaign, but continues to pay the staff's salary, those salary payments are "for the benefit of the candidate" and are contributions.), including toll charges and duplicating expenses.
 6. the receipt or use of anything of value by one political committee from another political committee; and
 7. any return on investments by a political committee.²⁸⁹
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The following items are defined by the Election Code as not constituting contributions for the purpose of finance reporting requirements, even though they obviously benefit a candidate and the campaign. Because they are deemed not to be contributions, they can be given to and received by a campaign without there being any need to file reports:

1. the voluntary personal services provided by individuals who volunteer a portion or all of their time on behalf of a candidate or political committee;
 2. the cost of operating a car owned or leased by the candidate or by his or her immediate family and the cost of food and beverages for the candidate and his or her immediate family;
 3. the cost of invitations, food, and beverages donated by an individual in the course of voluntarily holding a political event for a candidate -- so long as the event is held in the individual's home, a religious building, or community room, and so long as the cumulative value of such invitations, food and beverages provided by such an individual on behalf of a single candidate does not exceed \$250 for any single election.
 4. the lost profits of an individual vendor -- not a corporation or unincorporated association -- selling food or drink to a campaign at cost, limited to \$250 per vendor;
 5. any unreimbursed travel expenses which an individual incurred on behalf of the candidate, limited to \$250 per individual;
 6. the use of the candidate's personal residence, business, or office space (unless the business or office is a corporation or unincorporated association) and the use of personal property which the candidate owns or leases, provided the value of using the personal property does not exceed \$1,000; and
 7. the use of the personal residence or business or office space of a volunteer -- other than a corporation or business association; the use of personal property owned or leased by a volunteer, provided the value of using the personal property does not exceed \$250.²⁹⁰
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²⁸⁷ See 25 PA. CONS. STAT. § 3241(b), (k) (2007).

²⁸⁸ See 25 PA. CONS. STAT. § 3241(b) (2007).

²⁸⁹ See 25 PA. CONS. STAT. § 3241(b) (2007).

Although these items are not "contributions" for the purpose of finance reporting requirements, there are restrictions on who can legally provide them to a campaign. Any organization which is prohibited from making a contribution to a campaign is also prohibited from furnishing these items.²⁹¹ These organizations are described in the next subsection.

PROHIBITED CONTRIBUTIONS

Understanding the definition of "contribution" enables candidates and political committees to comply with the reporting requirements of the Election Code. However, that understanding by itself is not enough because the law further provides that certain contributions are illegal.

The foremost target of the Election Code prohibition is the contribution whose true origin is impossible or difficult to determine. Thus, it is unlawful for any candidate or political committee to accept or disburse money received from an anonymous source; all such money must be turned over to the State Treasurer within twenty days of its receipt.²⁹² Similarly, cash (but not checks) from any one person that total more than \$100 are also forbidden.²⁹³ It is also unlawful for any person to contribute funds which were given to him or her by any other person, firm, or corporation.²⁹⁴ In other words, each person making a contribution must do so in his or her own name.²⁹⁵

The second major Election Code prohibition is a ban on campaign contributions from banks, corporations (including corporations identified by the designations "P.C." or "P.A." or "Ltd. and non-profit organizations), and unincorporated associations (including churches and community associations).²⁹⁶ Unincorporated associations include such organizations as churches, labor unions, social clubs, partnerships and neighborhood civic associations.

There are two exceptions to this rule. First, corporations and unincorporated associations are permitted to establish separate political funds for the purpose of contributing to campaigns and soliciting voluntary donations from their members and other individuals.²⁹⁷ Organizations which form such funds may then contribute them to political campaigns.²⁹⁸ These funds are considered political committees and have their own separate reporting requirements to meet.²⁹⁹ A partnership or sole proprietor may contribute freely to political campaigns. Individuals residing inside or outside of Philadelphia may also contribute to political campaigns provided they are not officers of the Philadelphia Police or Fire departments; other City employees may contribute voluntarily. Second, corporations formed exclusively for political purposes or to act as a political committee may contribute or make expenditures on behalf of political campaigns.³⁰⁰

Candidates should note that the Election Code does not prohibit banks, credit unions, or savings & loans from loaning money to candidates or their political committees as an ordinary business transaction.³⁰¹ Similarly, interest or dividends which are paid upon investments of the campaign's money are legal.³⁰² Such loans, interest payments, and dividends are considered "contributions" and must be reported by the campaign.³⁰³ As a note of caution, checks should be reviewed before deposit to ensure that they are not prohibited, and when deposited, the contribution must be reported (See "Filing Finance Reports," below) even if it is subsequently refunded.

²⁹⁰ See 25 PA. CONS. STAT. § 3241(k) (2007).

²⁹¹ See 25 PA. CONS. STAT. §§ 3241(k), 3253(a) (2007).

²⁹² See 25 PA. CONS. STAT. § 3254(b) (2007).

²⁹³ See 25 PA. CONS. STAT. § 3254(c) (2007).

²⁹⁴ See 25 PA. CONS. STAT. § 3254(a) (2007).

²⁹⁵ See 25 PA. CONS. STAT. § 3254(a) (2007).

²⁹⁶ See 25 PA. CONS. STAT. § 3253(a) (2007).

²⁹⁷ See 25 PA. CONS. STAT. § 3253(c) (2007).

²⁹⁸ See 25 PA. CONS. STAT. § 3253(c) (2007).

²⁹⁹ See 25 PA. CONS. STAT. §§ 3253(c), 3246(a) (2007).

³⁰⁰ See 25 PA. CONS. STAT. § 3253(a) (2007).

³⁰¹ See 25 PA. CONS. STAT. § 3253(b) (2007).

³⁰² See 25 PA. CONS. STAT. § 3253(b) (2007).

³⁰³ See 25 PA. CONS. STAT. §§ 3253(b), 3241(b) (2007).

ACCEPTING CONTRIBUTIONS

The acceptance of contributions by a candidate or his or her political committee triggers a number of record-keeping and reporting responsibilities. Candidates and political committees must maintain accurate records in order to produce and file legally required finance reports. The information which must be provided in those reports is described below, under "Filing Finance Reports." In addition, candidates must follow a number of procedural steps following the acceptance of a contribution.

First, candidates and their political committees must keep a record of the names and addresses of each person or organization contributing \$10 or more.³⁰⁴ This requirement is distinct from the finance reporting requirements. The candidate or treasurer must maintain this record, and all other information that must be reported, for at least three years after the filing of the reports.³⁰⁵

Second, if the candidate has established a political committee, that committee must file a registration statement within twenty days after receiving contributions totaling \$250 or more.³⁰⁶ Political committees of candidates for state office (Governor or State Senator, for example) must file the statement with both the Secretary of the Commonwealth and the local county board of elections.³⁰⁷ Political committees of candidates for local office (Mayor or City Councilmember, for example) must file the statement with the local county board of elections.³⁰⁸

The statement must provide the following information:

1. *name, address(es), and phone number(s) of the political committee;*
 2. *name, address, and phone number of the committee's treasurer;*
 3. *name, address, and phone number of the committee's chairperson;*
 4. *name, addresses, and relationships of any affiliated or connected organizations;*
 5. *name(s) and address(es) of the candidates supported by the committee;*
 6. *ballot question, if any, which the committee intends to support or oppose;*
 7. *bank(s), safety deposit box(es), and other repositories used by the committee, and their addresses; and*
 8. *period during which the committee expects to operate.*³⁰⁹
-

Changes in this information must be reported to the appropriate office(s) within thirty (30) days of the change.³¹⁰

Third, particular care must be taken in handling "late" contributions. These are contributions received or pledged after the candidate or political committee has filed a final pre-election finance report, but prior to the date of the election.³¹¹ This pre-election report is due not later than the second Friday before the election and must include complete finance information as of fifteen days prior to the election (see "Filing Finance Reports" below). Every late contribution or pledge of \$500 or more must be reported within twenty-four hours of its receipt to the Secretary of the Commonwealth and the candidate's local county board (for candidates for state office and their committees) or to the candidate's local county board (for candidates for local office and their committees).³¹² The report must be in the form of a telegram, overnight mail, or fax, and sent by the candidate or the political committee's chairperson or treasurer.³¹³ For example, the reporting requirement would apply to a political committee which received a "late"

³⁰⁴ See 25 PA. CONS. STAT. § 3242(c) (2007).

³⁰⁵ See 25 PA. CONS. STAT. § 3242(c) (2007).

³⁰⁶ See 25 PA. CONS. STAT. § 3244(a) (2007).

³⁰⁷ See 25 PA. CONS. STAT. §§ 3244(a), 3241(j) (2007).

³⁰⁸ See 25 PA. CONS. STAT. §§ 3244(a), 3241(j) (2007).

³⁰⁹ See 25 PA. CONS. STAT. § 3244(b) (2007).

³¹⁰ See 25 PA. CONS. STAT. § 3244(c) (2007).

³¹¹ See 25 PA. CONS. STAT. § 3248 (2007).

³¹² See 25 PA. CONS. STAT. § 3248 (2007).

³¹³ See 25 PA. CONS. STAT. § 3248 (2007).

contribution of \$500 or more from its candidate. Note that if the report is faxed, an original must also be sent by mail.

Finally, anyone accepting a contribution on behalf of a candidate or political committee (at any time during the campaign) has an obligation to turn it over to the candidate or the committee's treasurer within ten days of its receipt.³¹⁴ Note that campaign funds should generally not be deposited in savings or money market accounts because interest or other investment earnings on a campaign account are taxable for federal income tax purposes; the treasurer would then be responsible for reporting and paying the tax.

EXPENDITURES

Restrictions on spending campaign funds are very specific. The candidate and the "sole" treasurer of his or her political committee(s) are legally responsible for controlling the disbursement of campaign funds, and they alone can authorize the campaign to spend money.³¹⁵ If the candidate has set up a political committee, all money must be received and disbursed by its treasurer.³¹⁶ However, a "sole" treasurer can delegate written authority to any number of assistant treasurers to receive and disburse money on behalf of the campaign.³¹⁷ This authorization enables campaign workers to disburse funds for such routine expenses as postage, telephones, and travel. Vouchers are required for all expenditures exceeding \$25; cancelled checks, receipts, bills, and invoices are considered acceptable vouchers.³¹⁸ Finally, candidates and their political committees should maintain accurate records of every expenditure including the amount, purpose, date, and name and address of the entity paid.

*The Election Code provides that the following items are considered **lawful expenditures** of a political campaign:*

1. *payment, distribution, loan, or advancement of money or any valuable item by a candidate or political committee for the purpose of influencing the outcome of an election (This includes the transfer of a candidate's own money to his or her committee: in that instance, the candidate has made an expenditure);*
2. *payment, distribution, loan, advance, or transfer of money or other valuable item between or among political committees;*
3. *providing of a service or other valuable item for the purpose of influencing the outcome of a nomination or an election; and*
4. *payment or providing of money or other valuable item by any person other than a candidate or political committee to compensate any person for services rendered to a candidate or political committee.*³¹⁹

*After a campaign ends and a candidate and his or her political committee(s) terminate their financial activities, remaining funds (called "residual funds") may be used for any authorized expenditures listed above, or may be returned on a pro-rata basis to contributors by the candidate or the committee's treasurer.*³²⁰

As noted, copies of vouchers of every expenditure exceeding \$25 must be retained by the candidate or committee treasurer.³²¹ Although these vouchers need not be filed along with the campaign reports, they must be kept available for public inspection and copying.³²² Any person may have access to and copy

³¹⁴ See 25 PA. CONS. STAT. § 3242(d) (2007).

³¹⁵ See 25 PA. CONS. STAT. § 3242(b) (2007).

³¹⁶ See 25 PA. CONS. STAT. § 3242(a) (2007).

³¹⁷ See 25 PA. CONS. STAT. § 3242(b) (2007).

³¹⁸ See 25 PA. CONS. STAT. § 3246(c) (2007); see also 4 PA. CODE § 177.2(c) (2008).

³¹⁹ See 25 PA. CONS. STAT. §§ 3254.1, 3241(d) (2007).

³²⁰ See 25 PA. CONS. STAT. § 3250 (2007).

³²¹ See 25 PA. CONS. STAT. § 3246(c) (2007).

³²² See 25 PA. CONS. STAT. § 3246(c) (2007).

those vouchers by filing a written request with the office or offices where the campaign reports are filed.³²³ The candidate or committee must either copy the vouchers for the appropriate office or make them available to the requesting person.³²⁴ The requesting person is responsible for paying the copy and delivery costs.³²⁵

FILING FINANCE REPORTS

Most candidates and political committees that receive or expend substantial amounts of money in conducting their campaigns must provide detailed information concerning their financial activities. Even candidates and committees with minimal financial activity are subject to reporting requirements, although the requirements are less demanding. This section details who must file campaign finance forms, what forms must be filed, where and when they must be filed, and what information must be included in them. The forms and instructions for completing them are available from the Secretary of the Commonwealth and the local county boards of elections. Note that for forms to be timely filed they must be postmarked by the U.S. postal service on the day prior to the due date. Note that Federal Express or other courier services are not acceptable.

Who Must File

Under the present law, candidates for the position of Judge of Elections or Inspector of Elections, and candidates for party offices, which are not public offices, are exempt from the filing requirements discussed in this section.³²⁶ However, such candidates should contact their local county boards of election before running for office to ensure that they are still exempt. All other candidates for elected public office -- and their political committees -- must file documents pertaining to their campaign finances.³²⁷

What Form Must Be Filed

There are two basic campaign finance forms: a long version requiring detailed information and a short version. One or the other must be filed on each filing deadline. The type of form that must be filed depends upon the level of financial activity of the candidate or his or her political committee(s). In addition, certain local candidates without political committees whose expenditures and contributions do not exceed \$250 may file a third form requesting to be excused from filing the usual campaign finance forms.³²⁸

THE CAMPAIGN EXPENSE REPORT AND \$250-STATEMENT

The first type of campaign finance form, the "Campaign Expense Report," is a comprehensive record of the financial activity of a candidate and his or her committees, providing detailed information concerning contributions received, expenditures made, and debts incurred.³²⁹ There is a minimum dollar threshold which must be reached before a candidate or candidate's political committee is required to file such a report. The threshold operates in the following manner and there are a number of reporting periods before and after the election.³³⁰ If, during a particular period, a candidate or committee treasurer does not receive, expend, or incur liability in excess of \$250, then he or she is not required to file a Campaign Expense Report for that period.³³¹ Instead, the candidate or committee treasurer must file the second type of campaign finance form: a brief sworn statement ("\$250-Statement") attesting that the \$250

³²³ See 25 PA. CONS. STAT. § 3246(c) (2007).

³²⁴ See 25 PA. CONS. STAT. § 3246(c) (2007).

³²⁵ See 25 PA. CONS. STAT. § 3246(c) (2007).

³²⁶ See 25 PA. CONS. STAT. § 3241(a) (2007).

³²⁷ See 25 PA. CONS. STAT. § 3246(a) (2007).

³²⁸ See 25 PA. CONS. STAT. §§ 3246(a), 3246.1 (2007).

³²⁹ See 25 PA. CONS. STAT. § 3246(a), (b) (2007).

³³⁰ See 25 PA. CONS. STAT. § 3246(d), (e) (2007).

³³¹ See 25 PA. CONS. STAT. § 3246(a) (2007).

threshold was not reached.³³² No detailed financial information is required in a \$250-Statement. Each reporting period is considered separately; it is entirely possible that a candidate or committee may file a \$250-Statement one period, and file a "Campaign Expense Report" for the next.

Remember, both candidates and their political committees must file Campaign Expense Reports or \$250-Statements, whichever is appropriate.³³³ In other words, even if a candidate establishes a political committee, he or she must file documents pertaining to his or her personal receipts, expenses, or liabilities. To simplify matters, a candidate should channel all financial activities through his or her political committee. In this manner, one detailed Campaign Expense Report is filed by the committee for each reporting period, and the candidate submits only a \$250 Statement.

OPTIONAL AFFIDAVIT FOR SOME LOCAL CANDIDATES

The Election Code excuses some candidates from filing Campaign Expense Reports or the \$250-Statements. A local candidate (city or county candidates) who does not organize a political committee and who does not expect to receive, spend, or incur debts in excess of \$250 during any reporting period may elect to file a single affidavit with his or her nomination petition or paper.³³⁴ The affidavit must state that: (1) the candidate does not intend to receive contributions or make expenditures in excess of \$250 during any reporting period; (2) that the candidate will keep (without having to file) records of contributions and expenditures, and; (3) that the candidate will file Campaign Expense Reports for any reporting period during which he or she receives contributions or spends in excess of \$250.³³⁵ Of course, if such a candidate does exceed the \$250 limit, he or she must file the required Campaign Expense Report. No additional reports need be filed unless the candidate exceeds the \$250 limit in a subsequent reporting period.³³⁶

When to File an Optional Affidavit

Those candidates for city or county offices who are eligible to file the affidavit excusing them from having to submit Campaign Expense Reports or \$250-Statements must file that affidavit along with their nomination papers or petitions.³³⁷ If they subsequently exceed the \$250 limit in any reporting period applicable to other local candidates, they must file Campaign Expense Reports for that period by the filing deadline which applies to other local candidates.³³⁸ Subsequent reports are not required unless the \$250 limit is exceeded once again.³³⁹

HOW TO FILL OUT AND FILE FINANCIAL FORMS

Candidates filing Campaign Expense Reports or \$250-Statements must observe the following deadlines:

(1) No later than the sixth Tuesday before the election, statewide candidates and their political committees must file the first of two pre-election forms -- either the Campaign Expense Report or the \$250-Statement, whichever is appropriate.³⁴⁰ The information filed on this date must be complete as of fifty days prior to the election.³⁴¹

(2) No later than the second Friday before the election, statewide candidates and their political committees must file their second pre-election forms.³⁴² By the same deadline, all other candidates (those

³³² See 25 PA. CONS. STAT. § 3246(a) (2007).

³³³ See 25 PA. CONS. STAT. § 3246(a) (2007).

³³⁴ See 25 PA. CONS. STAT. § 3246.1 (2007).

³³⁵ See 25 PA. CONS. STAT. § 3246.1 (2007).

³³⁶ See 25 PA. CONS. STAT. § 3246.1 (2007).

³³⁷ See 25 PA. CONS. STAT. § 3246.1 (2007).

³³⁸ See 25 PA. CONS. STAT. § 3246.1 (2007).

³³⁹ See 25 PA. CONS. STAT. § 3246.1 (2007).

³⁴⁰ See 25 PA. CONS. STAT. § 3246(d) (2007).

³⁴¹ See 25 PA. CONS. STAT. § 3246(d) (2007).

³⁴² See 25 PA. CONS. STAT. § 3246(d) (2007).

seeking election to the General Assembly and those seeking county or city offices) and their committees must file their first and only pre-election forms.³⁴³ All Campaign Expense Reports filed on this date must be complete as of fifteen days prior to the election.³⁴⁴ For statewide candidates and their political committees, the forms need only cover the period since the first filing.³⁴⁵ Since all other candidates and their committees will be filing for the first time, their forms must report on the entire period of activity up to the deadline. Any candidate or committee that does not exceed the \$250 limit for the relevant time period should file a \$250-Statement instead of a Campaign Expense Report.

(3) No later than thirty days after the election, all candidates and their committees must file post-election Campaign Expense Reports or \$250-Statements.³⁴⁶ These forms must be complete as of twenty days after the election, and must cover only that period since the last pre-election report.³⁴⁷

(4) Finally, candidates and political committees that have not formally terminated their campaigns must file annual reports no later than January 31. These reports must be complete as of December 31 of the prior year.³⁴⁸ Termination requires the filing of a form; this is discussed immediately below. Similar to other reports, annual reports should cover only the period since the last filing.³⁴⁹ If the campaign accounts have changed since the previous period, but have not exceeded the \$250-threshold described above, then a \$250-Statement should be filed.³⁵⁰ Otherwise, the annual report must be a Campaign Expense Report for the relevant period. Annual reports must be filed each year until the last report indicates no balance or debt in the account.³⁵¹

Instead of waiting to file an annual report, a candidate or political committee whose campaign has ended and whose account shows a zero balance and no outstanding debts may file a Termination Report.³⁵² If the account reaches zero balance and zero debt before the thirty day post-election form has been filed, the filing candidate or committee can designate that form a "termination" report or statement by marking the appropriate box on that form.³⁵³ If the campaign achieves a zero balance and no debt after the thirty day post-election forms are filed (but before the Annual Report is due), the candidate or committee may file a Campaign Expense Report (or \$250-Statement, whichever is appropriate) and designate the form as a termination filing.³⁵⁴ Once a Termination Report or Statement is filed, no annual report is required unless contributions are received or expenditures made after the time period covered by the termination form.³⁵⁵ There is one final restriction: a candidate or committee cannot terminate a campaign by filing a \$250-Statement if Campaign Expense Reports were previously filed and the most recently filed report reveals debts in excess of \$250. In this case, termination can only be completed with a Campaign Expense Report.³⁵⁶

This exception applies separately to a candidate and his or her political committee. A candidate who has channeled all of his or her campaign finances through political committees may designate his or her thirty-day post-election form as a termination statement, and thus be excused from further filings. However, this process does not release his or her committee from its reporting responsibilities.

³⁴³ See 25 PA. CONS. STAT. § 3246(d) (2007).

³⁴⁴ See 25 PA. CONS. STAT. § 3246(d) (2007).

³⁴⁵ See 25 PA. CONS. STAT. § 3246(h) (2007).

³⁴⁶ See 25 PA. CONS. STAT. § 3246(e) (2007).

³⁴⁷ See 25 PA. CONS. STAT. § 3246(e), (h) (2007).

³⁴⁸ See 25 PA. CONS. STAT. § 3247(a) (2007).

³⁴⁹ See 25 PA. CONS. STAT. § 3247(a) (2007).

³⁵⁰ See 25 PA. CONS. STAT. § 3247(a) (2007).

³⁵¹ See 25 PA. CONS. STAT. § 3247(a) (2007).

³⁵² See 25 PA. CONS. STAT. § 3247(a) (2007).

³⁵³ See 25 PA. CONS. STAT. § 3247(a) (2007).

³⁵⁴ See 25 PA. CONS. STAT. § 3247(a) (2007).

³⁵⁵ See 25 PA. CONS. STAT. § 3247(a) (2007).

³⁵⁶ See 25 PA. CONS. STAT. § 3247(a) (2007).

Candidates and political committees should be aware that there are penalties for failing to file the required campaign finance forms. Candidates or committees who do not meet the filing deadlines are subject to daily fines with a maximum total fine of \$250 for any single late report.³⁵⁷ The fine is the personal responsibility of the candidate or committee's treasurer and cannot be paid from campaign funds.³⁵⁸ Furthermore, no candidate may be deemed elected, sworn into office, or compensated once in office, until all campaign finance reports and statements have been filed.³⁵⁹ This restriction includes any document which must be filed by the candidate and/or treasurer of any political committee(s) authorized by the candidate.³⁶⁰ To be timely filed, the documents must be post-marked by the U.S. Postal Service by the day prior to the date they are due for filing.³⁶¹

Where to File

Candidates for state offices (such as Governor or State Representative) and their political committees must file their completed forms in two places: one copy with the Secretary of the Commonwealth (Bureau of Elections, Room 304, North Office Building, Harrisburg 17120), and the second with the county board of elections in the county where the candidate resides (e.g., 520 North Delaware Avenue for candidates in Philadelphia).³⁶² Candidates for local office (such as City Commissioner or Mayor) and their political committees must file one copy of the form with the candidate's local county board of elections.³⁶³

INFORMATION REQUIRED IN CAMPAIGN EXPENSE REPORTS

Campaign Expense Reports must be very detailed. For this reason, candidates and committee treasurers should be extremely familiar with the requirements before they begin raising and spending money. The reports must include the following information:

- 1. full name, mailing address, occupation, employer (if any) or the principal place of business (if self-employed) of each person whose contributions during the reporting period exceed \$250 in value and the date and amount of these contributions;*
- 2. full name and mailing address of each person whose total contributions in the reporting period exceed \$50 in value and the date and amount of these contributions;*
- 3. total sum of individual contributions made during the reporting period which are not reported under categories (1) or (2), above. (In other words, the sum of all contributions from individuals who contributed a total of \$50 or less);*
- 4. every expenditure made, the date, the full name and address of the person to whom the contribution was made, and its purpose;*
- 5. any unpaid debts and liabilities, the nature and amount of each, the date incurred, and the full name and address of the person owed; and*
- 6. any unexpended balance of contributions or other receipts carried forward from the previously filed report.³⁶⁴*

Each Campaign Expense Report must also contain a summary of this required information on a separate page.³⁶⁵

³⁵⁷ See 25 PA. CONS. STAT. § 3252(a) (2007).

³⁵⁸ See 25 PA. CONS. STAT. § 3252(a) (2007).

³⁵⁹ See 25 PA. CONS. STAT. § 3252(b) (2007).

³⁶⁰ See 25 PA. CONS. STAT. § 3252(b) (2007).

³⁶¹ See 25 PA. CONS. STAT. § 3252(a) (2007).

³⁶² See 25 PA. CONS. STAT. § 3251(1) (2007).

³⁶³ See 25 PA. CONS. STAT. § 3251(1) (2007).

³⁶⁴ See 25 PA. CONS. STAT. § 3246(b) (2007).

³⁶⁵ See 25 PA. CONS. STAT. § 3246(f) (2007).

The \$250-Statements do not require detailed information concerning the candidate's or committee's campaign finances. Rather, they are sworn statements which provide that the candidate or committee did not receive, expend, or incur liabilities in excess of \$250 for the reporting period.³⁶⁶

Before a Campaign finance report is submitted, it must be signed and sworn to by the individual submitting it (that is, the candidate or committee treasurer).³⁶⁷ Additionally, each political committee's report must include an affidavit by the candidate indicating that the committee did not violate any campaign finance law to the best of his or her knowledge.³⁶⁸ Any willfully false or misleading statement in a Campaign Expense Report or \$250-Statement constitutes perjury, and any person convicted for that crime is disqualified from holding public office in Pennsylvania.³⁶⁹

REVIEW OF ACCOUNTS: AUDITS AND PENALTIES

Campaign finance reports are public records which must be retained by the offices where they are filed for at least five years.³⁷⁰ No later than the end of the second day after they are received by the appropriate office(s), any citizen may request to review the documents and purchase copies of them at cost.³⁷¹ If the documents do not appear to meet the requirements of the Election Code, they can and should be audited.

Audit proceedings are initiated by a petition of five voters from the election district in which the candidate seeks or sought office.³⁷² Petitions must be filed within ninety days of the last day for filing the campaign finance reports, although this limit may be waived for reports filed late.³⁷³ For finance reports filed with the Secretary of the Commonwealth (those concerning candidates for state office and their political committees), the petition should be presented in writing to the Commonwealth Court in Harrisburg.³⁷⁴ For finance reports filed with the candidate's local County Board of Elections (candidates for city and county office and their political committees), the petition should be presented to the Court of Common Pleas for the county in which the County Board is located.³⁷⁵

Campaign account audits are formal court proceedings intended to bring to public notice the information which should have been disclosed in the campaign finance reports and to determine the legality of suspicious items in the account. If, as a result of the audit, the court determines that violations of the law were committed by any person, whether a candidate or not, it must certify this decision to the appropriate prosecuting official so criminal proceedings against the violator can be initiated.³⁷⁶ Additionally, if the audit reveals that a finance report is false in any substantial manner, or that expenses were incurred in violation of the law, the filer of the report must pay the expenses of the audit; otherwise, the petitioners may be ordered to pay all or part of the audit's costs, at the discretion of the court.³⁷⁷

If, in the course of criminal proceedings, a court finds that a candidate willfully accepted contributions or made expenditures in violation of the law, the court must certify this fact to the Attorney General.³⁷⁸ If the candidate has not yet been elected, the Attorney General must institute judicial proceedings to have the candidate's name stricken from the ballot. If the candidate has been elected, the Attorney General must institute proceedings to have the candidate removed from office.³⁷⁹

³⁶⁶ See 25 PA. CONS. STAT. § 3246(a) (2007).

³⁶⁷ See 25 PA. CONS. STAT. § 3249(a) (2007).

³⁶⁸ See 25 PA. CONS. STAT. § 3249(a) (2007).

³⁶⁹ See 25 PA. CONS. STAT. § 3249(b), (c) (2007).

³⁷⁰ See 25 PA. CONS. STAT. § 3259(4) (2007).

³⁷¹ See 25 PA. CONS. STAT. § 3259(3) (2007).

³⁷² See 25 PA. CONS. STAT. § 3256(a) (2007).

³⁷³ See 25 PA. CONS. STAT. § 3256(a) (2007); *In re Friends of McErlean*, 431 Pa. 334, 246 A.2d 341 (1968).

³⁷⁴ See 25 PA. CONS. STAT. § 3256(a) (2007).

³⁷⁵ See 25 PA. CONS. STAT. § 3256(a) (2007).

³⁷⁶ See 25 PA. CONS. STAT. § 3256(b) (2007).

³⁷⁷ See 25 PA. CONS. STAT. § 3256(a) (2007).

³⁷⁸ See 25 PA. CONS. STAT. § 3257 (2007).

³⁷⁹ See 25 PA. CONS. STAT. § 3257 (2007).

The Election Code also provides for random audits of candidates' financial reports following each election.³⁸⁰ Forty days after each election, the Secretary of the Commonwealth must select for audit at a public lottery, three percent of all public offices for which candidates were required to file nomination petitions or papers with the Secretary.³⁸¹ Thereafter, all candidates for the selected offices and their authorized political committees must be audited.³⁸² The auditors must report their findings to the Secretary of the Commonwealth for public recording and the Attorney General for the possible institution of criminal proceedings.³⁸³

The penalties for improperly reporting accounts are extremely serious. They serve as a strong deterrent against illegal activities involving campaign finances.

CHAPTER SIX CHECKLIST

- A candidate for office may designate a political committee to receive and disburse funds on his or her behalf. A candidate must also name a single Treasurer for his or her committee(s) who is responsible for receiving and disbursing the funds of the committee(s).
- The forms for establishing a political committee are available from the Bureau of Elections, Department of State in Harrisburg (Room 304 North Office Building, 17120) and the local county board of elections (e.g., 520 N Delaware Avenue in Philadelphia).
- A candidate for State office must file a completed authorization form with the Secretary of Commonwealth and with his or her local County Board of Elections.
- A candidate for City office must file his or her authorization form with the local County Board of Elections.
- The treasurer of a political committee may delegate his or her authority to assistant treasurers; however, he or she retains legal responsibility for their actions.
- If a candidate forms a political committee, he or she may still raise and spend money personally.
- For primary elections, party committees (the Democratic and Republican Parities) cannot receive money on behalf of particular candidates without written authorization from those candidates. Authorization is not required for November or special elections.
- Political Action Committees (PACs) may receive or disburse funds on behalf of one or more candidates. However, PACs cannot receive money on behalf of a particular candidate without written permission.
- Contributions are specifically defined by the Election Code.
- It is unlawful for any candidate or political committee to accept or disburse money from an anonymous source. All such anonymous contributions must be turned over to the State Treasurer within twenty days of receipt.
- Banks, corporations, and unincorporated associations such as labor unions are prohibited from contributing to political campaigns.
- Candidates must record the names and addresses of each person or organization that contributes more than \$10. The candidate or treasurer must maintain this record for at least three years after filing the reports.
- A political committee must file a registration statement within twenty days of receiving \$250 or more in contributions. The statement must contain certain defined information.
- The pre-election report is due not later than the second Friday before the election and must provide complete financial information for the period prior to fifteen days before the election.
- A late contribution or pledge (one received after the candidate or political committee has filed its last pre-election report) of \$500 or more must be reported within twenty-four hours of receipt.

³⁸⁰ See 25 PA. CONS. STAT. § 3255(b), (c) (2007).

³⁸¹ See 25 PA. CONS. STAT. § 3255(b) (2007).

³⁸² See 25 PA. CONS. STAT. § 3255(c) (2007).

³⁸³ See 25 PA. CONS. STAT. § 3255(e), (f) (2007).

- 16 Anyone accepting a contribution on behalf of a candidate or political committee has an obligation to turn it over to the candidate or the treasurer of the committee within ten days of its receipt.
- 17 The Election Code lists the items that are considered lawful expenditures of a political campaign.
- After a campaign ends, and a candidate and his or her political committee(s) terminate financial activity, remaining funds may be used for any authorized expenditures or may be returned on a pro-rata basis to contributors.
- During a political reporting period, should a candidate not receive, expend, or incur liability in excess of \$250, the candidate or committee is not required to file a Campaign Expense Report. The candidate or committee treasurer must file a brief sworn statement (\$250-Statement) that the \$250 threshold was not reached.
- A local candidate (city or county candidate) who does not form a political committee and who does not expect to receive, spend, or incur debts in excess of \$250 in any reporting period, may file a single affidavit along with his or her nomination petitions or papers. The candidate will not have to file any other campaign finance reports unless he or she exceeds the \$250 limit.
- The deadlines for the Campaign Expense Reports and \$250-Statements can be obtained from the State Bureau of Elections.
- A candidate or political committee whose campaign has ended and whose account shows a zero balance and no outstanding debts may file a Termination Report.
- Candidates or committees who do not meet the filing deadlines are subject to daily fines with a maximum total fine of \$250 for any single late report.
- Campaign finance reports must be signed and sworn by the candidate or treasurer of the committee and include an affidavit by the candidate indicating that to the best of his or her knowledge, the committee did not violate any campaign finance laws.
- Finally, candidates for City office should contact the Philadelphia Board of Ethics for guidance about compliance with Philadelphia's campaign finance rules. The Board of Ethics is located (The Packard Building, 1441 Sansom Street, 2nd Floor, Philadelphia, PA 19102). It also has a very helpful website found at <http://www.phila.gov/ethicsboard/index.html> (last visited June 17, 2007).

CHAPTER 7 – GOING TO THE PEOPLE

VOTER REGISTRATION DRIVES

Voter registration serves as an important mechanism in an election campaign. Frequently, candidates overlook this effective method of campaigning and regret their short-sightedness after the election. Candidates often realize too late that many of their would-be supporters were not registered to vote.³⁸⁴ In a primary, many people may not be able to support a particular candidate because they are registered non-partisan or as a member of a different party. Regardless of the circumstances, these votes become unavailable.

All of these problems can be solved with an effective registration drive. Depending on the size of the election district, registration drives should focus on specific groups of people or in neighborhoods that have indicated support for the candidate. Regardless of the level, candidates should utilize the voter registration street lists available from the county board of elections to target citizens for new registration or a change of party affiliation.

For instance, the Philadelphia County Board of Elections provides several methods for new voters to register. Citizens may fill out a Voter Registration Application at the registration office at City Hall.³⁸⁵ With the passage and implementation of the National Voter Registration Act (NVRA), commonly referred to as "Motor Voter," citizens may register to vote at the Department of Motor Vehicles when they apply for a driver's license, or in state welfare offices, vocational rehabilitation offices and armed service locations.³⁸⁶

Citizens may also register by mail with the Voter Registration Application (VRA).³⁸⁷ After this pre-addressed form is completed and mailed, the applicant will receive either a registration card or instructions for any corrections or additions needed to complete the VRA form. VRAs are available throughout the City at libraries, state liquor stores, post offices, and other government offices; they may also be obtained from the County Board of Elections or the Committee of Seventy.

Changes of party registration, name, or address can also be accomplished in person or by mail using the VRA.³⁸⁸ The VRA form includes a place to indicate the type of change being submitted.

REMEMBER! To be effective in an upcoming election, a new or changed registration must be postmarked or received by the Board of Elections at least thirty (30) days before the election.³⁸⁹ If the campaign misses the filing deadline, individual voters will be disenfranchised or forced to vote pursuant to a prior valid registration. On this basis, campaigns should file voter registration applications on a weekly (or more frequent) basis during the months leading up to the election and never wait until the last day to submit an application which has been entrusted to you.

CONDUCTING THE CAMPAIGN

Advertising and Distributing Literature

Whenever any person makes an expenditure for the purpose of financing communications expressly advocating the election or defeat of a candidate, or ballot questions, through any broadcasting station, newspaper, magazine, outdoor advertising facility, direct mailing, or any other type of general public political advertising, such communication:

³⁸⁴ See 25 PA. CONS. STAT. § 1301 (2007).

³⁸⁵ See 25 PA. CONS. STAT. §§ 1321(1), 1322 (2007).

³⁸⁶ See 25 PA. CONS. STAT. §§ 1323, 1324 (2007).

³⁸⁷ See 25 PA. CONS. STAT. § 1324 (2007).

³⁸⁸ See 25 PA. CONS. STAT. §§ 1322(a), 1324(a) (2007).

³⁸⁹ See 25 PA. CONS. STAT. § 1301(a) (2007).

(1) If authorized by the candidate, his authorized political committee or their agents, shall clearly and conspicuously state that the communication has been authorized.

(2) If not authorized by a candidate, his authorized political committee, or their agents, shall clearly and conspicuously state the name of the person who made or financed the expenditure for the communication, including, in the case of a political committee the name of any affiliated or connected organization.³⁹⁰

Posting Signs

With regard to placement of signage, this area is generally subject to municipal laws or regulations, candidates should contact the local government (or governments) with jurisdiction over the district for which they are seeking office for a copy of the rules governing timing, size and placement of campaign posters and requirements for post-election removal of campaign advertising.

Candidates in Philadelphia should consult the Department of Licenses and Inspections (1515 Arch Street, Philadelphia, PA 19102 - 215-686-2490).

³⁹⁰ See 25 PA. CONS. STAT. § 3258(a) (2007).

CHAPTER 8 – GETTING OUT THE VOTE: ELECTION DAY ITSELF

The many months of planning and campaigning culminate on Election Day. The final responsibility of a candidate running for office is to staff polling places with well-trained members of the campaign organization.

In both the primary and November elections, each candidate is permitted two "poll watchers" at every polling place within the legislative district or jurisdiction served by the office sought.³⁹¹ Additionally, in the November election each political party or body is permitted three poll watchers in every election district in which candidates of the party or body are running for office.³⁹²

Watchers may be residents or non-residents of the voting division to which they are assigned, but in either case must be qualified registered electors of the County in which the division is located.³⁹³

To obtain Watcher's Certificates, the campaign organization submits a petition with a list of qualified individuals and the divisions to which they will initially be assigned to the county board of elections (check to see if there is an official form used by your county). This should be done well in advance of Election Day to ensure time for processing and issuance of certificates. Please note that pursuant to a statutory amendment in October 2004, watchers are no longer bound to one voting division for the entire day, and may be reassigned to other polling locations at the discretion of the campaign.³⁹⁴

Only one watcher per candidate and, in the November election, one watcher per organization is allowed inside the polling place at any time during polling hours.³⁹⁵ Nevertheless, maintaining a full team of watchers is important to the success of a campaign. Inside the polling place, the watcher is entitled to observe the functioning of the polls and the actions of election officials, campaign workers, or other poll watchers. The watchers' presence helps to ensure the fair conduct of election officials and the accurate reporting of election results. Therefore, watchers should be aware of election laws and report any violations to the Judge of Elections. If the Judge fails to act, the watcher should notify the County Board of Elections or call the Committee of Seventy. The watcher may challenge the right of any person he or she believes is not eligible to vote.³⁹⁶ It is also within the watcher's authority to challenge the casting of absentee ballots at the close of the polls on Election Day.³⁹⁷

³⁹¹ See 25 PA. CONS. STAT. § 2687(a) (2007).

³⁹² See 25 PA. CONS. STAT. § 2687(a) (2007).

³⁹³ See 25 PA. CONS. STAT. § 2687(b) (2007).

³⁹⁴ See 25 PA. CONS. STAT. § 2687 (b) (2007).

³⁹⁵ See 25 PA. CONS. STAT. § 2687(b) (2007).

³⁹⁶ See 25 PA. CONS. STAT. § 2687(b) (2007). Note that voters and polling officials are also able to initiate voter challenges.

³⁹⁷ See 25 PA. CONS. STAT. § 3146.8 (2007). While State law provides for poll watchers to be present for the opening and counting of absentee ballots, for counties with central counting of absentee ballots, including Philadelphia, this practice differs.

In Philadelphia, to ensure proper handling of absentee ballots, the central counting facility for the County of Philadelphia keeps all absentee ballots in a secure place. On Election Day, a listing of the absentee ballots received for that division is posted at each polling place. The central facility holds all of the unopened ballots until after the polls have closed and the absentee list has been returned to the central location, noting which ballots have been voided because the person cast a ballot in-person, and which absentee ballots have been challenged as ineligible. At that point, taking care to maintain the confidentiality of voters while permitting party/candidate representatives to witness the counting process, the central facility opens and counts all qualified absentee ballots, setting aside any that have been challenged until such challenge is resolved. See 25 PA. CONS. STAT. § 3146.8(e) (2007).

Poll watchers in Philadelphia may lodge challenges based upon the absentee ballot lists distributed by the central facility. For every challenge lodged, State law requires a \$10 cash deposit, to be refunded only if the challenge is sustained or withdrawn within five days after the election. See 25 PA. CONS. STAT. § 3146.8(f) (2007). Challenges which are not withdrawn must be decided by the County Board of Elections during a public hearing within seven days of the date of the challenge. The parties then have two days from the date of the Board's decision to

The watcher inside the polling place also plays a crucial role in "getting out" the vote. The law permits a watcher to maintain a list of voters.³⁹⁸ Candidates should be sure that each watcher team is provided with a street list of registered voters for its division. Watchers should be instructed to review the list with organization members familiar with the neighborhood and to identify known or likely supporters of the candidate. Watchers should check this list against a telephone book and enter the phone numbers of these voters on the street list. On Election Day, the "inside" watcher marks off voters' names as they vote and provides an up-to-date report to the outside watchers or other campaign workers on the voters they should call or visit to urge or provide assistance to visit the polls.

Watchers outside the polling place should remain available to relieve the "inside" watchers and insure that the polling place is never unattended. In the meantime, they should contact or visit eligible voters who have not voted. They should also distribute literature and urge arriving voters to consider their candidate. Note that watchers outside of the polling place must remain a distance of at least ten feet from the entrance to the polling place under the dictates of the Election Code.³⁹⁹

After the polls close, all watchers are permitted inside the polling place to witness the opening of the machines and the preparation of the official returns for the division.⁴⁰⁰ Every watcher-team should prepare its own complete set of returns for its division, relying not only on the counts from the election board, but also on personal observation of the voting machine counters. Specifically, watchers should compare the actual numbers on the voting machines with the totals on the official return sheets. These returns should be delivered to the campaign headquarters and checked against official returns. Watcher returns are one of the best protections against voter fraud and clerical error.

appeal to the Court of Common Pleas. See 25 PA. CONS. STAT. § 3146.8(e) (2007). Note, voters and polling place officials are also permitted to initiate absentee ballot challenges.

Absentee ballot challenge procedures differ by county. Contact the local county board of elections to find out what practices poll watchers should follow in challenging absentee ballots.

³⁹⁸ See 25 PA. CONS. STAT. § 2687(b) (2007).

³⁹⁹ See 25 PA. CONS. STAT. § 3060(d) (2007).

⁴⁰⁰ See 25 PA. CONS. STAT. § 2687(b) (2007).

CHAPTER 9 – AFTERMATH: VICTORY AND DEFEAT; CONTEST AND RECOUNT

Following the close of the polls on Election Day, the media broadcasts the unofficial results of the election. The pronounced winners await the official nomination of the party or a certificate of election to office. Those candidates who were unsuccessful in seeking office should analyze their campaign strategies and the programs and policies offered to the voters. However, if an unsuccessful candidate believes the official results were inaccurate due to fraud or clerical error, he or she should consider the prompt initiation of an election contest or recount proceedings to challenge the results.

An election contest is the appropriate remedy to follow when the results of an election appear to be fraudulent or illegal. Recount is the appropriate remedy when a candidate believes there was an incorrect tabulation of the votes. Neither of these remedies should be attempted unless the candidate and his or her organization are prepared to support their suspicions with specific evidence of a fraud or mistake.

The cost and complexity of contests and recounts depends upon the office and the circumstances of the dispute.⁴⁰¹ In a recount, for example, the Election Code provides that a candidate must post a deposit of \$50 for each polling division whose results are claimed to be in error.⁴⁰² Additionally, the Election Code provides that the cost of an unnecessary recount may be charged entirely to the requesting candidate.⁴⁰³ Furthermore, the Election Code provisions governing the conduct of these proceedings and the necessity of gathering supporting evidence demand the services of experienced counsel. Competent legal counsel well-versed in the technicalities of the Election Code should be hired to assist the defeated candidate in considering whether to challenge the election results.

Nevertheless, defeated candidates should not be deterred from seeking such remedies for legitimate reasons. The Election Code establishes a strict procedure for punishing and deterring violators of election law. Conviction for the willful violation of the Election Code, depending upon the provision, could result in the deprivation of the right to vote for a fixed term of four years,⁴⁰⁴ permanent exclusion from future candidacy for public office,⁴⁰⁵ fines of up to \$1,000,⁴⁰⁶ and imprisonment for up to one year.⁴⁰⁷ These are substantial penalties and reflect the judgment of our lawmakers that an attempt to interfere with the right to vote in free, fair elections is a very serious crime.

A FINAL WORD

This manual attempts to provide an overview of the requirements for running for office. Nevertheless, all serious candidates are encouraged to seek the advice of experienced advisors as well as the numerous state and county election officials who are available to serve the community. In addition, anyone running for office must consider the practical requirements of a campaign, including but not limited to: establishing a campaign headquarters, installing phone and fax lines and other equipment, and obtaining street lists and the names, addresses and phone numbers of ward leaders and commiteepeople.

Now it's up to you. Good luck!

⁴⁰¹ See generally 25 PA. CONS. STAT. §§ 3261-3474 (2007).

⁴⁰² See 25 PA. CONS. STAT. §§ 3261(b), 3262(a.1) (2007).

⁴⁰³ See 25 PA. CONS. STAT. §§ 3261(e), 3262(b.2) (2007).

⁴⁰⁴ See 25 PA. CONS. STAT. § 3552 (2007).

⁴⁰⁵ See 25 PA. CONS. STAT. § 3551 (2007).

⁴⁰⁶ See 25 PA. CONS. STAT. § 3550 (2007).

⁴⁰⁷ See 25 PA. CONS. STAT. § 3550 (2007).