



# Candidate Filing Guidelines

## Fair Campaign Practices Act ♦ Election 2018

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

John H. Merrill, Secretary of State

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

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

1. **Qualified to be listed on an election ballot** by filing qualification forms with a political party or by submitting a petition to run as an independent candidate; or
2. **Received contributions or made expenditures for an election campaign in excess of \$1,000.**

### APPOINTING A PRINCIPAL CAMPAIGN COMMITTEE

Within **five (5) days** of becoming a candidate, one must file an **Appointment of Principal Campaign Committee Form** with the Secretary of State, if seeking election to a state or county office. Municipal candidates must file with the probate judge of the county where the city hall is located.

This form establishes the candidate's finance committee. A candidate may either serve as his or her own committee or may appoint a committee of two to five persons. This committee must report until dissolved. If a candidate serves as his or her own principal campaign committee, he or she shall designate a person responsible for dissolving that principal campaign committee in the event of death or incapacity. [§17-5-4(c)]

### FILING REPORTS

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

#### PRE-ELECTION REPORTS

Beginning 12 months out from an election, campaign finance disclosure reports are required once a candidate meets the filing threshold of \$1,000. These reports must be filed at the following times:

- ▶ **Monthly reports** are due the second business day of the subsequent month, beginning 12 months before any election for which the committee receives contributions or makes expenditures with a view toward influencing the election.
- ▶ **Weekly reports** are due on the subsequent Monday, for each of the 4 weeks prior to the election.
- ▶ **Daily reports** are due on that day, beginning 8 days before the election when

the committee receives or spends funds in excess of \$5,000 for any legislative, state school board or statewide election.

- ▶ **Major contribution reports** are due when a candidate receives a single contribution of \$20,000 or more. A report is due within two business days of the date of the receipt of the contribution if it is not included in a monthly, weekly or daily report.

On the summary page, the report should include the amount of cash on hand at the beginning of the reporting period, a total of all contributions and expenditures made during the reporting period, and the ending balance. Once total contributions from, or expenditures, to a specific entity exceeds \$100, contributions or expenditures received or expended during the reporting period are to be itemized on pages 2 through 6 of the report.

#### ANNUAL REPORT

An **Annual Report** is required every year that a committee is in existence, unless the candidate is filing monthly reports in the current election cycle. This **Annual Report** may be filed after January 1<sup>st</sup> but must be filed no later than January 31<sup>st</sup>.

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

The summary page for the annual report includes two sections:

#### ▶ Section I

The candidate uses this section to report any activity since his or her last filing. The beginning balance is the ending balance from the last report filed. Forms 2 through 6 are used to itemize any contributions and expenditures that have not previously been reported.

#### ▶ Section II

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

### ELECTRONIC FILING

Candidates for all legislative, state school board and statewide offices who receive \$5,000 or more in contributions during an election cycle must file their FCPA disclosure reports online at [www.fcpa.alabamavotes.gov](http://www.fcpa.alabamavotes.gov). **All county candidates must file electronically.**

### REPORTS FOR ELECTIONEERING COMMUNICATIONS

Candidates who expend more than \$1,000 on an "electioneering communication"

are required to file disclosure reports. The reports must identify the source or sources of the funds used for the electioneering communication and the recipients of expenditures related to the electioneering communication [§17-5-8(h)].

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

## RAISING MONEY

Candidates may begin fundraising 12 months prior to the election. They may continue fundraising for 120 days after the election to pay off campaign debts but only to the extent of any campaign debt and/or the amount of the filing threshold. Only debts that are directly related to lawful campaign expenditures can be raised. [§17-5-7(b)(3)]

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

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

**Legislative and statewide** candidates cannot solicit or receive contributions any time the Alabama Legislature is in session, unless the Legislature is in session within 120 days of an election. Candidates should note, however, that this prohibition does not apply to loans they may make to their own campaign committee. Fundraising by candidates for county and municipal offices is not affected by legislative sessions. [§17-5-7(b)(2)]

## DISSOLVING A PRINCIPAL CAMPAIGN COMMITTEE

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

## USE OF CAMPAIGN FUNDS

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

- ▶ For necessary and ordinary expenditures of the campaign.
- ▶ For expenditures that are reasonably related to performing the duties of the office held. Expenditures that are reasonably related to performing the duties of the office held do not include personal and legislative living expenses, as defined in this chapter.
- ▶ For donations to the State General Fund, the Education Trust Fund, or equivalent county or municipal funds.
- ▶ Donations to an organization to which a federal income tax deduction is permitted under subparagraph (A) of paragraph (1) of subsection (b) of Section 170 of the Internal Revenue Code of 1986, as amended, or any other charitable, educational,

or eleemosynary cause of Section 501 of Title 26 of the U. S. Code.

- ▶ For inaugural or transitional expenses. [Warning: the Ethics Act prohibits converting to personal use contributions from an inaugural or transitional fund (§36-25-6).]
- ▶ Legal fees and costs associated with any civil action, criminal prosecution, or investigation related to conduct reasonably related to performing the duties of the office held.

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

- ▶ Political action committees
- ▶ 527 organizations
- ▶ Principal campaign committees for other candidates

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

A principal campaign committee, during a two-year period commencing on the day after each regularly scheduled general election and ending on the day of the next general election, may pay qualifying fees to a political party and may expend up to a cumulative total of five thousand dollars (\$5,000) of campaign contributions for the following purposes:

- ▶ Tickets for political party dinners or functions.
- ▶ State or local political party dues or similar expenses incurred by independent or write-in candidates.

## STATEMENT OF ECONOMIC INTERESTS

All candidates are required by the state ethics law (§36-25-14 and §36-25-15, *Code of Alabama 1975*) to file a *Statement of Economic Interests with the Ethics Commission* on the same date that the election qualifying paperwork is filed with the appropriate election official. For more information on this requirement, contact the State Ethics Commission, P.O. Box 4840, Montgomery, AL 36103-4840, (334) 242-2997. The State Ethics Commission website is [www.ethics.alabama.gov](http://www.ethics.alabama.gov).

## FEDERAL CANDIDATES

Candidates for federal office must comply with federal laws administered by the Federal Election Commission. The FEC can be reached by phone at 1-800-424-9530. The FEC website is [www.fec.gov](http://www.fec.gov).

## JUDICIAL CANDIDATES

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

## DISCLAIMER

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