



OHIO CAMPAIGN FINANCE HANDBOOK

CHAPTER 6: POLITICAL ACTION
COMMITTEES

POLITICAL ACTION COMMITTEES

What is a Political Action Committee (PAC)

A combination of two or more persons, the primary or major purpose of which is to support or oppose any candidate, political party, or issue, or to influence the result of any election through express advocacy.

A PAC does not include candidate committees, legislative campaign funds, political parties, political contributing entities or political clubs.

To determine whether a purpose is a primary or major purpose, the following should be considered:

- » Whether the combination of two or more persons receives money or any other thing of value in a common account for the specific purpose of supporting or opposing any candidate, political party, legislative campaign fund, political action committee, political contributing entity or ballot issue.
- » Whether the combination of two or more persons has or will make a continuing pattern of expenditures from a common account to support or oppose any candidate, political party, legislative campaign fund, political action committee, political contributing entity or ballot issue.
- » Whether the combination of two or more persons constitutes an entity that was not in existence prior to supporting or opposing any candidate, political party, legislative campaign fund, political action committee, political contributing entity or ballot issue.
- » Whether the total dollar value of the combination of two or more persons' activity described in the above paragraphs during a calendar year exceeds \$100.

[R.C. 3517.01(B)(8); OAC 111-1-02(K)(1)]

A "combination of two or more persons" does not include persons making separate individual contributions to the same campaign committee, political party or other entity.

[OAC 111-1-02 (K)(2)]

TYPES OF PACS

Corporate PACs

A corporation may sponsor a PAC and pay its administrative, establishment or solicitation costs. Corporations may not give and a corporate PAC may not accept money or property from the corporation for use by the corporate sponsored PAC in supporting or opposing candidates or another partisan political purpose. The Ohio Administrative Code gives detailed information on corporate PAC activity, including reporting and disclosure requirements; corporate payments of the administrative, establishment and solicitation expenses of its PAC; social and fund raising requirements; permitted communications between the corporation and its PAC; and prohibited uses of corporate money or property.

[*R.C. 3517.082, 3599.03; OAC 111-4-01 through 111-4-08*]

Federal, State and Local PACs

A PAC registered with the Federal Election Commission (FEC) may use its federal PAC account to make Ohio non-federal disbursements. Such PACs are called federal, state and local PACs (FSLs). Before such a disbursement is made, the FSL PAC must register with the secretary of state's office by filing a copy of its most recent *Statement of Organization*, a federal form. Thereafter, whenever information listed on the form changes, a copy of the revised form must be filed with the secretary of state at the same time it is filed with the FEC. Whenever an FSL PAC files a report that includes Ohio non-federal activity, a copy of that same report must be filed with the secretary of state. The only necessary pages are the summary page, the detailed summary page and any disbursement pages that reflect Ohio non-federal activity. FSL reports must be postmarked by federal, not Ohio, reporting deadlines.

The campaign committees of a candidate for federal office wishing to make expenditures to Ohio non-federal candidate committees, Ohio PACs or Ohio PCEs, legislative campaign funds, state political party funds or county political party funds must first register as an FSL PAC before making such expenditures. The PAC is then subject to the reporting requirements and contributions limits of any other FSL PAC.

[*R.C. 3517.107; OAC 111-1-08*]

If an FSL makes a contribution during a calendar year from its federal account in connection with a state or local election in Ohio to an affiliated state or local PAC, then the FSL must file form 31-R, *Ohio Residents Receipt Report* with the secretary of state by the last business day in January of the next calendar year. The statement shall list the name(s) and addresses of each contributor residing in Ohio that made contributions to the FSL during the calendar year covered by the statement. The statement shall also list the aggregate amount of each contributor's contribution received during that calendar year.

This information is not intended to address federal filing and disclosure requirements as enforced by the Federal Election Commission (FEC). Contact the FEC for additional federal filing information. The phone numbers for the FEC are (800) 424-9530 and (202) 694-1000. The FEC website is:

www.FEC.gov

Labor Organization PACs

A labor organization may sponsor a PAC and pay its administrative, establishment or solicitation costs. Labor organizations may not give and a labor organization PAC may not accept money or property from the labor organization for use by the labor organization sponsored PAC in supporting or opposing candidates or another partisan political purpose. The Ohio Administrative Code gives detailed information on labor organization PAC activity, including reporting and disclosure requirements; labor organization payments of the administrative, establishment and solicitation expenses of its PAC; social and fund raising requirements; and prohibited uses of labor organization money or property.

[R.C. 3517.082, 3599.03; OAC 111-4-01 through 111-4-08]

Labor organizations may also operate as a political contributing entity, or PCE. For more information, see *Chapter 7, Political Contributing Entities*.

Non-Ohio PACs

Any non-Ohio PAC wishing to receive contributions and make expenditures to influence state or local elections in Ohio and that is not registered with the Federal Election Commission must comply with Ohio laws and rules regulating PACs. Therefore, prior to receiving contributions or making expenditures, the entity must file *form 30-D, Designation of Treasurer*. Contributions raised prior to the filing of the *Designation of Treasurer* may not be transferred into the Ohio-registered PAC. Similar to any other Ohio PAC, expenditures made to influence Ohio state or local elections must be itemized on form *31-B, Statement of Expenditures*. Expenditures made to influence elections outside of Ohio do not need to be itemized. These expenditures may be listed on the *Statement of Expenditures* under the label, "Non-Ohio Activity" with a lump sum aggregate amount. Copies of canceled checks or paid receipts for Ohio-related expenditures over \$25 must be provided. Any campaign committee, political action committee, political contributing entity, legislative campaign fund or political party that receives a contribution from a non-Ohio PAC prior to the entity's filing of a *Designation of Treasurer* shall be required to return the contribution to the non-Ohio PAC.

A NON-OHIO, NON-FEDERAL POLITICAL ACTION COMMITTEE CANNOT TRANSFER, OR "BRING IN", CONTRIBUTIONS WHICH WERE NOT RAISED UNDER OHIO LAW.

[R.C. 3517.10(D); OAC 111-5-03; OEC Adv. 2006ELC-03]

Political Clubs

A political club is not a PAC, and is not required to file a *Designation of Treasurer* or campaign finance reports. A political club is formed primarily for social purposes and that consists of one hundred members or less, has officers and periodic meetings, has less than \$2,500 in its treasury at all times and makes an aggregate total contribution of \$1,000 or less per calendar year. Please see *Chapter 1, Definitions*, for more information.

[R.C. 3517.01(B)(8)(b)]

What to Do First

Before receiving contributions or making expenditures, a Political Action Committee (PAC) must file *form 30-D, Designation of Treasurer*. This form is considered a “registration” form. It includes basic information such as the treasurer’s name and address and the name of the PAC.

PACs organized only to support or oppose a ballot issue should refer to *Chapter 8, Ballot Issue Committees*.

The PAC’s name must include the name of its sponsoring organization, if any. PAC checks must contain the full name and address of the PAC, and, if the PAC files with the secretary of state, then it must also include its assigned registration number.

[*R.C. 3517.10 (D) and (E); OAC 111-1-04*]

Bank Account

A PAC must establish a bank account that is separate from a personal or business account of the candidate or of a member of the candidate’s campaign committee. All monetary contributions received must be deposited into this account. Contributions may not be placed in a candidate’s personal or business account. All expenses paid from this account must be disclosed.

[*R.C. 3517.10*]

A federal identification number may be required by the committee’s chosen financial institution. This number is issued by the Internal Revenue Service upon request.

Where to File Reports

Where reports are filed is based on the PAC’s activity. Generally, PACs that contribute to county political parties, local candidate campaign committees, or local ballot issue committees will file the PAC’s campaign finance reports with the local county board of elections. PACs that contribute to candidates seeking election to a district office, other than a candidate for member of the general assembly, or a ballot issue to be submitted to a multi-county district will file campaign finance reports with the board of elections in the most populous county of that district. A PAC that makes contributions to candidates for member of the general assembly, statewide candidate, statewide ballot issues, state political parties or to other PACs which contribute to those candidates or issues will file its campaign finance reports with the secretary of state. All entities filing campaign finance reports with the secretary of state’s office are subject to mandatory electronic filing.

[*R.C. 3517.11(A); 3517.106*]

With the exception of PACs that are registered with the Federal Election Commission in Washington, D.C., PACs file their reports in only one location. PACs that want to spend money in regard to federal elections should contact the Federal Election Commission for its requirements. If a PAC wishes to engage in both federal and non-federal activity, see the federal PAC section later in this chapter.

A PAC that must change its place of filing does so by first filing a new *form 30-D, Designation of Treasurer*. The original form should be filed with the new place of filing. A photocopy should be sent to the prior place of filing with a notation or letter clearly indicating that the photocopied form is intended as a termination.

When to File Reports

PAC reports are due based on the nature and timing of the activity in which the PAC engages. The reporting clock begins based upon the PAC activity and whether that activity is to influence a future or recent election. All reports must be physically received by the secretary of state or county board of elections in order to be considered timely filed. A report postmarked, but not received by the deadline, is a late filing, and the PAC must be referred to the Ohio Elections Commission.

There are four types of reporting deadlines:

A **pre-election** report is due by 4:00 p.m. 12 days before an election if the PAC spent or received \$1,000 or more to influence that election between the time the last report was filed and the 20th day before the election.

[R.C. 3517.10(A)(1); OAC 111-5-04]

Examples:

A PAC raises \$1,200 and spends \$875 in a pre-election period. The PAC made a \$500 contribution to a campaign committee whose candidate will appear on that election's ballot. Because the PAC made a contribution to influence the election and had more than \$1,000 in contributions in the pre-election period, the PAC must file a pre-election report.

A PAC raises \$25,000 and spends \$400 in a pre-election period. None of the expenditure activity went to support or oppose any candidate or issue on that election's ballot. Because the PAC had no activity to influence the result of the election, a pre-election report is not due.

A **post-election** report is due by 4:00 p.m. 38 days after the election if the PAC received contributions or made expenditures to influence that election between the time the last report was filed and the 31st day after the election.

[R.C. 3517.10(A)(2); OAC 111-5-04]

Examples:

A PAC raises \$500 and spends \$25 in a post-election period. The PAC made a \$25 contribution to a campaign committee whose candidate appeared on that election's ballot. Because the PAC made an expenditure to influence the election, the PAC must file a post-election report.

A PAC MAY CHOOSE TO FILE A PRE-ELECTION REPORT EVEN IF TOTAL CONTRIBUTIONS AND EXPENDITURES ARE BELOW THE \$1,000 THRESHOLD.

A PAC raises \$40,000 and spends \$1,400 in the combined pre- and post-election reporting periods. None of the PAC's expenditure activity in both the pre-election and post-election reporting periods have been to campaign committees whose candidate appeared on the ballot or to issues appearing on the ballot. Therefore, because the PAC had no ballot-related activity, neither a pre-election nor a post-election report is due.

A **semiannual** report is due by 4:00 p.m. on the last business day of July if the PAC was not required to file a report after the immediately preceding primary election. It should cover the time period since the last report through the last day of June. A semiannual report should only reflect the activity that has occurred since the last report was filed.

[R.C. 3517.10(A)(4)]

An **annual** report is due by 4:00 p.m. on the last business day of January if the PAC was not required to file a report after the immediately preceding November election. It should cover the time period since the last-filed report and through the last day of December. An annual report should reflect only the activity that has occurred since the last previous report was filed.

[R.C. 3517.10(A)(3); OAC 111-5-04]

The rules described in the pre-election and post-election sections above apply regardless of when an election is held. For example, a PAC may have activity in regard to a special election in February, a statewide primary in May, or a municipal primary, pursuant to a municipal charter, at a different time. Any of these elections may, based on the PAC's activity, trigger the "12-day before" or "38-day after" rule.

The purpose of a contribution to the PAC or the use of that contribution are the keys to determining whether a report will be required. The need for pre- and post-election reports will be determined by whether the PAC will be using the contribution to influence a particular election. Making a contribution to a political party generally means that the contribution will be used to influence whatever election is imminent.

[R.C. 3517.01(B)(5), (6)]

If a required report is filed late, then the county board of elections or the secretary of state must refer the PAC to the Ohio Elections Commission. The commission determines if a fine should be imposed.

[R.C. 3517.11]

Report Forms

All reporting forms, along with instructions for their use, are available at the secretary of state's website: www.OhioSecretaryofState.gov

Filers may choose to download the forms and use them for creating reports eligible for filing in paper form. Filers may choose to create their own forms for use in paper filing, with the approval of the secretary of state's office, as long as they are substantially similar to the forms prescribed by the secretary of state's office.

[OAC 111-5-11]

Filers seeking the approval of alternative paper forms may direct their request, along with a sample of each of the alternative forms to:

OHIO SECRETARY OF STATE
 CAMPAIGN FINANCE DIVISION
 180 E. BROAD ST., 15TH FLOOR
 COLUMBUS, OH 43215

GENERAL RULES

Treasurer Duties and Liability

The treasurer of a PAC is legally responsible for keeping detailed records of everything received, given or expended. The cover page of every report filed should be signed by the treasurer or deputy treasurer. Each report must contain a statement that the report is correct, subject to the penalty for election falsification.

[R.C. 3517.10(C), (D); 3599.36; OAC 111-5-12, 111-5-14]

Sponsors

The sponsor of a PAC is the organization that establishes or gives administrative support to the PAC. PACs sponsored by corporations should see the section on corporate PACs for more information. PACs sponsored by labor organizations should see the section on labor organization PACs for more information. More information regarding what a corporation or labor organization may do on behalf of its sponsored PAC can be found in *Chapter 9, Corporations and Labor Organizations*.

[R.C. 3517.082; OAC 111-4-01 through 111-4-08]

Membership

Membership in a PAC is determined by the rules and bylaws of the PAC. In determining whether a PAC meets the qualifications of a “Limited PAC” for the purpose of special disclaimer rules, see *Chapter 12, Disclaimers*. A “member” for the purpose of the disclaimer requirements is defined as anyone who makes one or more contributions to the PAC.

[R.C. 3517.105, 3517.20; OAC 111-1-02]



Affiliation Between Separate PACs

A PAC is affiliated with another PAC if they are both established, financed, maintained or controlled by the same corporation, organization, labor organization, continuing association or other person, including any parent, subsidiary, division or department of that corporation, organization, labor organization, continuing association or other person.

[R.C. 3517.102(D); OAC 111-1-02(H)]

Registration Number

All statewide PACs are issued a registration number by the secretary of state. Every report submitted and every check issued by a statewide PAC should bear the registration number of the PAC issuing the check or filing the report.

[R.C. 3517.10(D)(1)]

Checks

Any check that a PAC uses to make a contribution or to make an expenditure must contain the full name and address of the committee. If the PAC files with the secretary of state, then it must also include its assigned registration number.

[R.C. 3517.10(E)(4)]

A NON-OHIO, NON-FEDERAL POLITICAL ACTION COMMITTEE CANNOT TRANSFER, OR "BRING IN", CONTRIBUTIONS WHICH WERE NOT RAISED UNDER OHIO LAW.

CONTRIBUTIONS

Generally speaking, the value of all contributions received by a campaign committee must be disclosed. With the exception of those received at a fundraising event, all contributions must be separately itemized. The primary elements for complete disclosure of a contribution are the name and address of each contributor as well as the date and amount of each contribution.

Anonymous Contributions

Contributors may not remain anonymous by request. If a donor does not want to be identified, then the contribution should not be made. However, if an anonymous contribution is received, then efforts must be made by the PAC receiving it to identify the donor. If the efforts are unsuccessful, then the contribution should have an explanation of the circumstances that caused it to be anonymous and a description of the efforts made to determine the donor's identity. This information should appear in the address portion of *form 31-A, Statement of Contributions*.

[R.C. 3517.10 (C)(2)]

Cash Contribution Limits

A contributor may not give more than \$100 per election in cash. Cash includes only currency or coin.

[*R.C. 3517.13(F); OAC 111-5-06*]

Contribution Limits

The amounts that PACs may contribute or accept is shown on the contribution limit chart. Contributions from one PAC to an affiliated PAC are not subject to contribution limits. However, contributions made from affiliated PACs are considered to have been made from a single PAC.

[*R.C. 3517.102*]

In-Kind Contributions

An in-kind contribution is a non-monetary contribution of goods or services that was made with the consent of, in coordination or cooperation with, or at the request or suggestion of the benefited PAC. Examples include receiving postage or signs, receiving rent-free office space, having personnel assistance compensated by a third party, or having a third party buy media advertising on behalf of the PAC.

[*R.C. 3517.01(B)(16)*]

Contributions from Minor Children

PACs are prohibited from knowingly accepting contributions from any individual under the age of seven.

[*R.C. 3517.102 (C)(7)*]

Partnerships/Unincorporated Associations

Contributions received from partnerships or unincorporated associations must reflect both the name of the entity and the individual making the contribution. Incorporated professional associations and limited liability companies are considered unincorporated associations or, if applicable, partnerships. Contributions may be transmitted by these entities but must include, at the time of the distribution, detailed information on the allocation of the contribution amount among the owners or partners of the unincorporated association or partnership. No contribution from a partnership or other unincorporated business may be accepted, deposited or used unless the recipient has the allocation information necessary to itemize the contribution by the partner(s), owner(s) or member(s).

[*R.C. 3517.10(I); OAC 111-5-20; OEC Adv. 96ELC-03*]

Public Employee Solicitations

Public employees may not solicit contributions or be solicited for contributions while performing their official duties or while they are in those areas of a public building where official business is transacted or conducted. The term “public employee” does not include any person holding an elective office.

[*R.C. 3517.092(F)*]

Deposit of Contributions and Other Income

All income must be deposited in an account within 30 days of receipt or returned to the donor without having been deposited. A contribution that is clearly illegal must be returned and not deposited. A contribution that appears on its face to be legal (e.g., not from a foreign national, corporation, or in excess of contribution limits) may be deposited and used by the PAC.

Contributions that appear questionable may be deposited, but not spent. The treasurer must make a good-faith effort to determine the legality of the contribution. If, within 30 days of receipt, it cannot be determined that the contribution is legal, then it must be returned. If a contribution is kept that is later found to be illegal, then the PAC must refund it within 10 days of the discovery.

[*OAC 111-5-12*]

EXPENDITURES

Independent Expenditures

An independent expenditure is an expenditure that is made in support of or in opposition to either a candidate or a ballot issue without the consent of, and not in coordination, cooperation or consultation with, or at the request or suggestion of the candidate or ballot issue. Such expenditures are reported by the PAC that makes them, but not by the benefited committee.

[*R.C. 3517.01(B)(17), 3517.105; OAC 111-3-02, 111-3-03*]

Permissible Use of Funds

PACs may use their contributions only in ways that match the definition of expenditure, as defined in *R.C. 3517.01(B)(6)*, or to refund excess or illegal contributions. This means that PACs are allowed to spend money and make in-kind contributions in a manner intended to influence an election or to make a charitable contribution. Charitable contributions are those made to a charity that has been designated as exempt from federal income taxation under subsection 501(a) and described in subsections 501(c)(3), 501(c)(4), 501(c)(8), 501(c)(10) or 501(c)(19) of the Internal Revenue Code or to any charity approved by advisory opinion of the Ohio Elections Commission.

[*R.C. 3517.08(G)*]

No person may convert for personal or business use anything of value from a PAC’s funds.

[*R.C. 3517.13(O)*]

PACs may not make any refund of any contribution unless the purpose is to refund a contribution in excess of the applicable contribution limit or to refund a contribution that has been determined to be illegal.

[*OEC Adv. 99ELC-03*]

Expenditure Verification

Every expenditure in excess of \$25 must have a corresponding canceled check or receipt photocopy attached to the report. A paid receipt is one that has been marked "PAID" by the vendor. In addition, the secretary of state or the county board of elections may request a log for certain items, such as mileage reimbursements, so that the expenditure and its appropriateness may be verified. If canceled checks are not returned or provided by the banking institution of the PAC, a copy or printout of the campaign committee's bank statements will suffice for the receipt requirement so long as the name of the vendor, date of transaction and amount of the expenditure are all provided. Additionally, printouts of cancelled check images as provided by the PAC's banking institution satisfy the expenditure verification requirement.

THE 3 PRIMARY PIECES
OF DATA NEEDED TO
MEET THE EXPENDITURE
VERIFICATION ARE:

- » NAME OF PAYEE
- » DATE OF EXPENDITURE
- » AMOUNT OF EXPENDITURE

[*R.C. 3517.10(D)*; *OAC 111-5-14*; *OEC Advs. 87ELC-03* and *87ELC-12*]

REPORTING

Corrections and Amendments

When a correction is necessary or additional information is obtained by the PAC or is required by the auditing authority relating to a report that has already been filed, an amended report must be filed. Amendments consist of only corrections to previously submitted information or additional information. The amendment should include either a report cover page or a cover letter clearly indicating the name of the PAC that is filing and what report is being amended. When the error is found, or when checks are received that could not earlier be attached to a report, the amendment should be filed immediately.

When an auditing authority requests additional information or a correction to a report, the PAC has 21 days to provide the information or correction.

[*R.C. 3517.11(B)*]

Fund-Raiser Exemption

A political action committee must report the name, address, date and amount for each contribution received. This detail must be provided with each report filed. One exception to that rule is that contributions totaling \$25 or less received at a specific fund-raising activity do not need to be itemized within a report. These contributions should be reported as a single line item with an aggregate amount on *form 31-E, Statement of Contributions Received at a Social or Fund-Raising Event*. Also, in-kind contributions totaling \$325 or less from one contributor at a single fund-raising activity need not be itemized. These contributions should be reported as a single line item with an aggregate amount on *form 31-J-1, Statement of In-kind Contributions Received*. However, in both instances, the treasurer is responsible for keeping itemized records of the contribution, in case such records are requested by the auditing authority.

[R.C. 3517.10(B)(4)(e)]

Payroll Deduction Exemption

A political action committee must report the name, address, date and amount for each contribution received. This detail must be provided with each report filed. An exception to that rule is provided for voluntary contributions to the PAC received via payroll deduction pursuant to R.C. 3599.031 that will aggregate \$25 or less per contributor per calendar year. These contributions may be listed together in each report with the description "Voluntary contributions received via payroll deduction aggregating \$25 or less per calendar year" along with the date and amount. If the contributions received from a contributor exceed an average of \$2 per month, then those contributions should be itemized in the report from the beginning of the calendar year. If the PAC does not know at the beginning of the year the amount of aggregate contributions it will receive from some of its members in a year, it may be easier for the PAC to provide an itemized list of all contributions received for each report filed. This information must be provided at the time the report is filed. If the report must be filed electronically pursuant to *R.C. 3517.106*, then the underlying contribution information must be included in the electronically filed report.

[R.C. 3517.10(B)(4)(e)]

When a PAC files a report, it must include all contributions received during that reporting period. When a PAC receives contributions via payroll deduction, the PAC is only responsible for reporting contributions that it has actually received during that reporting period. As an example, contributions that were deducted from the contributor's pay during the Pre-Primary reporting period, but which are not received by the PAC until the Post-Primary reporting period, do not need to be included in the Pre-Primary report. That information may be reported in the Post-Primary report. The date the PAC received the check containing the contributions would be used to determine in which report the data should be included.

Record Retention

PACs must keep their records for six years. The boards of elections and the secretary of state must also keep all reports filed with them for six years. This requirement includes all bank records (including deposit records), reports, amendments, correspondence, receipts, invoices and notices.

[R.C. 3517.10(C), (D); OAC 111-5-14]

Closing the Committee

With the exception of federal committees, including FSL, and non-Ohio committees, a PAC must have a zero balance, no outstanding debts and no outstanding loans before it may terminate. When these criteria have been met, the PAC must file a final report. This report should list all activity, if any, that has occurred since the previous report. The termination box must also be marked when the PAC desires to terminate. There is no separate form for terminating.

When a federal committee, including a FSL, that makes Ohio non-federal disbursements or a statewide non-Ohio PAC wishes to terminate, a letter stating that intent is sufficient. The zero balance is not required in such cases if the PAC indicates that it will engage henceforth only in activity outside of Ohio.

A PAC that is not terminating, but is changing its place of filing, should refer to the last paragraph in *Where to File Reports*.

[R.C. 3517.10]

THE TREND IN BANKING PRACTICES IS MOVING AWAY FROM MAILING A PAPER COPY OF STATEMENTS AND OTHER ACCOUNT INFORMATION. TREASURER'S SHOULD DOWNLOAD AND SAVE BANK STATEMENTS AND COPIES (IMAGES) OF CANCELED CHECKS EACH MONTH.