

Alabama Candidate Filing Guide

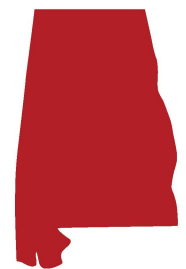
18th Edition



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alabamavotes.gov
sos.alabama.gov
stopvoterfraudnow.com



CANDIDATE CHECK LIST

Filing requirements for the following statements or reports are mentioned in this publication. **Other requirements may exist** for specific offices or to satisfy political party rules. When qualifying, check for further information on any additional requirements.

FAIR CAMPAIGN PRACTICES ACT

DATE(S)

- Appointment of Principal Campaign Committee - see page 4 _____
- FCPA Reports - see pages 6-17 _____
 - Annual Report for Previous Calendar Year* _____
 - Monthly Reports _____
 - Primary Election Weekly Reports _____
 - Primary Election Daily Reports _____
Legislative, state school board, and statewide candidates. See page 10.
 - Primary Runoff Election Weekly Reports _____
 - Primary Runoff Election Daily Reports _____
Legislative, state school board, and statewide candidates. See page 10.
 - General Election Weekly Reports _____
 - General Election Daily Reports _____
Legislative, state school board, and statewide candidates. See page 10.
 - Annual Report for Election Year _____

ETHICS

- Statement of Economic Interests - See page 5 _____

BALLOT ACCESS

- Qualified for ballot access _____

JUDICIAL ELECTIONS

- Copy of "Statement of Economic Interests" filed with the Clerk of the Alabama Supreme Court
Remember, original is filed with the Alabama Ethics Commission within 5 days of qualifying with the appropriate election official upon becoming a candidate. _____
- "Disclosure Statement of Financial Interests" filed with the Clerk of the Alabama Supreme Court. _____

*Candidates in a monthly reporting cycle before the end of the 2021 calendar are not required to file the Annual Report covering 2021.

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JOHN H. MERRILL
SECRETARY OF STATE

Dear Citizens of Alabama:

I am pleased to present the 18th edition of our Elections Division's publication, the *Candidate Filing Guide*. This new, up-to-date edition will continue to serve as an instructive guide on the topic of Elections, providing detailed and in-depth information on the Alabama Fair Campaign Practices Act. If you have any questions, please call our Elections Division at (334) 242-7210.

We're honored to serve you and our wonderful state.

Sincerely,

A handwritten signature in black ink that reads "J. H. Merrill". The signature is written in a cursive, flowing style.

John H. Merrill
Secretary of State

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For General Questions and Obtaining Forms



Contact the Office of the Secretary of State

Mailing Address: Elections Division
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P.O. Box 5616
Montgomery, Alabama 36103-5616

Telephone: (334) 242-7210 or (800) 274-8683

General FAX: (334) 242-2444

FAX for Reporting: (334) 353-2295

Website: alabamavotes.gov

E-mail: alavoter@vote.alabama.gov

For Online Filing Questions



Website: fcpa.alabamavotes.gov

Help Desk: (888) 864-8910

For Ethics Act Compliance Questions



Contact the Alabama Ethics Commission

Telephone: (334) 242-2997

Wwebsite: ethics.alabama.gov

SPECIAL NOTE FOR FEDERAL CANDIDATES

This filing guide applies to candidates for state, county, and municipal offices. Federal candidates must follow reporting guidelines and deadlines administered by the Federal Elections Commission (FEC). For more information, please contact the FEC at:

Federal Elections Commission
999 E Street Northwest
Washington, D.C. 20463
1 (800) 424-9530
www.fec.gov



PUBLICATION NOTES

FCPA CANDIDATE FILING GUIDE—EIGHTEENTH EDITION

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Acknowledgements

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Legal Disclaimer

This document is not a substitute for the *Code of Alabama 1975*. It 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*, other appropriate legal resources, or your attorney.

CHAPTER ONE

GETTING STARTED



The Fair Campaign Practices Act (FCPA), the state's campaign finance law, is found in the *Code Of Alabama 1975*, **§ 17-5-1 through § 17-5-21**. This act sets the rules for how and when candidates can raise and spend money. The law also specifies how campaign finance activities are reported.



MANDATORY CAMPAIGN FINANCE COMMITTEE

The law requires every candidate to organize a campaign finance committee and file an **APPOINTMENT OF PRINCIPAL CAMPAIGN COMMITTEE** form, which lists who serves on the committee. (§ 17-5-4)

The committee form must be filed within *five (5) days* of becoming a candidate. For purposes of the FCPA, the law defines two (2) ways to become a candidate, the first of either [See § 17-5-2(a)(1)]:

1. reaching the disclosure threshold by either receiving contributions in excess of \$1,000 or making expenditures in excess of \$1,000, regardless of the office sought; or
2. qualifying as a candidate with a political party or filing a petition as an independent candidate.

Effective August 1, 2023, all principal campaign committees for municipal candidates that previously filed with the judge of probate shall file electronically with the Secretary of State. (Act 2021-314)

A candidate may either serve as the sole member of their principal campaign committee or may appoint from two (2) to five (5) persons. If a candidate serves as their own principal campaign committee, they shall designate a **COMMITTEE DISSOLUTION DESIGNEE**, a person responsible for dissolving the principal campaign committee in the event of the candidate's death or incapacity. If the designated

person is unable to serve in this capacity at the time of the candidate's death or incapacity, the principal campaign committee shall be dissolved by the candidate's personal representative as appointed by the judge of probate. [§ 17-5-4(c)]

Candidates and PACs may also select a **DESIGNATED FILING AGENT** when appointing their campaign finance committee. That agent will be authorized to file all required reports for the candidate during the election cycle.

Political Action Committees need to fill out a **STATEMENT OF ORGANIZATION OF POLITICAL ACTION COMMITTEE** form online with the Secretary of State in order to register the PAC. Once a PAC raises or spends more than \$1,000 to influence an election cycle, the filing of regular reports is required.



STATEMENT OF ECONOMIC INTERESTS

Except for federal candidates and office holders with a current **STATEMENT OF ECONOMIC INTERESTS** on file, candidates at every level of government must file a **STATEMENT OF ECONOMIC INTERESTS** form with the State Ethics Commission no more than five (5) days after the date they file their qualifying papers with the appropriate election official. (§ 36-25-15) This form covers the previous calendar year. A candidate who has a current **STATEMENT OF ECONOMIC INTERESTS** form on file with the Ethics Commission does not have to file a duplicate form. For questions about filing the **STATEMENT OF ECONOMIC INTERESTS** form, please visit ethics.alabama.gov or contact them at (334) 242-2997.

If the individual becomes a candidate by qualifying with a political party, the **STATEMENT OF ECONOMIC INTERESTS** must be submitted to the State Ethics Commission no more than five (5) days after the date such candidate files their qualifying papers with the appropriate political party. (Ethics Commission Advisory Opinion 2016-17)

If the individual is seeking ballot access by submitting a petition for independent candidacy, the **STATEMENT OF ECONOMIC INTERESTS** must be submitted to the State Ethics Commission no more than five (5) days after the date such candidate files their petition to the appropriate election official, the Secretary of State for state candidates and the judge of probate for county candidates. [§ 36-25-15(a); Ethics Commission Advisory Opinion 2016-17]

Each election official who receives a declaration of candidacy or petition to appear on the ballot shall, within five (5) days of receipt, notify the State Ethics Commission of the name of the candidate and the date on which the person became a candidate. The State Ethics Commission shall, within five (5) business days of receipt of such notification, notify the election official whether the candidate has complied with the requirement to submit a **STATEMENT OF ECONOMIC INTERESTS**. [§ 36-25-15(b)]

A filing that is properly addressed, postage prepaid, postmarked, and mailed on the date the candidate qualifies complies with the statute. A candidate may file a **STATEMENT OF ECONOMIC INTERESTS** form online. (Ethics Commission Advisory Opinion 2016-02)

If a candidate does not submit a **STATEMENT OF ECONOMIC INTERESTS** in accordance with the requirements of § 36-25-15, their name shall not appear on the ballot, and they shall be deemed not qualified as a candidate in that election. The appropriate election official shall remove the name of that candidate from the ballot. (AG's Opinion 98-00200)



AFTER THE MANDATORY COMMITTEE FILING

While every candidate must appoint a principal campaign committee, candidates who have not reached the \$1,000 threshold are exempt from filing the monthly, weekly and daily FCPA reports until the threshold is reached. (AG's Opinion 90-00343) Otherwise, these reports are due prior to an election. (§ 17-5-8)

After reaching the threshold, a candidate or PAC files each FCPA report at the required times. All contributions and expenditures, including those received or spent to reach the threshold, are reported. **It is important to note that the payment of any qualifying fee or other cost associated with qualifying to run for office is considered an expenditure of the campaign; therefore, it should be reported as such. If a candidate spends their own money on their campaign, each transaction must be reported as an in-kind contribution.** [§ 17-5-2(a)(7)]

Contributions from a single source and expenditures made to a

single recipient that are greater than \$100 must be itemized on these reports. Therefore, it is important for a candidate to maintain some type of internal record for contributions of \$100 or less, since an additional donation from the same contributor could bring the total to more than \$100 and result in a need to itemize that contributor's contributions. The same is true for expenditures of \$100 or less.

All candidates for all legislative, state school board, and statewide offices who receive more than \$5,000 in contributions during an election cycle must file their FCPA reports online. [§ 17-5-8(g)] The online FCPA reporting system contains everything a candidate needs to record contributions and expenditures and to file the required reports. Act 2021-314, which becomes effective August 1, 2023, requires all candidates for any office, including municipal, to file electronically.

A municipal candidate may request forms for filing these reports from either the Office of the Secretary of State or from the local probate judge. These forms are also available on alabamavotes.gov. However, a candidate is not required to use the forms developed by the Office of the Secretary of State, as long as the information required by the FCPA is included in the report. (AG's Opinion 90-00211)

Electronic filing is required for all state and county candidates and all PACs. Beginning in August 2023, municipal candidates must file electronically with the Office of the Secretary of State and will no longer file with the judge of probate.

Candidates and PACs who spend more than \$1,000 on an "electioneering communication" will have met the filing threshold for campaign finance reporting. In accordance with Code of Alabama 1975, § 17-5-8, the candidate or PAC must disclose their contributions and expenditures relating to the electioneering communication. However, the candidate or PAC is not required to duplicate any reporting. See CHAPTER THREE, CAMPAIGN ADVERTISING, for further information on electioneering communication.



FILING LOCATIONS

1. Reports for County, District, Circuit, Legislative, and Statewide Offices

These candidates must submit their campaign finance reports and forms online at fcpa.alabamavotes.gov.

All Political Action Committees must also file their reports electronically.

Please note that paper filings will no longer be accepted as of August 1, 2023.

2. Reports for Municipal Offices

Municipal reports are submitted to the office of the probate judge in the county where that municipality's city hall is located. **Beginning August 1, 2023, municipal candidates are required to file electronically.**



DEADLINES

According to the FCPA, forms must be received on or before the due date. The FCPA electronic system will send automatically generated reminders ahead of each deadline. Complete FCPA filing calendars for each regularly scheduled election cycle are also available on the Secretary of State's website.



FILING SCHEDULE

During the election cycle, but no earlier than twelve (12) months prior to an election, campaign finance disclosure reports are filed at specific times before the election.

The FCPA filing calendar for the current election year is available from the Secretary of State's Office and is published on its website. Please take careful note of all deadlines as they may be subject to change.

The online FCPA reporting system contains a filing calendar for each election cycle. Each candidate and PAC should select their election cycle and the system will automatically generate the correct calendar for the candidate or PAC to follow.

Additionally, principal campaign committees and PACs must disclose the receipt of any single contribution of \$20,000 or more within **two (2) business days** of receiving the contribution if the contribution is not reported in a monthly, weekly, or daily report. [§ 17-5-8.1(c)]



PRE-ELECTION REPORTS

1. Monthly Report

Monthly reports are due no later than the second business day of the following month and must include all reportable transactions for the previous full month. [§ 17-5-8(a)(1)] The candidate's first monthly report must include all unreported activity to date.

2. Weekly Report

Weekly reports are due on the Monday of the following week for each of the four (4) weeks before the election date. For reporting purposes, a week is defined as running from a Saturday to a Friday. The first weekly report shall include all reportable transactions that occurred since the most recently filed prior report. [§ 17-5-8(a)(2)]

3. Daily Report (if applicable)

Daily reports apply only to candidates for state legislature, state school board, and statewide offices. Daily reports do not apply to candidates for county and city offices or to candidates for district or circuit court, circuit clerk, or district attorney.

In some instances, campaign committees for state offices and PACs are required to file daily reports. Beginning on the eighth day prior to the election, daily reports are due for principal campaign committees or PACs that receive or spend \$5,000 or more on that day with a view toward influencing the election. [§ 17-5-8(a)(3)] To clarify, daily reports would only be due on those days that the \$5,000 daily threshold is met.

Daily reports are due each filing day by 11:59 PM, *including Saturday and Sunday*. The last daily report, if applicable, is due by 12:01 PM on the day before the election. [§ 17-5-8(a)(3)(a)]

4. Major Contribution Report (if applicable)

Principal campaign committees and PACs must disclose the receipt of any single contribution of \$20,000 or more within ***two (2) business days*** of receiving the contribution if it is not included in a monthly, weekly, or daily report. [§ 17-5-8.1(c)] The term “contribution” includes monetary and in-kind contributions, as well as loans and other transfers to the principal campaign committee or PAC.

If not included on a monthly, weekly, or daily report, the contribution is to be filed on a **MAJOR CONTRIBUTION REPORT** form available in the electronic filing system or from the Secretary of State’s Elections Division.

5. Duplicate Reports

No duplicate reports are required by the law. A political action committee or principal campaign committee that is required to file a daily report is not required to also file a weekly report for the week preceding an election. A committee required to file a weekly report is not required to also file a monthly report in the month in which the election is held. A committee required to file a monthly report is not required to also file an annual report in the year in which the election is held. [§ 17-5-8(k)]



ANNUAL REPORTS

An annual report covering each calendar year is due no later than January 31st of the succeeding year. [§ 17-5-8(b)]

Each principal campaign committee, political action committee, and elected state and local official subject to the requirements of the FCPA who has not closed their committee, shall file annually with the Secretary of State or judge of probate no later than January 31st of each year. [§ 17-5-8(b)]

No annual report is required to be filed by a person who holds office because they were appointed to serve the remainder of a term vacated by another person, until the person serving has created a principal campaign committee. [§ 17-5-8(b)]



PENALTIES

A candidate who intentionally violates a reporting requirement in §§ 17-5-4, 17-5-5 or 17-5-8 is guilty, upon conviction, of a Class A misdemeanor. [§ 17-5-19(b)]

A candidate who intentionally violates any section other than § 17-5-7 of the FCPA is guilty of a Class A misdemeanor. [§ 17-5-19(a)]

Any person who intentionally violates § 17-5-7, which addresses limits on candidates receiving campaign contributions and spending campaign money, is guilty, upon conviction, of a Class B felony. [§ 17-5-19(c)] See CHAPTER TWO, CAMPAIGN FUNDS, for further information on this section of the law.

The FCPA prohibits any candidate from accepting more than \$1,000 from a principal campaign committee of a federal candidate. [§ 17-5-15.1(a)] A candidate who intentionally violates this provision is guilty, upon conviction, of a Class C felony. [§ 17-5-15.1(b)]

The appropriate election official, either the Secretary of State or the judge of probate, shall levy an administrative penalty against any person who fails to timely file a required report and who does not remedy the filing of the required report. The State Ethics Commission shall have the authority to levy an administrative penalty against any person who files a materially inaccurate report and who does not remedy the filing of the report. [§ 17-5-19.1(a)]

Failure to file a timely report shall not be considered an offense or subjected to a civil penalty so long as it is the first failure by that candidate or political action committee for the election cycle and the report is filed within 48 hours of the time it was due. [§ 17-5-19.1(h)]

Civil penalties levied shall be paid to the appropriate filing official within 45 days of the finality of any review. All penalties collected by a judge of probate shall be distributed to that county's general fund, and all penalties collected by the Secretary of State shall be distributed to the State General Fund. [§ 17-5-19.1(e-f)]

The schedule of civil penalties is as follows [§ 17-5-19.1(b)(1-3)]:

- ⇒ the lesser of \$300 or 10% of the amount not properly reported for a first offense in an election cycle;
- ⇒ the lesser of \$600 or 15% of the amount not properly reported for a second offense in an election cycle; or
- ⇒ the lesser of \$1,200 or 20% of the amount not properly reported for a third and all subsequent offenses in an election cycle.

A fourth failure to properly file a required FCPA report creates a rebuttable presumption that the candidate is intentionally violating the reporting requirements. The Secretary of State or judge of probate shall notify the Attorney General and the appropriate district attorney of all persons who violate the filing requirements four (4) or more times in an election cycle. [§ 17-5-19.1(c)]

Any penalties assessed may be paid with campaign funds. [§ 17-5-19.1(i)]

Any person upon whom a civil penalty has been imposed may seek a review by filing written notice with the Secretary of State or judge of probate within 14 days after notification of the imposed penalty. The Secretary of State or judge of probate shall refer such review to the State Ethics Commission. [§ 17-5-19.2(a)]

The Commission may set aside or reduce a civil penalty upon a showing of good cause. The person seeking review shall bear the burden of proof. [§ 17-5-19.2(b)]

Any candidate who voluntarily files an amended report to correct an error without being prompted by the filing official will not be subjected to the civil penalty. In the case of a candidate, the correction must be filed prior to the election at issue. In the case of a political action committee, the correction must be filed prior to the close of the calendar year. [§ 17-5-19.1(g)]



FILINGS

COMMITTEE FORMS

Candidates have two (2) committee filings, the **APPOINTMENT OF PRINCIPAL CAMPAIGN COMMITTEE** form, used to set up the committee, and the **STATEMENT OF DISSOLUTION**, filed when the committee is closed.

The importance of the mandatory committee filing has already been discussed on pages 4 and 5. Once a committee is formed and the \$1,000 threshold is crossed, a candidate continues filing disclosure reports until the committee is dissolved.

CHANGES/UPDATES. Whenever a change takes place in the committee, such as the addition or removal of officers or members, change of phone number or address, or change of name for the political committee, candidates may provide the new information online by updating their **COMMITTEE REGISTRATION** at fcpa.alabamavotes.gov.

STATEMENT OF DISSOLUTION. Once a candidate determines that they will no longer receive contributions or make expenditures, a **STATEMENT OF DISSOLUTION** form must be filed. [§ 17-5-5(d)] This form should be accompanied by a **TERMINATION REPORT** which itemizes all contributions/expenditures of more than \$100 received or made since the last itemized report. The **TERMINATION REPORT** is filed using FORMS 1A-5, discussed under the **ANNUAL REPORT** and pre-election report forms sections on this and the following pages. If the **TERMINATION REPORT** is not filed with the **STATEMENT OF DISSOLUTION**, then the candidate must file the requisite **ANNUAL REPORT** covering the last year of activity.

The candidate must also disclose how any excess funds will be used. See pages 21 and 22 for information on the law and excess funds.

FCPA DISCLOSURE FILINGS

Upon crossing the disclosure threshold by either raising or spending more than \$1,000, a candidate is responsible for filing the following disclosure reports, itemizing contributions or expenditures of more than \$100:

- ⇒ **Monthly Reports** — due no later than the second business day of the following month and must include all reportable transactions for the previous full month.
- ⇒ **Weekly Reports** — due on the Monday of the following week for each of the four (4) weeks before the election date. For reporting purposes, a week is defined as running from a Saturday to a Friday.
- ⇒ **Daily Reports** — beginning on the eighth day prior to the election, daily reports are due for principal campaign committees and PACs that receive or spend \$5,000 or more on that day with a view toward influencing the election. [§ 17-5-8(a)(3)] To clarify, daily reports would only be due on those days that the \$5,000 daily threshold is met. **Daily reports do not apply to circuit, district, county, and municipal candidates.**
- ⇒ **Major Contribution Report.** — Principal campaign committees and PACs must file a report disclosing the receipt of any single contribution of \$20,000 or more within ***two (2) business days*** of receiving the contribution if the contribution has not already been reported in a finance disclosure report.

FCPA REPORT FORMS (FORMS 1-6)

Form 1: Summary of Contributions and Expenditures:

This FCPA form must be signed by the candidate or elected official and notarized. However, for electronically filed reports, the form is electronically signed and does not require notarization.

Form 2: Cash Contributions:

The FCPA requires that cash contributions of more than \$100 be itemized. If they choose to do so, candidates may itemize contributions of \$100 or less, but this is not required by law. However, if contributions of \$100 or less are not itemized, the law does require that they be totaled and reported. They may be reported as “non-itemized” contributions on **FORM 1**.

As mentioned earlier, some type of campaign bookkeeping system should be used to track contributors making small donations of \$100 or less per contribution. If the combined contributions from any one contributor total more than \$100, an itemized entry on **FORM 2** is then required.

For purposes of reporting contributions, the date of receipt of a contribution shall be the first date the recipient of the contribution is able to make use of the contribution. In the case of a contribution in the form of a check, the date of the receipt is the earlier of: 1) ten (10) days from the date that the check came within the recipient’s control; or 2) the date that the check was deposited into the recipient’s account. [§ 17-5-2(a)(3)(c)]

A political action committee and a principal campaign committee shall maintain a checking account, money market account, or other similar banking account. (§ 17-5-6)

Form 3: In-kind Contributions:

An “in-kind” contribution is made when equipment, furniture, office space, or some other item of value other than money is contributed or used. A reasonable market value should be listed. In-kind contributions do not affect the committee account balance.

Form 4: *Receipts from Other Sources:* Receipts from other sources are usually funds received through interest payments on a political committee bank account, loans made to the committee, or refunds and returned contributions to the committee.

Form 5: *Expenditures:* The FCPA requires that expenditures of more than \$100 be itemized. Candidates may itemize expenditures of \$100 or less, but this is not required by law. However, if the expenditures of \$100 or less are not itemized, the law does require that they be totaled and reported. They may be reported as “non-itemized” expenditures on **FORM 1**.

As with contributions, some type of campaign bookkeeping system should be used to track small expenditures. If expenditures to the same vendor total more than \$100, an itemized entry on **FORM 5** is then required.

For purposes of reporting expenditures, the date an expenditure is made is the date the instrument authorizes the expenditure. In the case of an expenditure made by check or electronic payment, the date of expenditure is the date of the check or electronic payment. [§ 17-5-2(a)(7)(c)]

No expenditure of funds may be made by any such committee except by check drawn on such account, electronic transfer from such account, a credit card, the balance of which is paid from such account, or petty cash fund from which it may make expenditures not in excess of \$100 to any person in connection with a single purchase transaction. (§ 17-5-6)

Form 6: *Expenditures on Line of Credit:* Committees may utilize a credit card or other line of credit to pay for expenditures, the balance of which must be paid from the committee checking account, money market account, or other similar banking account. (§ 17-5-6)

Expenditures paid with a line of credit must be entered on **FORM 6**. These expenditures will not affect the committee account balance. A debt total must be entered on the applicable line on the **ANNUAL REPORT SUMMARY FORM 1A** and must be updated to reflect any expenditures on line of credit and any payments on the amount owed. Interest charges on the line of credit balance must be entered on this form.

ANNUAL REPORT

The FCPA requires PACs, candidates, and elected officials to file an **ANNUAL REPORT** by January 31st, which covers all contributions and expenditures for the campaign committee for the preceding calendar year. Each principal campaign committee, PAC, and elected state and local official who has not closed their committee shall annually file with the Secretary of State or judge of probate for municipal candidates. [§ 17-5-8(b)]

Note: Persons who have been appointed to a public office are not required to file an **ANNUAL REPORT** until they become a candidate by either running for the same office or another office. Municipal candidates will begin filing reports with the Secretary of State beginning on August 1, 2023.

The **ANNUAL REPORT** is composed of the same forms as the other FCPA disclosure reports discussed in the previous section with one exception.

FORM 1 of the disclosure reports is replaced by **FORM 1A**, a form specifically designed for the purposes of the **ANNUAL REPORT**. **FORM 1A** is designed with two (2) sections.

Section I summarizes totals of contributions/expenditures since the last filing.

In the itemized sections of the **ANNUAL REPORT (FORMS 2-6)**, candidates include those entries of more than \$100 that have been received or spent since the last itemized report.

Section II is a **summary** of contributions/expenditures for January 1 – December 31 of the previous year.



PUBLIC ACCESS

The FCPA requires the Secretary of State and probate judges to make filed campaign finance reports available for public inspection during regular office hours. All reports are also publicly available at fcpa.alabamavotes.gov.

However, the law specifies that information copied from the reports may not be sold or used by any political party or any political committee to solicit contributions or for commercial purposes, without the express written permission of the candidate or the committee reporting such information. [§ 17-5-11(2)]



POINTS TO NOTE

Campaign Activities. The FCPA contains other provisions, in addition to those dealing with campaign finance reporting. The Office of the Secretary of State recommends a complete reading of the act, which is contained in the Code of Alabama 1975, § 17-5-1 through § 17-5-21.

Prohibitions. Candidates should note the statutes on conduct that are contained in § 17-17-33 and § 17-17-34 of the Code of Alabama. Among the prohibited activities are: making a contribution in someone else's name, buying votes, interfering with a person's right to freely cast a vote, soliciting money or anything of value by physical force, job discrimination, financial reprisal, or threats, or fraudulently misrepresenting oneself as acting for a candidate. Other sections of state law also address campaign behavior. See pages 20 through 24 for highlights of those statutes.

Other sections of state law also address campaign behavior. See pages 19 through 23 for highlights of those statutes.

A Note for PACS. The Secretary of State shall have the authority to dissolve any political action committee that has maintained a zero (0) balance for one (1) calendar year. A certified letter will be sent to any such committee. If no response is received after 90 days, the Secretary of State may then terminate the committee. [§ 17-5-5(d)]

CHAPTER TWO

CAMPAIGN FUNDS



The FCPA has strict controls on the purposes for which a candidate may solicit campaign funds, how the funds can be spent, and when candidates can raise money. In the 2010 special legislative session, the Legislature, through Act of Alabama 2010-765, enacted new rules regarding from whom a candidate may receive funds and to whom a candidate may make contributions.

Additionally, Act 2013-311 and Act 2015-495 revised a number of provisions relating to fundraising and contribution limits.



FUNDRAISING

1. Limitations on Campaign Committees

It is unlawful for one candidate's campaign committee to contribute to another candidate's campaign. However, a candidate is permitted to conduct a transfer of anything of value from one campaign committee to another campaign committee when the committees are for the same person. Political action committees (PACs) are permitted to make contributions to principal campaign committees (PCCs). [§ 17-5-15(b)]

State and local campaign committees are prohibited from receiving more than \$1,000 from a principal campaign committee of a federal candidate. [§ 17-5-15.1(a)]

PAC

Political Action Committee

PCC

Principal Campaign Committee

At-a-Glance Contribution Guide*

PAC	→	PCC	<input checked="" type="checkbox"/>
PAC	→	PAC	<input type="checkbox"/>
PCC	→	PCC	<input type="checkbox"/>
PCC	→	PAC	<input type="checkbox"/>

*Note—this guide is for general illustrative purposes only. Please refer to *Section 1* above for special circumstances.

2. Accepting and Spending Campaign Funds

The law states that a candidate may only accept campaign contributions for three (3) purposes [§ 17-5-7(b)(1-4)], namely to:

- ☛ Influence the outcome of an election.
- ☛ Pay off a campaign debt or to reach the \$1,000 qualifying threshold or both.
- ☛ Pay all expenses associated with an election challenge, including quo warranto challenges.

Campaign funds, including excess funds left after the election, may be spent only for the following purposes [§ 17-5-7(a)(1-7)]:

- ☛ Expenditures of the campaign.
- ☛ Expenditures that are reasonably related to performing the duties of the office held (does not include personal and legislative living expenses).
- ☛ 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.
- ☛ Inaugural or transitional expenses. Warning: the Ethics Act prohibits converting to personal use contributions from an inaugural or transitional fund. (§ 36-25-6)
- ☛ Donations to a legislative caucus organization registered with the Clerk of the House, Secretary of the Senate, or both in the case of a bicameral caucus, which does not operate as a political action committee. (§ 17-5-5.1)
- ☛ 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.

3. Use of Excess Campaign Funds While in Office

The FCPA permits a campaign committee, during a two-year period beginning on the day after each general election and ending on the day of the next regularly scheduled general election, to pay qualifying fees to a political party and pay up to a cumulative total of \$5,000 to the political party for any tickets to party functions, and state or local party dues. Campaign committees for independent candidates or write-in candidates can pay for similar expenses. [§ 17-5-7(d)]



FUNDRAISING PERIOD

Candidates may begin raising money twelve (12) months prior to the election in which they intend to be on the ballot. However, candidates for legislative and statewide offices cannot raise money while the Alabama Legislature is in session, except within 120 days of a primary, primary runoff, or general election. These restrictions do not apply to loans candidates make to their own committee. [§ 17-5-7(b)(2)]

The fundraising prohibition does not affect expenditures. Candidates may spend campaign funds more than twelve (12) months prior to their election. State candidates may continue to spend campaign funds while the Alabama Legislature is in session.

The fundraising prohibition does not apply to candidates for county or city offices. They may continue raising money when the Legislature is in session.



CONTRIBUTION LIMITS

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

Act 2013-311 specifically repealed previous statutes that limited corporate contributions to \$500 per candidate per election. [§ 17-5-14(a)]

State law prohibits contributions, transfers of funds, or expenditures to any political action committee, or 527 political organization, from any political action committee, 527 political organization, or a principal campaign committee. [§ 17-5-15(b)]

It also prohibits contributions from one campaign committee to another campaign committee, except where an individual is giving from their campaign committee for one office to their campaign committee for another office. [§ 17-5-15(b)]

A utility regulated by the Alabama Public Service Commission may not make any contribution to a candidate for the Public Service Commission. [§ 17-5-14(c)]



CAMPAIGN DEBT

Candidates should take particular note that the FCPA limits the fundraising period to clear campaign debts up to 120 days after the election. They are limited to raising only up to the amount of the debt plus the entire amount of the qualifying fee for that office. (AG's Opinion 99-00090)

If no debt, candidates can only raise up to the entire amount of the qualifying fee for that office.

All contributions received after the election to retire any debt must be reported in the next regular report the campaign files:

“Under the FCPA, all contributions...by candidates, their principal campaign committees, and other political committees are to be reported regardless of the time when the contributions are received.” (AG's Opinion 96-00120)



BRIBES AND CORRUPT INFLUENCE

The FCPA prohibits a candidate or campaign finance committee from accepting, soliciting, or receiving a contribution as a bribe or for the intention of corruptly influencing the official actions of a public official or a candidate for public office. [§ 17-5-7(c)]



PENALTY

Any person who intentionally violates the section that governs how and when money can be raised is guilty, upon conviction, of a Class B felony. [§§ 17-5-7, 17-5-19(c)] A Class B felony carries a penalty of up to \$30,000 and/or not less than 2 and not more than 20 years imprisonment. (§§ 13A-5-6, 13A-5-11)

In general, the statute of limitations for a violation of the Fair Campaign Practices Act (Title 17, Chapter 5 of the Code of Alabama) is 2 years from the commission of the offense. However, the statute of limitations for a violation of § 17-5-7 is four (4) years. [§ 17-5-19(e)]

Violators can be prosecuted by either a district attorney or the Attorney General. [§ 17-5-19(d)]

CHAPTER THREE

CAMPAIGN ADVERTISING



The FCPA specifies that campaign advertising and electioneering communications appearing in print, broadcast, and electronic media must clearly and distinctly identify the entity responsible for paying for the advertisement or electioneering communication. [§ 17-5-12(a)]

Campaign literature and advertisements must carry this information and broadcast materials must be identified at the beginning, during, or the end of the radio or television spot. [§ 17-5-12(a)]

Act 2011-697 created the definition of “electioneering communication”. Electioneering communication involves any of the following types of communication:

1. Any communication circulated through federally regulated broadcast media;
2. Any mailing or other distribution;
3. Any electronic communication;
4. Any phone bank; or
5. Any publication. [§ 17-5-2(a)(6)]

These types of communication must also fulfill all of the four (4) following elements in order for them to meet the “electioneering communication” definition:

1. Must contain the name or image of a candidate;
2. Made within 120 days of an election in which the candidate’s name appears on the ballot;
3. The only reasonable conclusion from the presentation and content of the communication is that it is intended to influence the outcome of the election; and
4. The expenditure exceeds \$1,000. [§ 17-5-2(a)(6)]



ELECTIONEERING COMMUNICATION DISCLOSURE REPORTS

Any person, including a candidate, who spends more than \$1,000 on an electioneering communication is required to file a disclosure report. The report 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)]



DISCLAIMER REQUIREMENT

The FCPA does not give a specific format for wording the disclaimer. However, the FCPA does state that political advertisements or electioneering communication must clearly and distinctly identify the entity responsible for paying for the advertisement or electioneering communication. The disclaimer must also be displayed on printed advertisements. Disclaimers for broadcasts must occur at the beginning, during, or end of a radio or television spot, stating that the communication was a paid advertisement and identifying the paying entity. [§ 17-5-12(a)]

Such words as “paid advertisement by,” “paid for by,” and “paid political ad” meet the requirements of the act; however, an advertiser is not limited to just those phrases. The attorney general has advised that:

“...words which indicate that the advertisement is a paid political advertisement meet the requirements of the law.” (AG’s Opinion 94-00227)

In addition, the disclaimer must contain the identification of the person, nonprofit corporation, principal campaign committee, or entity placing the ad. Under the FCPA, the term “identification” means full name and complete address. [§ 17-5-2(a)(7)] The attorney general has stated that a complete address includes the street or post office box, city, and state. (AG’s Opinion 94-00227)

Refer to page 26 for sample illustrations of typical political advertisements with disclaimers.



SAMPLE DISCLAIMER ADVERTISEMENTS

**Elect
John Doe**

Paid for by the
Committee to Elect John Doe
PO Box 5551212
Inacounty, AL 99999

Figure 1: Example of a political advertisement with a disclaimer.

*Elect
Jane Doe to
Public Office*

Paid political advertisement by
Committee to Elect Jane Doe
PO Box 1212555
Ourfair City, Alabama 99999

Figure 2: Example of a political advertisement with a disclaimer.



DISCLAIMER EXCEPTIONS

1. Act of Alabama 2011-697 lists nine (9) types of paid political advertisements and electioneering communications that

are excluded from the identification requirement. The disclaimer requirements do not apply if the advertisement is:

- a. Designed to be worn by a person; [§ 17-5-12(b)(1)]
 - b. Placed as a paid link on an Internet website, if the message does not exceed 200 characters in length, and the link directs to another Internet website that has a disclaimer; [§ 17-5-12(b)(2)]
 - c. Placed as a graphic or picture link where a disclaimer is not practical due to the size of the picture, and the link directs to another Internet website that has a disclaimer; [§ 17-5-12(b)(3)]
 - d. Placed at no cost on an Internet website where there is no cost to post content for public users; [§ 17-5-12(b)(4)]
 - e. Placed on an unpaid profile account available to the public without charge or a social networking website if the source of the message is obvious from the content or format of the message; [§ 17-5-12(b)(5)]
 - f. Distributed as a text message or other message via Short Messages Service if the message does not exceed 200 characters in length or requires the recipient sign up or opt in to receive it; [§ 17-5-12(b)(6)]
 - g. Connected with or included in a software application where the user actively chooses to access the application from or through a website that has a disclaimer; [§ 17-5-12(b)(7)]
 - h. Sent by a third-party from or through a campaign website that has a disclaimer; [§ 17-5-12(b)(8)]
 - i. Contained in or distributed through any other form of technology where a disclaimer is not practical due to its size or nature. [§ 17-5-12(b)(9)]
2. *McIntyre v. Ohio Elections Commission*, 514 U.S. 334 (1995)

A U.S. Supreme Court ruling in *McIntyre v. Ohio Elections Commission* seems to provide one very limited exception for advertising identification. In that case, the court

upheld the right of an individual to distribute anonymous leaflets opposing a proposed school tax levy. However, the impact on the FCPA disclaimer requirements is minimal. Alabama’s Attorney General has written that the ruling:

“...is limited to individuals who distribute anonymous written material (particularly leaflets) in a non-candidate election.” (AG’s Opinion 95-00218)

In all other circumstances, the advertising must carry identification.



APPLICATION OF DISCLAIMER

The advertising disclaimer must be on all types of non-excluded advertising, such as billboards, yard signs, bumper stickers, and pencils.



ROBOCALL DISCLOSURE

Every automated or pre-recorded communication made through an automated telephone dialing service (often referred to as a robocall) must contain a clear notice at the end of the communication stating that it is a paid political advertisement and identifying the person or other entity that paid for the communication. [§ 17-5-16(b)]



PENALTY

The Attorney General or a district attorney may prosecute any person who violates the FCPA. [§ 17-5-19(d)] Failure to comply with the advertising requirements is a Class A misdemeanor and, upon conviction, is subject to a fine of not more than \$6,000 and/or imprisonment of not more than one year. [§§ 13A-5-7, 13A-5-12, 17-5-19(a)]



CAMPAIGN ADVERTISING AT THE POLLING PLACE

The FCPA requires that all campaign advertising must be clearly marked. Another section of law, § 17-9-50, prohibits anyone from campaigning within 30 feet of the polling place. Generally, that distance is interpreted as 30 feet from the door of the building in which the polling place is located. (AG's Opinion 82-00113)

Candidates frequently ask if supporters may wear campaign T-shirts or buttons when they go to the polling place to vote or when campaign workers are asked to accompany a voter who has requested assistance. There is no provision that specifically prohibits an elector from wearing campaign buttons, badges, or T-shirts while inside the polling place to vote or assist another voter. (AG's Opinion 93-00118)

Also, nothing prohibits a voter from taking a sample ballot into the polling place, but a sample ballot should not be left in the polling place.

It should be noted that poll watchers, who can be appointed by the candidate or a political party, are prohibited from campaigning while inside the polling place, and the Attorney General has held that wearing buttons, badges, or T-shirts suggests, either directly or indirectly, how a citizen should vote and therefore, constitutes campaigning. (AG's Opinions 93-00118 and 84-00020)



OTHER CODE SECTIONS OF INTEREST

MISCELLANEOUS OFFENSES **SECTIONS 17-17-36 THROUGH 17-17-45**

This section of law prohibits such illegal voting as casting more than one ballot for the same office or knowingly attempting to vote when not entitled to do so.

Citizens are prohibited from bribing or attempting to influence voters, buying or selling votes, altering or changing the vote of an elector, or disturbing an elector on election day.

A candidate convicted of bribing or attempting to influence a voter is not allowed to hold the office to which he or she was elected for that term.

RIGHTS OF CITY, COUNTY, STATE EMPLOYEES
SECTION 17-1-4

City, county, and state employees have the right to participate in city, county, or state political activities to the same extent as any other citizen of the state, including endorsing candidates and contributing to campaigns. City, county, and state employees also have the right to join local political clubs and organizations and state and national political parties. They may also publicly support issues of public welfare.

IMPROPER USE OF STATE PROPERTY, TIME, ETC.
FOR POLITICAL ACTIVITIES SECTION 17-17-5

No state, county, or city employee shall use public funds, property, or time for any political activity.

It is unlawful for any officer or public employee to solicit any type of political campaign contributions from other employees who work for the officer or employee in a subordinate capacity.

It is unlawful for an officer or public employee to coerce or attempt to coerce a subordinate employee to work in a political campaign or cause.

USE OF STATE-OWNED PROPERTY
SECTIONS 36-12-60 THROUGH 36-12-64

It is unlawful for any state officer or employee to use or to permit the use of any state-owned property including stationery, stamps, office equipment, office supplies, or automobiles for political activity.

State employees are also prohibited from transporting campaign literature in either a state vehicle or in a private vehicle while mileage is being paid for by the state.

CHAPTER FOUR

FREQUENTLY ASKED QUESTIONS



The Elections Division receives many questions from candidates regarding the FCPA and how it relates to a particular situation or set of circumstances. The following is a discussion of some of those questions that are asked most frequently.

Should you have a question that is not addressed in this section, please contact the Elections Division for further assistance.

What is the difference between a “state office” and a “statewide office?”

The term “state office” refers to any elected position that is an official in Alabama *state government*. The term includes constitutional officers, legislative members, state school board members, and circuit and district judges, to name a few. The term does not include those positions in *county or municipal government*, such as county commissioner, county school board member, mayor, or city council member.

The term “statewide office” refers to any state office that is elected in a statewide vote, such as Governor, Lieutenant Governor, Secretary of State, Treasurer, and Attorney General, to name a few.

“Statewide office” does not include any state offices that are elected by district, such as members of the Legislature, circuit or district judges, or state school board members.

I am a candidate and have met the filing threshold for the office I want to hold. However, I do not have any opposition in my election. Do I have to file a campaign finance report?

Yes. All candidates who have reached the filing threshold must file all campaign finance reports, even if the candidate has no opposition.

Must I set up a separate bank account for my principal campaign committee?

Yes. The FCPA specifies that principal campaign committee funds must be segregated and that there can be no commingling of personal funds with campaign funds. (§ 17-5-6)

A political action committee and principal campaign committee shall maintain a checking account, money market account, or other similar banking account and shall deposit any contributions received by such committee into such account. No expenditure of funds may be made by any such committee except by check drawn on such account, electronic transfer from such account, a credit card the balance of which is paid from such account, or out of a petty cash fund from which it may make expenditures not in excess of \$100 to any person in connection with a single purchase transaction. (§ 17-5-6)

Am I allowed to campaign before qualifying as a candidate for an office?

Alabama's elections laws do not place a restriction on when a candidate can begin campaigning for office. As a practical matter, the FCPA provides that a campaign can raise or receive funds only for a period of twelve (12) months prior to an election. This restriction does not apply to a loan from a candidate to their own campaign committee. [§ 17-5-7(b)(2)]

I am running for a federal office. Do I have to report under the FCPA?

No. Alabama participates in the FEC State Filing Waiver program that waives the requirement that campaign finance reports filed with the FEC also be filed with the state election office, provided that the state has an adequate system to serve the public with electronic access to and duplication of reports and statements.

Do I have to keep receipts for the expenditures made during the campaign?

Yes. The FCPA states that the political committee treasurer must

keep a receipted bill or canceled check for every expenditure greater than \$100 and for expenditures of \$100 or less, if the aggregate amount of such expenditures to the same person or entity during a calendar year is greater than \$100. The receipts should be kept for a period of two (2) years from the date of the expenditure.

I charge many of my campaign expenses on a credit card. Can I itemize only the total amount I pay to the credit card company?

No. The FCPA requires itemization and identification (full name and complete address) of:

“each person to whom expenditures have been made... within the calendar year in an aggregate amount greater than \$100.00, the amount, date and purpose of each such expenditure...” [§ 17-5-8(c)(7)]

This issue is also addressed in AG’s Opinion 95-00132 that says:

“Several expenditures should not be lumped together under a general heading of credit card expenses.”

If a candidate could legally enter only the name and full identification of the credit card company, many expenditures of more than \$100 could be hidden.

Credit card expenditures to any person or entity in an aggregate that exceeds \$100 must be itemized on **FORM 6**: Expenditures on Line of Credit. Any payments to the credit card company must be reported as an expenditure on **FORM 5**.

Do I have to file an APPOINTMENT OF PRINCIPAL CAMPAIGN COMMITTEE form even if I do not reach the campaign finance contribution/expenditure threshold of \$1,000?

Yes. All candidates must file an **APPOINTMENT OF PRINCIPAL CAMPAIGN COMMITTEE** form within five (5) days of qualifying (with a political party or as an independent candidate) or within five (5) days of reaching the campaign finance contribution/expenditure threshold.

I paid my qualifying fee out of my personal checking account. Does the qualifying fee go towards my filing threshold?

Yes. In-kind contributions, money paid on behalf or for the campaign from your personal checking account or credit card and any money paid by someone else outside the campaign account all go toward the filing threshold amount of \$1,000. Once the filing threshold has been met, you must continue filing your campaign finance reports as long as you are a candidate or on the ballot. All active committees must file an Annual Report by January 31st of the succeeding year.

I currently have money in my campaign account from a previous election for the same office. I have not received any contributions, but I paid my qualifying fee and some other campaign expenses in excess of \$1,000 out of my campaign account. Do I have to start filing reports?

Yes. You have met the threshold amount of \$1,000. Once the filing threshold has been crossed, you must continue filing your campaign finance reports as long as you are a candidate or on the ballot. All active committees must file an Annual Report by January 31st of the succeeding year. When running for the same office, you can use the same account in each election cycle as long as the account remains active. Dissolving your committee after an election will require that you open a new account if you run for that office again.

I loaned my campaign committee \$20,000. Is this considered a major contribution?

Yes. Committees must disclose the receipt of any single contribution of \$20,000 or more within two (2) business days of receiving the contribution; if this transaction is not already included on a monthly, weekly, or daily report. [§ 17-5-8.1(c)] The term “contribution” includes monetary contributions, in-kind contributions, loans, and other transfers to the principal campaign committee or political action committee.

I received an unwanted, unsolicited check from a PAC, and I returned it. Must I report that as a contribution?

Act 2013-311 specifically amended the FCPA to authorize the return or refund of any lawful campaign contribution. A refund is permitted so long as the original contribution was reported in an itemized manner and the refund is also itemized in a report. [§ 17-5-7.1(a)] If the contribution is not deposited in the committee's bank account, it may be returned without any reporting requirement. The new provision requires candidates or PACs to refund or return any unlawful contribution within ten (10) days of receipt. [§ 17-5-7.1(b)]

Does the FCPA require that I put the address of my political committee on a campaign button?

§ 17-5-12(b)(1) provides that disclaimer requirements do not apply if the advertisement is designed to be worn by a person. If the campaign button is designed to be worn by a person, a disclaimer is not required.

Is there any prohibition against my borrowing money from my campaign account, provided that I pay back the money plus the prevailing rate of interest?

The Ethics Act states in § 36-25-6:

*“Contributions to an office holder, a candidate, or to a public official’s inaugural or transitional fund **shall not be converted to personal use.**”*

The Office of the Secretary of State further believes that such action is also prohibited by these sections:

§ 17-5-7(b)(1) of the FCPA —

*“...a candidate, public official, or principal campaign committee may only accept, solicit, or receive contributions: **to influence the outcome of an election.**”*

§ 36-25-5(a) of the Ethics Act —

“No public official or public employee shall use or cause to be used his or her official position or office to obtain personal gain for himself or herself, or family member of the public employee or family member of the public official, or any business with which the person is associated unless the use and gain are otherwise specifically authorized by law. Personal gain is achieved when the public official, public employee, or a family member thereof receives, obtains, exerts control over, or otherwise converts to personal use the object constituting such personal gain.”

§ 17-5-7(a) of the FCPA —

“...A candidate, public official, or treasurer of a principal campaign committee as defined in this chapter, may only use campaign contributions, and any proceeds from investing the contributions that are in excess of any amount necessary to defray expenditures of the candidates, public official, or principal campaign committee, for the following purposes:

- 1. Necessary and ordinary expenditures of the campaign.*
- 2. Expenditures that are reasonably related to performing the duties of the office held. For purposes of this section, 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.*
- 3. Donations to the State General Fund, the Education Trust Fund or equivalent county or municipal funds.*
- 4. 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.*

5. *Inaugural or transitional expenses.*
6. *Donations to a legislative caucus organization registered under this chapter which does not operate as a political action committee.*
7. *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.”*

Does a write-in candidate have to comply with the FCPA?

Yes. As with other candidates, the contributions or expenditures must reach the filing threshold of \$1,000 to trigger the **APPOINTMENT OF PRINCIPAL CAMPAIGN COMMITTEE** form and the reporting requirements. (AG’s Opinion 91-00084)

I have several groups, such as the Young Republicans or the Democratic Women, who want to work in my campaign. May I use campaign funds to donate to a group in return for its members’ help?

No. A candidate may not transfer campaign funds to any political action committee or 527 political organization, which generally covers most political groups except county and state parties, which are recognized as political action committees under the FCPA. [§ 17-5-15(b)] Candidates can only transfer funds to a political party, as a political action committee, within the restrictions of § 17-5-7(d).

However, candidates are not prohibited from paying individuals directly who assist with the campaign.

I have several volunteers who work in my campaign. Must I assess a fair labor wage and report that as an in-kind contribution?

No. The FCPA lists several services that are not considered contributions, including:

- ⇒ Value of services provided by individuals who volunteer

their time on behalf of a candidate.

- ⇒ The use of real or personal property and the cost of invitations, food, or beverages, voluntarily provided by an individual to a candidate when the voluntary personal service is on the individual's residential or business premises.
- ⇒ Any unreimbursed payment for travel expenses made by an individual who volunteered on behalf of a candidate.
- ⇒ The amount spent by a state or local political party for the preparation, display, mailing, or other distribution of a printed slate card or sample ballot, or other printed listing of two or more candidates for any public office. (Note: this exemption does not extend to the costs incurred by the committee when such a listing is placed on broadcasting stations, or in newspapers, magazines, or similar types of general public political advertising.)
- ⇒ The value or cost of polling data and voter preference data and information, if provided to a candidate or political committee, unless the information was compiled with the advance knowledge of and approval of the candidate or the political committee. [§ 17-5-2(a)(3)(b)]

I am a member of the Alabama Legislature and am considering renting an apartment in Montgomery. Can I pay the rental expense from my campaign account?

No. The FCPA prohibits using campaign funds for personal or legislative living expenses. The Act lists such prohibited expenses as:

“Household supplies, personal clothing, tuition payments, mortgage, rent, or utility payments for a personal residence; admission to an entertainment event or fees for a country club or social club, unless tied to a specific campaign event or functions involving constituents; and any other expense, excluding food and beverages, that would exist irrespective of the candidate’s campaign or duties as a legislator. Personal and legislative living expenses shall not include expenses for food, beverages, travel, or communication incurred by the legislator in the performance of the office held.” [§ 17-5-2(a)(12)]

Can I pass out campaign materials on private property, such as an apartment complex, if there is a “no soliciting” sign?

That’s a question that must be addressed with the property owner. Any enforcement of “no soliciting” would be between the owner and an individual who wishes to campaign. (AG’s Opinion 96-00306)

Is it legal to pass out sample ballots at the polling place?

Yes, provided that the individuals handing out the sample ballots are at least 30 feet from the door of the building in which the polling place is located. Also, individuals distributing sample ballots should not in any manner attempt to intimidate or harass voters. Voters may take marked sample ballots into the polling place for personal use but should not leave them in the polling place.

May a candidate assist a voter?

Yes. Under the *Harris v. Siegelman* federal court order, a voter may request assistance from anyone other than those persons prohibited by federal law. [700 F. Supp. 1083 (1988)] Federal law prohibits assistance from the voter’s employer or an agent of the employer or from an officer or agent of the voter’s union. § 17-9-13 was revised to incorporate this language and bring the text of this section into compliance with the terms of *Harris v. Siegelman*.

However, candidates should note that they may assist only if the voter requests the help. The voter is then required to sign the poll list in a designated column showing that assistance is requested, and the person providing the assistance must also sign the poll list. Additionally, candidates are not permitted to witness absentee ballots unless the candidate is unopposed. [§ 17-11-7(c)]

At the end of the campaign, what must I do to dispose of campaign property?

Property purchased by or contributed to a principal campaign committee with a value of \$500 or more shall be liquidated at fair market value or donated to a qualified entity not more than 120 days following the election. Any funds generated by the liquidation of the property shall be deposited in the candidate’s principal campaign committee account. [§ 17-5-7.2(a)]

Property purchased by or contributed to a principal campaign committee that can be used by the person in the performance of their duties of the office they were elected to hold need not be liquidated as long as they hold office. [§ 17-5-7.2(b)]

Are there any additional requirements for running for office?

Some offices, such as county superintendent, may require additional documents to be filed when you qualify to run. Please check the [Code of Alabama, 1975](#), or visit our website, sos.alabama.gov, for more information. You may also contact your local party chair to make sure that you have all of the necessary paperwork.

Judicial candidates should also remember to file their “Statement of Economic Interests” with both the Ethics Commission and the Clerk of the Alabama Supreme Court.

How do I report campaign travel?

The mileage traveled for campaign purposes needs to be reported. Please contact the Alabama Department of Finance for the current mileage reimbursement rate. Fuel transactions are only reported if using a designated campaign vehicle.

How do I change the committee members I have listed for my campaign?

You can change any information associated with your committee members by logging into your FCPA account. Click on the “Administration” tab and then you will see an option to update the committee registration.

I lost, do I still need to file an annual report?

Any committee that is not closed must file an annual report no later than January 31st of each year. If your committee remains open through December 31st after the election, then you must file the annual report.

CHAPTER FIVE

ELECTED OFFICIALS



The Secretary of State congratulates each candidate who wins their election! Before getting immersed in the details of the job, each elected official should take a few minutes to note the information in this chapter.



COMMISSIONS

Certain state and county officials must be commissioned by the Secretary of State and Governor before assuming office. County officials who meet certain requirements may also receive commissions. For more information, please consult § 36-2-6.

The law dictates what documents must be filed and where for obtaining a commission. Generally, an elected official must file an oath and/or a bond at the state or county level, depending upon the office. County officials must also have a certification from their probate judge. The law requires the Office of the Secretary of State to charge everyone a \$5 commissioning fee.

Information packets providing the specific requirements for each office are available from the Government Support Division in the Office of the Secretary of State. You may contact the Government Support Division at (334) 242-7224.



FILING REQUIREMENTS

FCPA

All elected officials who have not closed their principal campaign committee must file an **ANNUAL REPORT** by January 31st each year, even if they have had no activity. [§ 17-5-8(b)] Remember, an **ANNUAL REPORT** is due not just for the year you are elected but for every year you are in office if your principal campaign committee has not been closed.

No annual report is required to be filed by a person who holds office because they were appointed to serve the remainder of a term vacated by another person, until the person serving has created a principal campaign committee. [§ 17-5-8(b)]

STATEMENT OF ECONOMIC INTERESTS

All elected officials must file a **STATEMENT OF ECONOMIC INTERESTS** with the Ethics Commission every year by April 30th. For more information, contact the State Ethics Commission at (334) 242-2997.

JUDICIAL REPORTS

Judges have additional requirements and should consult Canons 6C and 7 of the Canons of Judicial Ethics relating to filing requirements and campaign conduct in general.

The requirement previously set forth in § 12-24-2(a) to file a statement of disclosure two (2) weeks prior to the commencement of the term of office for any judge or justice was repealed during the 2014 legislative session.

APPENDIX A

INDEPENDENT CANDIDACY



Those not qualifying through a political party may obtain ballot access by submitting a petition on or before 5 PM on the date of the statewide primary election. [§ 17-9-3(a)(3)] In 2022, the statewide primary is scheduled for May 24th.

The petition must contain the required number of signatures of registered voters in the jurisdiction in which ballot access is sought (i.e., statewide, countywide, a district). The petition must be submitted to the Secretary of State, if seeking a state or federal office, or to the probate judge for a county office.

The appropriate election official will then verify the petition signatures and subsequently notify the petitioner as to whether they gained ballot access.

No qualifying fee is required.



SIGNATURES

FEDERAL CANDIDATES

A congressional candidate must submit a petition with enough signatures to meet or to exceed three percent of the qualified electors who cast ballots for the office of governor in the last general election for the district in which they are running. [§ 17-9-3(a)(3)] For the number of signatures needed in each district, call the Office of the Secretary of State's Elections Division at (334) 242-7210. Candidates seeking a U.S. Senate seat would need the number of signatures for statewide candidacy.

STATE OR COUNTY CANDIDATES

The number of signatures on the petition must equal or exceed at least three (3) percent of the qualified electors who cast ballots for

the office of governor in the last general election in the statewide, county, district, or other political subdivision for which they are seeking ballot access. For the number of signatures needed for a particular state office, call the Office of the Secretary of State's Elections Division at (334) 242-7210. For the number of signatures needed for a particular county office, call the judge of probate in the county in which the office is located.



FAIR CAMPAIGN PRACTICES ACT

Independent candidates, except for federal candidates, should be aware of their obligation to file an **APPOINTMENT OF PRINCIPAL CAMPAIGN COMMITTEE** form at the time they submit their petition or within five (5) days of exceeding the monetary threshold amount set forth by the FCPA. Act 2013-311 established a uniform \$1,000 threshold amount for all candidates in all races throughout the state.



ETHICS

Independent candidates must file a **STATEMENT OF ECONOMIC INTERESTS** with the State Ethics Commission no more than five (5) days after the date they file the ballot access petition to be a candidate. For information on filing the **STATEMENT OF ECONOMIC INTERESTS**, call the Alabama Ethics Commission at (334) 242-2997 or visit its website at www.ethics.alabama.gov.



PETITION REQUIREMENTS & SUGGESTIONS

A sample petition is available from the Secretary of State's office. It may be downloaded from the website at alabamavotes.gov. The sample petition may be photocopied.

Each petition must include the following information:

- ⇒ A statement that includes the name of the independent candidate, the date of the general election for which ballot access is sought, and the name of the office sought, including district number, if applicable. Petitions for the establishment of independent candidacy in a special election shall not be required to include the date of the special election at the top of each page. [Ala. Admin. Code, Rule 820-2-4-.05(1)];
- ⇒ Numbered pages;
- ⇒ Requested information for each person signing, which includes: name, residential address, date of birth and signature. A signature is required but shall not be deemed invalid for lacking any portion of the requested information if the disclosed information is sufficient for determining the validity of the signature and that the voter is a qualified elector for the jurisdiction the petition covers.

The following are suggestions for the petition:

- ⇒ Have the voter sign in ink and write legibly.
- ⇒ Obtain signatures in excess of required number, as some signatures may not be valid or identifiable.
- ⇒ Keep a copy of the petition.

APPENDIX B

CHANGES IN LAW



ACT OF ALABAMA 2019-318

In the 2019 session, the Alabama Legislature approved House Bill 247. The bill was signed by Governor Kay Ivey on May 29, 2019 and subsequently assigned Act number 2019-318.

Act 2019-318 changes the date of the statewide primary from the first Tuesday in June to the fourth Tuesday in May. The Act also changes the date of the runoff election from six (6) weeks after the primary to four (4) weeks after the primary. The presidential preference primary will still be held on the first Tuesday in March and in years in which a presidential preference primary is held, the statewide primary will be held at the same time.



ACT OF ALABAMA 2019-529

In the 2019 session, the Alabama Legislature approved House Bill 259. The bill was signed by Governor Kay Ivey on June 10, 2019 and subsequently assigned Act number 2019-529.

Act 2019-529 allows candidates to submit their Statement of Economic Interests with the Ethics Commission no more than five (5) days after the candidate qualifies with a party or files ballot access petitions with the appropriate election official.



ACT OF ALABAMA 2021-157

In the 2021 session, the Alabama Legislature approved Senate Bill 119. The bill was signed by Governor Kay Ivey on April 7, 2021 and subsequently assigned Act number 2021-157.

Act 2021-157 changes the date of regular municipal elections that were originally scheduled to occur in 2024 to 2025. This law does not affect municipalities that have a different election date set by statute.

The effective date of Act 2021-164 is January 1, 2022.



ACT OF ALABAMA 2021-164

In the 2021 session, the Alabama Legislature approved Senate Bill 31. The bill was signed by Governor Kay Ivey on April 6, 2021 and subsequently assigned Act number 2021-164.

Act 2021-164 changes the period for runoff elections to be four (4) weeks after the primary election for all special and municipal elections.

The effective date of Act 2021-164 is January 1, 2022.



ACT OF ALABAMA 2021-314

In the 2021 session, the Alabama Legislature approved House Bill 154. The bill was signed by Governor Kay Ivey on April 29, 2021 and subsequently assigned Act number 2021-314.

Act 2021-314 requires candidates for municipal office to file campaign finance reports with the Secretary of State's Office. All filings must be done electronically.

The effective date of Act 2021-314 is August 1, 2023.

APPENDIX C

ONLINE FILING SYSTEM QUICK OVERVIEW



ONLINE SYSTEM REGISTRATION

1. Go to fcpa.alabamavotes.gov.
2. Select the appropriate registration for your committee type. Candidates will click on the red “Candidate Committee Registration” button. PACs will click on the red “Political Action Committee Registration” button.
3. The Appointment of Principal Campaign Committee (PCC for candidates) or Statement of Organization (for PACs) will open. Please enter the date, then complete the required committee information.
4. Once the information has been entered, click the red “Submit” button at the bottom right corner of the page.
5. The screen will indicate “Your registration has been submitted.” Click on the “**Click here to view and print a copy of this filing**” link.
6. Print and sign the completed form. Every committee member must sign the completed form. Make a copy of the signed form for your records.
7. Mail the original signed form to: ELECTIONS DIVISION, ALABAMA SECRETARY OF STATE, P. O. BOX 5616, MONTGOMERY, AL 36103-5616.
8. Once the original signed Appointment of Principal Campaign Committee Form or Statement of Organization is received and approved, the account will be activated. The committee members will each receive login credentials (username and pin) in two (2) separate emails.

Note: if an FCPA report is due within five (5) days, an emergency activation can be granted. In this circumstance, a committee should call the Elections Division at (334) 242-7210 and then fax a signed copy of the committee registration document to (334) 242-2444. Once received, the account can be activated immediately. However, the signed original committee registration document should be mailed to the Elections Division on the same day.

ONLINE FILING SYSTEM

The FCPA online filing system is operated by the use of a series of tabbed topic sections located at the top of the screen. This guide will give an overview of the contents within each section, as well as a brief description regarding the most frequently used functions in the individual tabbed sections. For special circumstances or specific guidance, please call the Elections Division at (334) 242-7210 or (800) 274-8683. To reach the FCPA filing system HELP DESK, call (888) 864-8910.

1. Overview Page

- Account Status—gives an overview of account ending balance and pending transaction balances
- Transaction History Overview—gives an overview of ending balances by transaction
- Reports Due—lists upcoming reports with the function to view and file sequential reports
- Document Images—contains function to save report images and add supplemental documents

2. Transactions Tab

A. Contributions/InKind

- Contribution History—listing of posted contributions with the function to add new contributions or update existing contributions
- Contribution Maintenance—contains function to search by contributor and perform contributor informational changes

B. Other Receipts

- Receipt History—listing of posted receipts with the function to add new receipts or update existing receipts (i.e., loans/interest/other)
- Receipt Maintenance—contains function to search receipts and perform receipt source informational changes

C. Expenditures

- Expenditure History—listing of posted expenditures, only used for money spent out of the campaign account, with the function to add new expenditures or update existing expenditures
- Payee Maintenance—contains function to search by payee and perform payee informational changes

D. Transaction Search

- Transaction Search—contains function to quick-search posted transactions

3. File Reports Page

- Filing History—listing of previously filed reports with the function to view and amend filed reports
- Reports Due—lists upcoming reports with the function to view and file sequential reports
- Supplemental Forms—contains function to submit the “Statement of Dissolution”

4. Administration Page

- Committee—contains function to update or perform committee informational changes
- Officers—listing of current committee officers with the function to update or perform informational changes
- Campaign—contains function to add the filing schedule for an election cycle
- Filing Schedule—listing of all reports for an election cycle (includes all filed reports and reports due)
- Import Data Files—contains function to import data files

AMENDING REPORTS

To amend a transaction that has been previously reported, go to the corresponding “Transaction” tab and select the corresponding transaction type (contribution, other receipt, or expenditure) from the drop-down menu. Find the transaction that needs amending in the Transaction History section of the correct transaction type administration page. To update or delete a transaction, click on the links to the right of the transaction. Once the transaction entry page opens, correct the record and then click the red “Save” button on the lower right corner of the screen.

To add any previously omitted transactions, click the “Add” button in the corresponding transaction administration pages.

Make the necessary changes (additions, deletions, or updates) to the transactions prior to amending the previously filed reports. Then, click on the “File Reports” tab and locate the report that needs to be amended in the “Filing History” section of the “Filing Administration” page. Click on the “Amend” link for the report that corresponds to your earliest made amendment. The preview of the amended report will open. Please review the report. Once you are satisfied that all necessary changes are reflected in the report preview, then click the red “File” button on the bottom right to submit the amended report.

Important— The system will automatically amend any other subsequent reports that were affected by an amendment to an individual transaction. For this reason, it is important to amend the reports in the order of the amended transactions.

PASSWORD RESET

If a user is unable to access the account due to an expired or lost PASSWORD/PIN, please call the Elections Division at (334) 242-7210 or (800) 274-8683. To reach the FCPA filing system HELP DESK, call (888) 864-8910.

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