

Campaign Finance for Municipal Candidates

Christina Estes-Werther, General Counsel

League of Arizona Cities and Towns

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Presentation Overview

Topics to be Discussed

- ▶ Laws and Guidance for Municipal *Candidates*
- ▶ Registration Requirements
- ▶ Reporting Form
- ▶ Advertising Disclosures
- ▶ Enforcement/Penalties

Topics That Will Not Be Discussed

- ▶ Federal Campaign Finance Law
- ▶ Laws and Guidance Relating to PACs, Other Entities
- ▶ Charter Provisions Relating to Campaign Finance
- ▶ Special Election Requirements (e.g. recall elections)

Introduction

- ▶ **DISCLAIMER:** I am not your attorney; this training is not creating an attorney-client relationship.
- ▶ 2016 Repeal and Rewrite of Campaign Finance Laws have created many questions and issues that can't be answered.
- ▶ Focus of this training is on city and town candidates for the August/November 2020 election.
- ▶ Contact the clerk if you have general questions - for example, asking the difference between monetary contributions or in-kind contributions or which reporting period to select, the clerk can provide the statutory definitions and provide the reporting calendar.
- ▶ Seek legal counsel for specific questions - for example, if you are asking if a contribution should be characterized as an in-kind contribution - the clerk cannot tell you how to report it.
- ▶ Objective: Provide a comprehensive review of campaign finance laws for local candidates based on state law and state-issued guidance to properly register and report and avoid penalties or enforcement action.

Arizona Laws & Guidance

- ▶ In Arizona, campaign finance laws are found in Title, 16, Chapter 6, Articles 1 to 1.7 (A.R.S. §§ 16-901 to 16-938).
<https://www.azleg.gov/arsDetail/?title=16>
- ▶ Additional guidance is published by the Secretary of State:
 - ▶ 2020 Campaign Finance Candidate Guide:
https://azsos.gov/sites/default/files/2020_2_4_Campaign_Finance_Candidate_Handbook_2.pdf
 - ▶ 2020 Campaign Finance PAC Guide:
<https://azsos.gov/sites/default/files/%28FINAL%29%202020-2-4%20Campaign%20Finance%20-%20PAC%20Handbook.pdf>
 - ▶ 2019 State Election Procedures Manual, Chapter 16:
https://azsos.gov/sites/default/files/2019_ELECTIONS_PROCEDURES_MANUAL_APPROVED.pdf

Am I In A Charter City?

- ▶ AVONDALE
- ▶ BISBEE
- ▶ CASA GRANDE
- ▶ CHANDLER
- ▶ DOUGLAS
- ▶ FLAGSTAFF
- ▶ GLENDALE
- ▶ GOODYEAR
- ▶ HOLBROOK
- ▶ MESA
- ▶ NOGALES
- ▶ PEORIA
- ▶ PHOENIX
- ▶ PRESCOTT
- ▶ SCOTTSDALE
- ▶ TEMPE
- ▶ TUCSON
- ▶ WINSLOW
- ▶ YUMA

Talk to the city clerk and ask if there are any additional charter requirements relating to campaign finance.

What is Campaign Finance?

Campaign finance refers to the monies that are received and spent to promote a candidate or ballot measure.

Your Responsibilities



Inquiry

Determine if you need to register as a committee.



Register

If yes, register by using the Statement of Organization and obtain the Campaign Finance Candidate Guide and reporting forms from the clerk.



File

File reports timely. Deadlines are provided by the clerk. File termination documents when closing the committee.



Respond

Respond to the clerk's reporting reminders and requests for response if a campaign finance complaint is filed against the committee.



ARE YOU A CANDIDATE RUNNING
FOR A CITY OR TOWN OFFICE?



HAVE YOU MET THE \$500
THRESHOLD BY RECEIVING OR
SPENDING ANY MONIES
TOTALING \$500?



IF YES TO BOTH, THEN
COMMITTEE REGISTRATION IS
REQUIRED WITHIN TEN DAYS OF
REACHING THE THRESHOLD.

CANDIDATE COMMITTEE REGISTRATION

How Do I Determine the \$500 Threshold?

A city or town candidate who has received contributions or made expenditures (in any combination) of at least \$500 in connection with his or her candidacy during the election cycle is required to form a committee within 10 days of reaching that threshold. A.R.S. § 16-905(B).

- ▶ For example, a candidate who receives \$300 and spends \$200, the total amount is \$500, and the candidate is required to register as a committee.

Any total combination of contributions or expenditures that remains below \$500 does not trigger committee registration. **There is no longer a Threshold Exemption Statement to file.**

However, any contributions received or expenditures incurred before committee registration may be reportable if the candidate ultimately reaches the \$500 threshold, a candidate must keep track of all financial activity from dollar one. A.R.S. § 16-907(I).

How Do I Register a Candidate Committee?

A candidate committee is formed by filing a Statement of Organization with the filing officer within 10 days of qualifying as a committee. A.R.S. § 16-906(A).

The “filing officer” is the city or town clerk who accepts the Statement of Organization and campaign finance reports for the municipal office. A.R.S. § 16-928(A)(3).

What is a Statement of Organization?

A registration form that is required by a candidate who meets the \$500 monetary threshold and must be filed to properly form a committee.

The form requires basic contact information for the chairman and treasurer of the committee and name of the committee's bank account.

Upon filing, the clerk will issue a identification number to the committee. A.R.S. § 16-905.

Statement of Org: Chair and Treasurer

Identify a chairperson and treasurer.

- ▶ **Chairperson:** A chairperson may be assigned as many or as few duties as the candidate sees fit. Some chairpersons run the day-to-day operations of the campaign committee, while other chairpersons merely serve as figureheads. A.R.S. § 16-906.
- ▶ **Treasurer:** A custodian of the committee's books and accounts, must sign off on all financial transactions and remains legally and personally responsible for filing complete and accurate campaign finance reports. A.R.S. § 16-907(A).
 - ▶ A candidate committee may not engage in any financial activity without the authorization of the treasurer or, at least, someone designated by the treasurer. Since the treasurer is ultimately responsible for campaign finance reporting, it is only fair to give the treasurer final say over financial transactions.

Candidate committees are permitted to have the same person act as chairperson and treasurer and that person can be the candidate. A.R.S. § 16-906(B)(3).

What information must be included on a Statement of Organization?



Committee name



Committee mailing address



Committee email address



Committee website



Committee telephone number



Name of any banks or other financial institutions used by the committee.

Chairperson Information



Chairperson's name: A candidate may serve as chair of his or her own campaign committee (and may serve as the committee treasurer as well).



Chairperson's physical location or street address: The chair must provide a physical or street address where he or she can be located, and therefore may not list a P.O. Box.



Chairperson's email address*



Chairperson's telephone number*



Chairperson's occupation: The occupation should be sufficiently specific to identify the chair's line of work. If the chair has multiple occupations, list the chair's primary or principal occupation.



Chairperson's employer: If the chair has multiple employers, list the chair's primary or principal employer. - If the chair is self-employed, list the name, company, or title through which the chair does business.

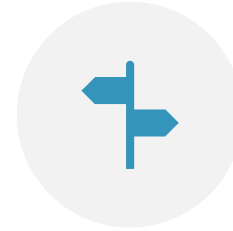
*Best practice is for the chair to list a personal or work email address and phone number that is separate from the committee's generic email address and telephone number. This is intended to ensure there are multiple ways to reach a committee via email.

A.R.S. § 16-906.

Treasurer Information



Name: A candidate may serve as treasurer of his or her own campaign committee (and may serve as the committee chair as well).



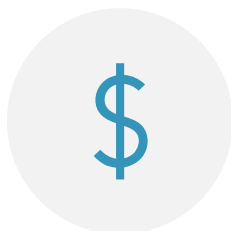
Physical location or street address: The treasurer must provide a physical or street address where he or she can be located, and therefore may not list a P.O. Box.



Email address: The treasurer should list a personal or work email address that is separate from the committee's generic email address. This is intended to ensure there are multiple ways to reach a committee via email.



Telephone number: The treasurer should list a personal or work telephone number that is separate from the committee's telephone number. This is intended to ensure there are multiple ways to reach a committee via telephone.



Occupation: The occupation should be sufficiently specific to identify the treasurer's line of work. If the treasurer has multiple occupations, list the treasurer's primary or principal occupation.



Employer: If the treasurer has multiple employers, list the treasurer's primary or principal employer. If the treasurer is self-employed, list the name, company, or title through which the treasurer does business.

Separate Bank Accounts

All committee monies shall be deposited in one or more bank accounts held by the financial institutions listed in the committee's Statement of Organization. Committee bank accounts shall be segregated as follows:

- ▶ Committee monies shall be segregated in different bank accounts from personal monies or any other person's monies.
- ▶ Contributions from individuals, partnerships, candidate committees, political action committees or political parties shall be segregated in different bank accounts from contributions from other donors.

Certain monies must not be commingled in the same bank account.

The committee's monies should be held in an account under the committee's name at the financial institution listed in the committee's Statement of Organization. A.R.S. § 16-907(B).

After providing the required information outlined above, the candidate, chair, and treasurer must swear under **penalty of perjury** that the candidate:

- ▶ Has read the Secretary of State's Campaign Finance - Candidate Guide (and/or any additional guide provided by the clerk),
- ▶ Agrees to comply with Arizona campaign finance law, and
- ▶ Agrees to accept all notifications, statements, service of process, or other important documents **via the committee's email address**. A.R.S. § 16-906(C).

In the event a campaign finance complaint is filed against the committee, for example, the clerk will not accept failure to monitor the email account(s) as a legitimate defense for failing to respond to the complaint.

Original signatures are not required for a statement of organization, given that typed or electronic signatures are deemed to have the same legal effect.

Once registration is complete, the clerk will issue an identification number for the candidate committee. This identification number will be used to identify the committee in future correspondence.

Finalizing the Statement of Organization

What if I need to change the information on my Statement of Organization?

If there is a change in any committee information, a committee must file an amended statement of organization within ten days of the change. A.R.S. § 16-906(C).

Q & A: Changing my Statement of Organization

Treasurer's Recordkeeping Responsibilities

A committee shall keep records of the following:

- ▶ All contributions made or received by the committee.
- ▶ The identification of any contributor that contributes in the aggregate at least \$50 to the committee during the election cycle, the date and amount of each contribution and the date of deposit into the committee's account.
- ▶ Cumulative totals contributed by each contributor during the election cycle.
- ▶ The name and address of every person that receives a contribution, expenditure or disbursement from the committee, including the date and amount, and, for any expenditure or disbursement, the purpose of the expenditure or disbursement. A.R.S. § 16-907(D).

Recordkeeping and Record Retention

- ▶ A committee shall preserve all records required to be kept by this section for **two years** following the end of the election cycle. A.R.S. § 16-907(G).
- ▶ On request of the clerk or city or town attorney (enforcement officer), a committee that has filed a Statement of Organization shall produce any of the records required to be kept pursuant to A.R.S. § 16-907(H).
- ▶ A person that qualifies as a committee pursuant to A.R.S. § 16-905 shall report all contributions, expenditures and disbursements that occurred before qualifying as a committee and shall maintain and produce records as prescribed by this section. A.R.S. § 16-907(I).

Recording Receipt of Contributions

A contribution is deemed to be received:

- ▶ on the date the committee **knowingly takes possession** of the contribution or
- ▶ the date of the check or credit card payment.

“Knowingly takes possession” means that the committee is aware that it likely possesses a contribution (for example, the campaign’s most recent mail delivery contains several return envelopes issued by the campaign to receive contributions).

For an in-kind contribution of services, the contribution is deemed made:

- ▶ on the date the services are performed or
- ▶ the date the committee receives the services.

A.R.S. § 16-926(C)(1).

Incomplete Contributions

Some contributions are bound to be lacking the required information - these are known as “incomplete contributions.” If a campaign committee discovers an incomplete contribution, it is required to affirmatively seek out the missing information in order to file a complete and accurate campaign finance report.

Making “Best Efforts” to Seek Missing Information

- ▶ A committee shall exercise its best effort to obtain the required information for any incomplete contribution received that is required to be itemized and reported. The committee treasurer must make at least one attempted written communication (email, text message, social media private message or other similar communication), or at least one attempted oral communication to the contributor that is documented in writing. A.R.S. §§ 16-901(5),(30), 16-907(C).
- ▶ The committee shall clearly ask for identification and inform the contributor that the committee is required by law to seek identification. A.R.S. § 16-907(C).
- ▶ The committee shall report in an amended report any contributor identification obtained after the contribution has been disclosed on a campaign finance report. A.R.S. § 16-907(C).

Recording Receipt of Expenditures

An expenditure or disbursement is deemed made:

- ▶ on the date the committee authorizes the monies to be spent or
- ▶ the date the monies are withdrawn from the committee's account.

For a transaction by check, the expenditure or disbursement is deemed made on the date the committee signs the check.

For a credit card transaction on paper, the expenditure or disbursement is deemed made on the date the committee signs the authorization to charge the credit card.

For an electronic transaction, an expenditure or disbursement is deemed made on the date the committee electronically authorizes the charge.

For an agreement to purchase goods or services, the expenditure or disbursement is deemed made either on the date the parties enter into the agreement or the date the purchase order is issued.

A.R.S. § 16-926(C)(2).

Recording Receipt of Expenditures

If a particular expenditure or disbursement does not fall into one of the above categories, the committee is permitted to treat the expenditure/disbursement as being made:

- ▶ on the date that the committee authorized the expenditure/disbursement; or
- ▶ the date that the money is withdrawn from the committee's account.

Use a consistent approach! Do not use the date of the check for some contributions while using date of possession for other contributions received at the same time. If the committee's approach is consistent, and not strategic or random, the clerk will usually defer to the committee's judgment in its method.

A.R.S. § 16-926(C)(2).

As a candidate, may I have more than one committee open?

- ▶ A candidate may only have one campaign committee in existence for the **same office** during the same election cycle.

I have a committee open from a previous election cycle and I'm running for re-election. Do I need to close it and open a new committee?

- ▶ No, if a candidate runs for the same office in consecutive election cycles, it is not necessary to open a new campaign committee for the next election cycle while terminating the previous committee. It is acceptable to continue using the previously existing committee and amend that committee's statement of organization to make any necessary changes.

What if I have an open committee for council from a past election cycle, but this year I am running as a mayoral candidate. Do I need to close the committee for council?

- ▶ No, a candidate may simultaneously maintain multiple committees for different offices. If a candidate has a candidate committee open for more than one office, the committee name must include the office sought (e.g. Jane Doe for council, Jane Doe for legislator). Multiple committees does not necessarily mean the candidate is permitted to freely transfer money between these committees.

Q & A: Multiple Committees

Can a candidate who does not meet the \$500 threshold still register as a candidate committee?

Yes; however, once a candidate registers as a committee reporting requirements are triggered and penalties apply if reports are not filed.

Q & A: Committee Registration

Yes, the personal monies are contributions and are included in the \$500 threshold calculation and must be reported. A.R.S. § 16-926(B)(2)(a)(viii).

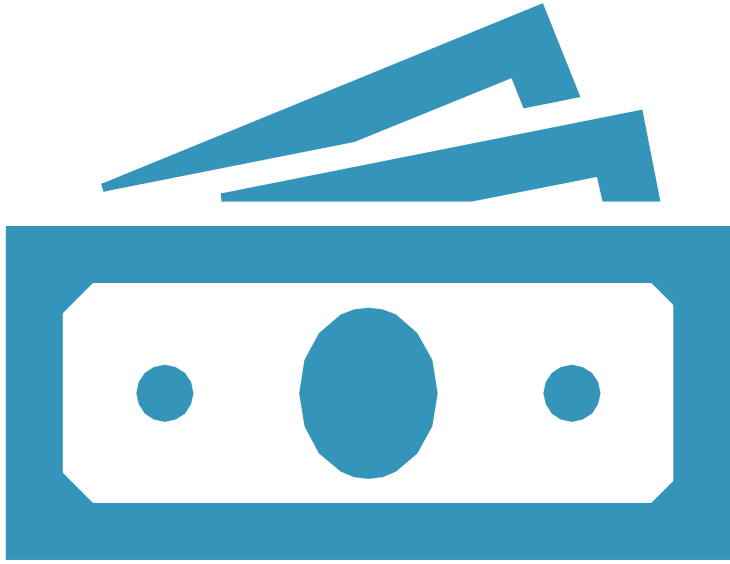


The benefit of personal monies is that it is not subject to contribution limits. A.R.S. § 16-913(F).

Q &A: If a candidate ONLY spends his or her own money, does the candidate have to register and report when they meet the \$500 threshold?



▶ Key Terms



Contributions

What is a Contribution?

A CONTRIBUTION means any money, advance, deposit or **other thing of value** that is made to a person for the purpose of influencing an election. A.R.S. § 16-901(11). Contribution includes:

- ▶ A contribution that is made to retire campaign debt from a previous election cycle.
- ▶ Money or the fair market value of anything that is directly or indirectly provided to an elected official for the specific purpose of defraying the expense of communications with constituents (in-kind).
- ▶ The full purchase price of any item from a committee.
- ▶ A loan that is made to a committee for the purpose of influencing an election, to the extent the loan remains outstanding.

A person may make any contribution not otherwise prohibited by law.
A.R.S. § 16-911.

Contributions must be reported unless otherwise exempt by state law.
A.R.S. § 16-926.

What is NOT a Contribution?

The following are not contributions:

- ▶ The value of an individual's volunteer services or expenses that are provided without compensation or reimbursement, including the individual's: (a) Travel expenses; (b) Use of real or personal property; (c) Cost of invitations, food or beverages; or (d) Use of e-mail, internet activity or social media messages, **only if the individual's use is not paid for by the individual or any other person and if the e-mails, social media messages or other internet activities do not contain or include transmittal of a paid advertisement or paid fund-raising solicitation.**
- ▶ The costs incurred for covering or carrying a news story, commentary or editorial by a broadcasting station or cable television operator, video service provider, an internet website, a newspaper or another periodical publication, including an internet-based or electronic publication, **if the cost for the news story, commentary or editorial is not paid for by and the medium is not owned or under the control of a candidate or committee.**
- ▶ Any payment to defray the expense of an elected official meeting with constituents or attending an informational tour, conference, seminar or presentation, **if the payor or the elected official does not attempt to influence the result of an election and the payment is reported if required pursuant to title 38, chapter 3.1 (financial disclosure statement) or title 41, chapter 7, article 8.1, (lobbyist filings) or both. A.R.S. § 16-911.**

What is NOT a Contribution?

The following are not contributions:

- ▶ The payment by a **political party to support its nominee**, including: (a) The printing or distribution of, or postage expenses for, voter guides, sample ballots, pins, bumper stickers, handbills, brochures, posters, yard signs and other similar materials distributed through the party or (b) Coordinated party expenditures. **THIS DOES NOT APPLY TO NONPARTISAN ELECTIONS.**
- ▶ The payment by any person to defray a **political party's** operating expenses or party-building activities. **THIS DOES NOT APPLY TO NONPARTISAN ELECTIONS.**
- ▶ The value of any of the following to a committee: (a) Interest earned on the committee's deposits or investments; (b) Transfers between committees to reimburse expenses and distribute monies raised through a joint fund-raising effort, if the transfers comply with an agreement to reimburse and distribute monies that was executed before the joint fund-raising effort occurred; (c) **Payment of a committee's legal or accounting expenses by any person;** (d) An extension of credit for goods and services on a committee's behalf by a creditor if the terms are substantially similar to extensions of credit to nonpolitical debtors that are of similar risk and size of obligation. The creditor must make a commercially reasonable attempt to collect the debt, except that if an extension of credit remains unsatisfied by the committee after six months the committee is deemed to have received a contribution, but the creditor is not deemed to have made a contribution.

A.R.S. § 16-911

Q &A: If I pay an attorney for legal advice, can I pay for this service out of my committee monies? If so, am I required to report it?

Candidates may not use campaign funds for personal use. Therefore, the payment of legal expenses unrelated to one's candidacy constitutes a prohibited use of campaign funds.

Legal services for committee activities (e.g. defending against a complaint) is a lawful use of campaign monies. State law exempts the payment of a committee's legal or accounting expenses by any person from the definition of contribution and expenditure, so it was not a reportable item. However, those provisions are currently enjoined by court order. See *Arizona Advocacy Network v. State*, CV2017-096705 (Maricopa County)(appeal pending). Until the matter is resolved, it may be best to report legal expenses.

What is NOT a Contribution?

The following are not contributions:

- ▶ The value of nonpartisan communications that are intended to encourage voter registration and turnout efforts.
- ▶ Any payment to the clerk for arguments in a publicity pamphlet.
- ▶ The payment by any sponsor or its affiliate for the costs of establishing, administering and soliciting contributions from its employees, members, executives, stockholders and retirees and their families to the sponsor's separate segregated fund.
- ▶ Any payment by any entity for the costs of communicating with its employees, members, executives, stockholders and retirees and their families about any subject, without regard to whether those communications are made in coordination with any candidate or candidate's agent.
- ▶ The value of allowing a candidate or a committee's representative to appear at any private residence or at the facilities of any entity to speak about the candidate's campaign or about a ballot measure, if the venue is furnished by the venue's owner, is not paid for by a third party and is not a sports stadium, coliseum, convention center, hotel ballroom, concert hall or other similar arena that is generally open to the public.

A.R.S. § 16-911

What is NOT a Contribution?

The following are not contributions:

- ▶ The costs of hosting a debate or candidates' forum, if at least two opposing candidates, with respect to any given office sought, are invited with the same or similar advance notice and method of invitation.
- ▶ The preparation and distribution of voter guides as long as a featured candidate or does not receive greater prominence or substantially more space in the voter guide than any other candidate; or it does not include any message that constitutes express advocacy (defined in A.R.S. § 16-901.01).
- ▶ Monies that are loaned by a financial institution in the ordinary course of business and not for the purpose of influencing the results of an election, except that the loan is deemed a pro rata contribution by any endorser or guarantor, other than the candidate's spouse.
- ▶ The costs of publishing a book or producing a documentary, if the publication and production are for distribution to the general public through traditional distribution mechanisms or a fee is obtained for the purchase of the publication or viewing of the documentary.

A.R.S. § 16-911

Methods of Accepting Contributions

A committee may accept a cash contribution or a contribution by written or electronic instrument, including a check, credit card, payroll deduction, online payment or electronic transfer, if the contributor is an account holder of the instrument. The committee is not required to provide a receipt for cash contributions, although some contributors might request one.

Unless designated as a joint contribution, a contribution shall be attributed to the account holder that signs the instrument or authorizes the transaction. For example, the committee may not accept a check drawn from the account of “David Johnson” when the accompanying contribution form is from “Marcy Smith.” In these cases, the committee must attempt to reconcile the discrepancy and be prepared to issue a refund. A.R.S. § 16-907(E),(F).

Cryptocurrency: While a candidate committee may accept an in-kind contribution in the form of cryptocurrency such as Bitcoin, Ethereum, or Litecoin, and such contributions are generally subject to the same rules applicable to traditional contributions in U.S. currency, **the committee should consult legal counsel for advice regarding accepting, retaining, and valuing cryptocurrency for campaign finance reporting purposes.** For more information, see Secretary of State Campaign Finance - Candidate Guide, Section 2.2.2.1 Cryptocurrency Contributions.

What is an Expenditure?

EXPENDITURE means any purchase, payment or other thing of value that is made by a person for the purpose of influencing an election. A.R.S. § 16-901(25).

A person may make any expenditure not prohibited by law. A.R.S. § 16-921.

What is NOT an Expenditure?

The following are not expenditures:

- ▶ The value of an individual's volunteer services or expenses that are provided without compensation or reimbursement, including the individual's (a) Travel expenses, (b) Use of real or personal property; (c) Cost of invitations, food or beverages; or (d) Use of e-mail, internet activity or social media messages, only if the individual's use is not paid for by the individual or any other person and if the e-mails, social media messages or other internet activities do not contain or include transmittal of a paid advertisement or paid fund-raising solicitation.
- ▶ The value of any news story, commentary or editorial by any broadcasting station, cable television operator, video service provider, programmer or producer, newspaper, magazine, website or other periodical publication that is not owned or operated by a candidate, a candidate's spouse or any committee.
- ▶ The payment by any person to defray a **political party's** operating expenses or party-building activities, including: (a) Party staff and personnel; (b) Studies and reports; (c) Voter registration, recruitment, polling and turnout efforts; (d) Party conventions and party meetings; or (e) Construction, purchase or lease of party buildings or facilities. **THIS DOES NOT APPLY TO NONPARTISAN ELECTIONS.**

A.R.S. § 16-921

What is NOT an Expenditure?

The following are not expenditures:

- ▶ The value of nonpartisan communications that are intended to encourage voter registration and turnout efforts.
- ▶ Any payment by a person that is not a committee to the clerk for arguments in a publicity pamphlet.
- ▶ **Any payment for legal or accounting services that are provided to a committee** (currently enjoined by *Arizona Advocacy Network v. State*, CV2017-096705 (Maricopa County)(appeal pending)).
- ▶ The payment of costs of publishing a book or producing a documentary, if the publication and production are for distribution to the general public through traditional distribution mechanisms or a fee is obtained for the purchase of the publication or viewing of the documentary.

A.R.S. § 16-921

YES. It is your responsibility to must pay careful attention to the identity of the donors to ensure that you are not violating any contribution restrictions.

A candidate committee may only accept contributions from individuals, candidate committees (if conditions are met), political action committees and partnerships. A.R.S. § 16-913(D). For partisan offices, political parties may contribute if the candidate is the party's "nominee" who prevailed in the primary. A.R.S. § 16-915(C).

A candidate committee may not accept contributions from unions, corporations, LLCs, or any other organization, group or business entity (other than partnerships). A.R.S. § 16-916(A).

Q & A: Am I
limited from
accepting
contributions
from any
person or
entity?

Q & A: What if I accidentally accept a contribution that is prohibited?

This is an unlawful contribution and must be refunded immediately.

If possible, document the circumstances leading to the acceptance of the prohibited contribution and what actions were taken to remedy the mistake.

Q & A: Am I limited in how much I can accept in contributions?

Yes, contributions from allowable sources are subject to contribution limits.

Contribution limits vary according to who contributes and the office sought.

Both the candidate and the contributor should understand how contribution limits will impact them.

Contribution limits are increased by \$100 in January of every odd-numbered years. A.R.S. § 16-931(A)(2).

https://azsos.gov/sites/default/files/2019-2020_contribution_limit_chart.pdf

LOCAL CANDIDATES CONTRIBUTION LIMITS FOR EACH ELECTION CYCLE

TYPE OF CONTRIBUTOR	CONTRIBUTION LIMIT	STATUTE
Individual	\$6,450	A.R.S. § 16-912(A)(1)
Partnerships	\$6,450	A.R.S. § 16-917(A)(2)
Candidate Committees	\$6,450 if certain criteria are met	A.R.S. § 16-913(A) A.R.S. § 16-933(A)(3)
Political Action Committees (PACs)	\$6,450	A.R.S. § 914(A)(1)
PACs - MEGA status	\$12,900	A.R.S. § 16-914(B)
Political Parties (does not apply to nonpartisan elections)	\$10,200	A.R.S. § 16-915(A)(1)
Corporations	Prohibited	A.R.S. § 16-916(A)
Limited Liability Companies	Prohibited	A.R.S. § 16-916(A)
Trust, Joint Venture, Cooperative, or Other Unincorporated Organization or Association	Prohibited	A.R.S. § 16-913(D)
Union	Prohibited	A.R.S. § 16-916(A)

Election Cycle

Contribution limits apply over the course of an election cycle.

For city and town races, the election cycle constitutes the **two-year period** beginning on the first day of the calendar quarter after the calendar quarter in which the city's or town's second, runoff or general election is scheduled and ending on the last day of the calendar quarter in which the city's or town's immediately following second, runoff or general election is scheduled (however designated or characterized by the city or town). A.R.S. §§ 16-211, 16-901(18).

In addition, a separate election cycle is created in the event of a recall election or a special election. A.R.S. § 16-901(18).

A donor's contribution limit resets every two years, even if a candidate's term of office exceeds the two-year period. For example, an incumbent mayor serving a four-year term may accept the maximum contribution from a particular donor in each of the two-year periods of the mayor's term.

Election Cycle - 2020

Calendar Quarter means a period of three consecutive calendar months ending on March 31, June 30, September 30 or December 31. A.R.S. § 16-901(6).

When is the city or town's second, runoff or general election scheduled? Nov 2018, which falls in the Oct 1 - Dec 31, 2018 calendar quarter.

What is the first day of the calendar quarter after the calendar quarter in which the city's or town's second, runoff or general election is scheduled? Jan 1, 2019.

When is the next second, runoff or general election scheduled? Nov 2020, which falls in the Oct 1 - Dec 31, 2020 calendar quarter.

What is the last day of the calendar quarter in which the city's or town's immediately following second, runoff or general election is scheduled? Dec 31, 2020.

The election cycle began Jan 1, 2019 and ends Dec 31, 2020.

Election Cycle - 2022

Calendar Quarter means a period of three consecutive calendar months ending on March 31, June 30, September 30 or December 31. A.R.S. § 16-901(6).

When is the city or town's second, runoff or general election scheduled? Nov 2020, which falls in the Oct 1 - Dec 31, 2020 calendar quarter.

What is the first day of the calendar quarter after the calendar quarter in which the city's or town's second, runoff or general election is scheduled? Jan 1, 2021.

When is the next second, runoff or general election scheduled? Nov 2022, which falls in the Oct 1 - Dec 31, 2022 calendar quarter.

What is the last day of the calendar quarter in which the city's or town's immediately following second, runoff or general election is scheduled? Dec 31, 2022.

The next election cycle begins on Jan 1, 2021 and ends Dec 31, 2022.

Q & A: What is the importance of the election cycle?

Election cycle determines your contribution limits and when to file campaign finance reports.

Election Cycle and Contribution Limits

If you are elected in Aug or Nov 2020 for a **4-year term**, there are two election cycles within your term. Your next election will be in Aug or Nov 2024.

The first election cycle begins Jan 1, 2021 and ends Dec 31, 2022.

\$6,550* from an individual

The second election cycle begins Jan 1, 2023 and ends Dec 31, 2024.

\$6,650* from the same individual

*Contribution limit increases by \$100 every Jan in an odd-numbered year

Q & A: What happens if there is no runoff? How is the election cycle determined?

The election cycle is based on the “scheduled” second, runoff or general election. It doesn’t matter if the election occurs for purposes of calculating the election cycle.

Campaign Finance Reporting



Campaign Finance Report Form - Cover Page

The report form is prescribed by the State for local candidates. A few cities have electronic filing systems in lieu of the form.

All statements and reports must be publicly available on the internet.
A.R.S. § 16-928(C).

COMMITTEE ID NUMBER

- ▶ This is the identification number issued by the clerk on your Statement of Org

COMMITTEE INFORMATION

- ▶ Make sure it matches what is on your Statement of Org
- ▶ Office Sought: 1) Select city or town; 2) list office

Campaign Finance Report Form

REPORTING PERIOD

- ▶ "Local Only" does not mean your local candidate race. For anyone running for office in August/November 2020, do not select "Local Only" options on the form.
- ▶ Select the date that is based on the election cycle.

REPORT DUE

- ▶ The first day listed is the beginning of filing period; the report is due on the second day listed.
- ▶ All reports are due on the deadline.
 - ▶ If filing in person, before the closure of the clerk's office on the day of the deadline; or
 - ▶ If filing electronically (scanning and sending a pdf by email), the email must be sent to the clerk before midnight to be timely.

Reporting Period

Campaign finance reports cover the applicable “reporting period,” which will vary as follows:

- ▶ Reports generally must be filed on a **quarterly basis** and reports the activity during the “calendar quarter,” which is defined as “a period of three consecutive calendar months ending on March 31, June 30, September 30 or December 31.” A.R.S. §§ 16-901(6).
 - ▶ For example, the first quarter report in an election year covers January 1 to March 31 and must be filed between April 1 and April 15.
- ▶ If an election is scheduled during a particular quarter, a **pre-election report** also must be filed. A.R.S. § 16-927(A)(2)(a). The pre-election report covers activity from the beginning of the quarter through 17 days before the election and must be filed 7 days later. For example, for the primary election on August 4, 2020, the pre-election report covers July 1- July 18 and must be filed by July 27, 2020.
- ▶ The following third quarter report (post-election report) is due on October 15 and will only cover July 19 to September 30 since the first 18 days of July were covered in the pre-election report.

Candidate Committee Reporting Period

A candidate committee's reporting responsibilities are unique because the committee is only required to comply with quarterly, pre-election, and post-election reporting requirements during the **12-month period** preceding the general election at which the candidate seeks election. A.R.S. § 16-927(B).

- ▶ For city and town candidates, reports must be filed covering the 12-months prior to the city's or town's second, runoff or general election. A.R.S. § 16-927(B).
- ▶ A municipal candidate committee must file campaign finance reports with the clerk with whom it filed a statement of organization. A.R.S. § 16-928(A).

2020 Reporting Deadlines

2020 REPORTING PERIOD	REPORT DUE
2019 Cumulative Report: Jan 1, 2019 to Dec. 31, 2019	Jan 1, 2020 to Jan 15, 2020
1 st Quarter Report: Jan 1, 2020 to Mar 31, 2020	Apr 1, 2020 to Apr 15, 2020
2 nd Quarter Report: Apr 1, 2020 to Jun 30, 2020	Jul 1, 2020 to Jul 15, 2020
July Pre-Election Report: Jul 1, 2020 to Jul 18, 2020	Jul 19, 2020 to Jul 27, 2020
3 rd Quarter Report: Jul 19, 2020 to Sep 30, 2020	Oct 1, 2020 to Oct 15, 2020
Oct Pre-Election Report: Oct 1, 2020 to Oct 17, 2020	Oct 18, 2020 to Oct 26, 2020
4 th Quarter Report: Oct 18, 2020 to Dec 31, 2020	Jan 1, 2021 to Jan 15, 2021

Q & A: How Do I Know When to Start Filing My Reports?

The timing and scope of a candidate's first campaign finance report depends on the date of the SCHEDULED general/runoff election, which determines the filing deadline for the candidate's first campaign finance report of the election cycle.

WHEN TO FILE:

- ▶ If the general/runoff election is scheduled on November 3, 2020, the 12-month lookback period extends back to November 3, 2019.
- ▶ November in the last quarter of 2019 with the report due January 15, 2020. This is the first report due for candidates running in the August/November 2020 election.

WHAT TO FILE:

- ▶ However, the first report in a new election cycle must include the entire election cycle to date. There cannot be gaps in reporting between election cycles. A.R.S. § 16-927(B).

Q & A: What if I didn't have a committee open until this year?

If you opened your committee in 2020, your first report is due on the next filing deadline after filing a Statement of Organization.

WHEN TO FILE:

- ▶ For example, if you filed your Statement of Org today, June 10, 2020, your next report is due July 15, 2020.

WHAT TO FILE:

- ▶ Remember, the first report in a new election cycle must include the entire election cycle to date. There cannot be gaps in reporting between election cycles. A.R.S. § 16-927(B).

Q & A: Do I File A Report In Non-Election Years?

- ▶ No. PACs have different reporting requirements and must file quarterly regardless if it is an election year. Candidates only file during that preceding 12-month window based on the next scheduled runoff for their election.
- ▶ For example, if you are elected this Aug 2020 to a 4-year term, your last report this election cycle is due Jan 15, 2021. Your next report is due Jan 15, 2024. Three years without filing!
- ▶ Remember to keep track of contributions and expenditures - everything must be reported on that first report filed on Jan 15, 2024.

Q & A: Why Aren't All Candidates Filing Reports At The Same Time?

- ▶ Since the law only requires a candidate to file during the 12 months preceding their scheduled runoff, if candidates have staggered terms, they are no longer filing on the same schedule.
- ▶ For example, candidates who are running for office this year in Aug/Nov 2020, will not have to file reports in the 2022 election cycle.

Filing Campaign Finance Reports

Arizona law spells out specific categories of information that must be included in campaign finance reports. Cities and towns must use the campaign finance reporting forms prescribed by the Secretary of State and can be obtained from your clerk.

- ▶ Cash on Hand. The committee must report the amount of cash on hand at the beginning of the reporting period. A.R.S. § 16-926(B)(1).
- ▶ Total Receipts. The committee must report its total receipts during the reporting period, which includes contributions and any other form of income received by the committee. A.R.S. § 16-926(B)(2).
- ▶ Most receipts must be itemized, which means the treasurer must record the name of the contributor, the amount received, and the date of receipt, in certain categories. A.R.S. § 16-926(B)(2)(a).
- ▶ Cumulative totals. A candidate committee must report cumulative totals in each category— not only during the particular reporting period, but for the entire election cycle to date as well. A.R.S. § 16-926(F).
- ▶ Certification. Each campaign finance report must include a certification by the committee treasurer, issued under penalty of perjury, that the contents of the report are true and correct. A.R.S. § 16-926(B)(5).

Campaign Finance Report Form

BOTTOM OF COVER PAGE

- ▶ Current value at the beginning of the reporting period
- ▶ Total from Schedule A (Summary of Contributions/Receipts)
- ▶ Total from Schedule B (Summary of Expenditures/Disbursements)
- ▶ Balance at close of reporting period
- ▶ No financial activity box is checked if there have been no receipt or expenditures of any funds. In order to check this box, your report must be identical to last report.

SIGNATURE PAGE

- ▶ Print and sign before submitting report to the clerk.

SUMMARY OF RECEIPTS PAGE

SUMMARY OF DISBURSEMENTS PAGE

Types of Contributions



Monetary Contributions



Loans



In-Kind Contributions

Reporting Individual Contributions

SCHEDULE A(1)(a)

Individual Contributions Over \$50

- ▶ Must report each contributor's first and last name, residential location or street address (a P.O. Box is not permitted), occupation, and employer. A.R.S. § 16-901(29)(a), (b).
- ▶ **Foreign Nationals:** An individual contributor must be an American citizen or lawful permanent resident of the United States. 52 U.S.C. § 30121; 11 C.F.R. § 110.20. Committees are not required to seek proof of citizenship or confirm immigration status, however checks drawn on a foreign bank account should trigger further inquiry by the committee to obtain reasonable assurance that the contributor is an American citizen or lawful permanent resident.
- ▶ **Joint Contributions from Spouses:** Spouses each have their own contribution limit but are permitted to make a joint contribution. A.R.S. § 16-907(F). Special rules apply to such contributions.
- ▶ **Lobbyists:** Local jurisdictions may have prohibitions against lobbying contributions to candidates; committees should verify if restrictions exist with the clerk.
- ▶ **Minors:** Minors under 18 years old are permitted to make contributions. However, the contribution is treated as a contribution by the minor's custodial parent(s). The committee is required to obtain the parent(s)' identifying information for reporting and contribution limit purposes. A.R.S. § 16-912(C).

Reporting Individual Contributions

Individual Contributions \$50 or Less (Aggregate)

SCHEDULE A(1)(b)

- ▶ If an individual contributor gave \$50 or less to a candidate's committee during the election cycle, the committee does not need to report the contributor's name, address, occupation and employer.
- ▶ But the committee should keep records of this information.
- ▶ If an individual contributor eventually exceeds the \$50 threshold during the election cycle, the contributor's identifying information will be required to be reported going forward. If the committee does not track a person's small-dollar contributions from the beginning, it will be difficult to know when a contributor's \$50 aggregate threshold has been reached.

Reporting Individual Contributions: Tracking Small Donations

Campaigns are not expected to seek identifying information during isolated or fleeting fundraising encounters, such as when selling campaign T-shirts or raffle tickets.

On the other hand, routinely raising funds at a reoccurring political meeting or event is likely to put a candidate face-to-face with donors who are inclined to contribute again in the future. Generally, a candidate should err on the side of caution if there is a substantial likelihood of encountering small dollar contributors who will exceed \$50 in contributions during the election cycle.

In the end, a campaign should always use its best judgement as to when to collect identifying information from small dollar individual contributors. Further, even if identifying information is not required from small-dollar individual contributors, the candidate committee must report the aggregate amount of contributions from all individuals whose contributions do not exceed \$50 for the election cycle. A.R.S. § 16-926(B)(2)(b).

Reporting Individual Contributions

Candidate Committee Contributions

- ▶ Must report the committee name and ID number (as listed on their Statement of Organization) and a physical or street address (a P.O. Box is not permitted). A.R.S. § 16-901(29)(b),(41).

Contributions from one candidate committee to a candidate committee for another candidate are prohibited except if disposing **SURPLUS MONIES** under the following conditions are met:

- ▶ The contribution must be made after the candidate filing deadline, which is 120 days before the first election in a city or town (April 6, 2020); See A.R.S. § 16-311(A). The contribution need not be made before the contributing candidate finishes his or her term of office.
- ▶ The contributing candidate must be in the last year of his or her term and not seeking reelection (or have already left office); A.R.S. § 16-933(A)(3)(b). The contributing candidate must not have filed a nomination paper with any filing officer at the deadline to seek reelection. A.R.S. § 16-311(A) and A.R.S. § 16-933(A)(3)(b).
- ▶ The contribution must be made in accordance with the contribution limit applicable to individuals. In other words, a candidate may contribute \$6,450 to a local candidate, only in connection with the disposal of surplus monies. A.R.S. § 16-933(A)(3)(d).

SCHEDULE A(1)(c)

Q & A: A city council member is in the final year of her term and has decided not to run for reelection. The member did not file nomination paperwork before the April 6, 2020 deadline and will not be on this year's ballot. Can this council member contribute to another candidate's committee?

Yes, the member is in the final year of the term, the nomination deadline has passed, and the member did not file paperwork to be on the ballot. The member can contribute up to the limit.

No. Although the deadline has passed and he didn't file nomination paperwork, it is because he was not running for reelection this year - his term ends in 2022. He is not in the final year of his term and cannot contribute to another candidate.

Q & A: A mayor has two years left on his 4-year term and hasn't decided if he will run for re-election in 2022. The April 6, 2020 nomination paperwork deadline has passed for other candidates and he isn't running for re-election this year. Can this mayor contribute to another candidate's committee?

Reporting Individual Contributions

Political Action Committee Contributions

SCHEDULE A(1)(d)

- ▶ Must report the committee name and ID number (as listed on their Statement of Organization) and a physical or street address. A P.O. Box is not permitted. A.R.S. § 16-901(29)(b),(41).
- ▶ A candidate committee may accept contributions only from PACs registered with the applicable filing officer. For example, a PAC that contributes to a mayoral candidate must be registered with that city or town's clerk prior to making a candidate contribution. A.R.S. § 16-913(D).
- ▶ A candidate committee is not required to verify whether a PAC is properly registered before depositing a PAC contribution, but it is recommended.
- ▶ However, a Mega PAC that attempts to contribute more than the contribution limit for standard PACs must provide a copy of its Mega PAC certification to the recipient committee. A.R.S. § 16-914(B). A candidate committee is not permitted to accept or deposit an over-limit contribution unless it receives this certification from a PAC. A.R.S. § 16-914(B).
- ▶ If a candidate committee is unable to acquire the certification despite making best efforts, the candidate committee may verify Mega PAC status through the Secretary of State's website (or other filing officer's website) and make a written record documenting the committee's verification efforts. A.R.S. § 16-914(B).

A mega PAC is a PAC that is certified by the Secretary of State as having received contributions from 500 individuals in amounts of \$10 or more in a four-year period before applying to the Secretary's Office for this status. A.R.S. §§ 16-901(37), 16-908.

A mega PAC status may contribute twice the contribution limit per election cycle if the PAC provides the recipient candidate committee a copy of the political action committee's certification of mega PAC status. A.R.S. § 16-914.

Q & A: What is
a Mega PAC?

Reporting Individual Contributions

SCHEDULE A(1)(e)

Political Party Contributions

- ▶ Must report the committee name and ID number (as listed on their Statement of Organization) and a physical or street address. A P.O. Box is not permitted. A.R.S. § 16-901(29)(b),(41).
- ▶ A candidate who prevailed in the primary election (a “nominee”) may accept a contribution from his or her political party. A.R.S. § 16-915; A.R.S. § 16-901(38).
- ▶ Only candidates who run in partisan races (where political party is printed on the ballot) are permitted to accept political party contributions. **This only applies to the City of Tucson; all other cities and towns are non-partisan offices and cannot receive this type of contribution.**

Reporting Individual Contributions

SCHEDULE A(1)(f)

Partnership Contributions

- ▶ Must report the partnership name as reflected in its article of incorporation or organization, partnership agreement or other official document filed with a government entity; the physical location or street address (a P.O. Box is not permitted); and the corporation commission file number. A.R.S. § 16-901(29)(b),(41).

A candidate committee may accept a contribution from a general partnership, limited partnership (LP), limited liability partnership (LLP), or limited liability limited partnership (LLLLP). A.R.S. § 16-917(A). The partnership does not need to be registered with a government agency or domiciled in Arizona.

- ▶ A partnership may contribute in its own name, but the contribution is **dually attributed** to any participating individual partners on Schedule A(1)(a) . A.R.S. §§ 16-901(29)(b); 16-917(C)(1),(2). The contribution affects the partnership's contribution limit along with the participating partners' individual contribution limits to the candidate. A.R.S. § 16-917(C)(1),(2).
- ▶ The partnership must include a written notice with the contribution identifying the participating partners, along with instructions on how the contribution should be allocated between the partners. A.R.S. § 16-917(C)(1).
- ▶ The partnership may not attribute any portion of the contribution to a partner that is a corporation, limited liability company, or union. A.R.S. § 16-917(C)(3).

Reporting Individual Contributions

Corporations, LLCs Contributions

- ▶ A candidate committee may **not** accept contributions from corporations, limited liability companies, or unions. A.R.S. § 16-913(D).
- ▶ However, a PAC that incorporates only for limitation of liability purposes is not prohibited from making contributions to candidate committees solely because of the incorporation, and candidate committees may accept otherwise lawful contributions within applicable contribution limits from such PACs. See 11 C.F.R. § 114.12(a); A.R.S. §16-916(C)(5).

Labor Organization Contributions

A candidate committee may **not** accept contributions from corporations, limited liability companies, or unions. A.R.S. § 16-913(D).

SCHEDULE A(1)(g)

SCHEDULE A(1)(h)

Reporting Individual Contributions

Personal Monies

- ▶ Must report your first and last name, residential location or street address (a P.O. Box is not permitted), occupation, and employer. A.R.S. § 16-901(29)(b).

Personal monies means assets, salary, dividends, bequests, spousal income, gifts, loan proceeds, and family contributions. A.R.S. § 16-901(40).

- ▶ Personal monies donated to one's own campaign constitute "contributions," but they are not subject to contribution limits. A.R.S. § 16-913(F). Contributions of personal monies must be disclosed in campaign finance reports. A.R.S. § 16-926(B)(2)(a)(viii).

SCHEDULE A(1)(i)

Types of Personal Monies

Assets: Assets are money or property in which a candidate or candidate's spouse hold legal title or an equitable interest. Legal title means that the candidate or candidate's spouse has full ownership, such as in cash or precious metals. An equitable interest means that the candidate or candidate's spouse has the right to acquire formal legal title, such as a home that has been mortgaged. A.R.S. § 16-901(40)(a).

Salary: Salary means the earned income from a candidate or candidate's spouse's employment. This includes income received as a draw from a business wholly owned by the candidate or candidate's spouse. A.R.S. § 16-901(40)(b).

Investments: The proceeds from stock, dividends, or the sale of investments held by a candidate or candidate's spouse constitute personal monies. A.R.S. § 16-901(40)(c).

Bequests: Bequests include money received by a candidate or candidate's spouse by will or through intestate succession (i.e. the candidate receives money through probate). A.R.S. § 16-901(40)(d).

Types of Personal Monies

Trust Income: Qualified trust income is income derived from a revocable trust for which the candidate or candidate's spouse is a beneficiary. Income from an irrevocable trust does not qualify as personal monies. A.R.S. § 16-901(40)(e).

Personal Gifts: Certain gifts of a personal nature, which would have been given to a candidate or candidate's spouse regardless of whether the candidate ran for or was elected to office, constitute personal monies. A.R.S. § 16-901(40)(f).

- ▶ For example, a birthday gift of money by a longtime family friend likely qualifies as permissible personal gift for campaign finance purposes. However, an unexpected, large gift from a casual acquaintance should be considered carefully.

Types of Personal Monies

Loans: The proceeds of a loan obtained by the candidate or candidate's spouse, which is secured by collateral or security **provided by the candidate or candidate's spouse**, constitute personal monies. A.R.S. § 16-901(40)(g).

Family Contributions: Family contributions are contributions to the candidate's committee from close family members, which include the candidate's or candidate's spouse's parents, grandparents, aunts, uncles, children or siblings. Family relationships established by marriage or adoption equally qualify for purposes of the personal monies exemption. A.R.S. § 16-901(40)(h); see also A.R.S. § 16-901(26).

Q & A: Can a candidate loan his campaign money and pay himself back with contributions?

Yes, but a candidate who seeks to fund his or her campaign through a loan must take out the loan in his or her name (or spouse's name), and then loan the campaign committee the desired amount of money. The candidate or candidate's spouse may require repayment or forgive the loan entirely. If the candidate makes a loan to his or her campaign, this is still classified as a contribution of personal monies for campaign finance reporting purposes. The candidate should include a memo entry of "Personal Loan" (or similar notation) to properly identify this loan for reporting purposes.

Reporting Individual Contributions

SCHEDULE A(1)(k)

Refunds Given Back to Contributors

- ▶ Must report each contributor's first and last name, residential location or street address (a P.O. Box is not permitted), ID number (if applicable), and date of the original contribution. A.R.S. § 16-901(29).

When would I have to refund contributions? If you've received:

- ▶ A prohibited contribution (from a corporation, LLC or union or foreign national). A.R.S. § 16-916(A).
- ▶ If the contribution method (check, electronic payment) does not match the contributor. If the committee cannot reconcile the discrepancy (check if contributor has a joint account), be prepared to issue a refund. A.R.S. § 16-907(E), (F).
- ▶ A contribution that has been earmarked for another candidate. A.R.S. § 16-918.
- ▶ An **excess contribution** that cannot be reattributed. A.R.S. § 16-913(C).

The total refunds is subtracted from your contributions received on the Summary of Receipts (Schedule A).

An excess contribution is one that exceeds contribution limits. A.R.S. § 16-901(23). A candidate committee is given 60 days to remedy an excess contribution by REFUNDING the amount of the excess contribution to the original donor; or if the contribution is from an individual, the committee alternatively may REATTRIBUTE the amount of the excess contribution to another individual who was identified as a joint account holder in the original instrument used to make the contribution. A.R.S. § 16-913(C).

Q & A: What is reattributing an excess contribution?

Reattributing an Excess Contribution

Reattribution is assigning the excess contribution to a joint account holder.

EXAMPLE

Spouse A makes a \$7,000 contribution to a municipal candidate using a check that shows both spouses as joint account holders. Only Spouse A signed the check and had not made any previous contributions during the election cycle. The contribution limit is \$6,450.

Within 60 days of receiving the contribution, the candidate committee contacts Spouse A to explain that the contribution exceeded applicable limits by \$550 and inquires how to proceed.

Spouse A verbally authorizes the committee to reattribute the excess contribution to Spouse B.

The committee documents the conversation in its records, and files a campaign finance report that shows a \$6,450 contribution from Spouse A and \$550 contribution from Spouse B.

Yes, the law only allows reattribution to an individuals who are joint account holders. If you accept an excess contribution from an individual who does not fit this criteria, you must refund the excess amount.

Q & A: Is reattribution limited to joint account holders?

Reporting Loans

SCHEDULE A(2)(a)

Loans Received

- ▶ Must report each lender's name, street address (a P.O. Box is not permitted) and guarantor/endorser name.

Loans are advances of money, or extensions of credit, provided to a candidate committee which the committee has agreed to pay back. A.R.S. § 16-901(11)(d).

- ▶ Any individual who endorses or guarantees a loan on a committee's behalf (i.e. agrees to be financially responsible for repaying the loan in the event the committee defaults) is deemed to have made a contribution. However, the candidate's spouse may guarantee the committee's loan without limitation. A.R.S. § 16-911(B)(14).
- ▶ As a candidate committee pays back a loan, the loan balance remains a contribution to the extent the loan remains outstanding and the lender's and guarantor's contribution limits correspondingly free up to the extent of repayment.

Loan Example

- ▶ If an individual provides a \$5,000 loan to a candidate committee and the candidate's friend agrees to guarantee the loan on behalf of the committee, the lender and friend each have \$1,450 left to contribute during the election cycle (contribution limits are \$6,450). Then the committee repays \$1,000 on the loan; therefore, the lender and friend now each have \$2,450 left on their contribution limit.

Contribution Limit:	\$6,450
Loan:	\$5,000
Remaining Contribution:	<u>\$1,450</u>
Committee Repayment:	\$1,000
Remaining Contribution:	<u>\$2,000</u>

Loan Restrictions

Loans are subject to source restrictions as well.

- ▶ For example, financial institutions are generally incorporated and therefore prohibited from making contributions (even in the form of a loan) directly to a candidate committee.
- ▶ However, if the financial institution makes a loan to the candidate as an individual, it is permissible for the candidate to loan or contribute that amount as “personal monies” to the candidate’s own campaign committee (and reported as “personal monies” in a campaign finance report). The candidate’s spouse may endorse or guarantee this personal loan as well. A.R.S. §§ 16-901(40)(g), 16-911(B)(14),(D), 16-913(F).

Reporting Loans

Forgiveness on Loans Received

- ▶ Must report each lender's name, street address (a P.O. Box is not permitted), original amount of loan and the amount outstanding.
- ▶ **Debt Forgiveness has the same effect as making a contribution.**
- ▶ Since a candidate may contribute unlimited personal monies to his or her own campaign, the committee may forgive a loan of personal monies without restriction. A.R.S. § 16-913(F).
- ▶ Additionally, campaign staff may consent to converting their paid services to volunteer service in order to retire debt. A.R.S. § 16-911(B)(1); see also 11 C.F.R. § 116.6.
- ▶ A debt may be settled or forgiven in its entirety only if the candidate committee has been unable to repay the debt after 5 years, the creditor has agreed to discharge the debt, and the creditor consents to committee termination. A.R.S. § 16-934(B)(2)(b).

SCHEDULE A(2)(b)

Reporting Loans

Repayment on Loans Made

- ▶ Must report each borrower's name, street address (a P.O. Box is not permitted), original amount borrowed and the amount outstanding.

Interest Accrued on Loans Made

- ▶ Must report each borrower's name, date of interest accrued, street address (a P.O. Box is not permitted), original amount borrowed and the amount outstanding.

SCHEDULE A(2)(c)

SCHEDULE A(2)(d)

Other Receipts

Rebates and Refunds Received

- ▶ Must report each payor's name, date rebate/refund received, street address (a P.O. Box is not permitted), original purchase amount and reason for rebate/refund. A.R.S. § 16-926(B)(2)(a)(x).
- ▶ The committee must identify the original transaction the rebate or refund was received from.

Interest Accrued on Committee Monies

- ▶ Must report account with interest earned (bank name/type of account) A.R.S. § 16-926(B)(2)(a)(xi).

SCHEDULE A(3)

SCHEDULE A(4)

In-Kind Contributions

In-kind contributions are non-monetary benefits, including goods, services or anything else of value that are provided to a candidate committee without charge or at less than the usual and normal charge. A.R.S. § 16-901(32).

- ▶ In-Kind Contributions Received From Individuals - More than \$50 During Election Cycle SCHEDULE A(5)(a)
- ▶ In-Kind Contributions Received From Individuals - \$50 or Less (Aggregated) SCHEDULE A(5)(b)
- ▶ In-Kind Contributions From Candidate Committees SCHEDULE A(5)(d)
- ▶ In-Kind Contributions From PACs SCHEDULE A(5)(c)
- ▶ In-Kind Contributions From Political Parties: **This only applies to partisan elections.** SCHEDULE A(5)(f)
- ▶ In-Kind Contributions From Partnerships SCHEDULE A(5)(e)
- ▶ In-Kind Contributions From Corporations and LLCs: **None, this is prohibited!** SCHEDULE A(5)(h)
- ▶ In-Kind Contributions From Labor Organizations: **None, this is prohibited!** SCHEDULE A(5)(g)
- ▶ In-Kind Contributions From Candidate's Personal Assets or Property SCHEDULE A(5)(i)
- ▶ In-Kind Donations Received (Non-contributions) (Political Parties Only): **Does not apply.** SCHEDULE A(6)

In-Kind Contributions

- ▶ For campaign finance reporting purposes, receipt of an in-kind contribution cannot affect the committee's cash account.
- ▶ How are in-kind contributions reported? At fair market value—the price it would cost someone else (such as your opponent) to purchase the same good or service. A.R.S. § 16-926(B)(2)(a)(xii).
- ▶ The amount of an in-kind contribution of services shall be equal to the “usual and normal” charge on the date received/performed. A.R.S. § 16-926(D). The committee must make the determination of what that usual and normal charge is, generally by asking the contributor or by consulting an authoritative third-party source.
- ▶ If you've received donated or discounted goods and services, the difference from what you would have paid generally constitute contributions, and therefore are subject to contribution limits and source restrictions. For example, goods and services may include (but are not limited to) the donation of wood/rebar for yard signs, printing services, donor lists from other candidates, or designing a campaign website. If a candidate receives a special discount on the purchase of these goods or services (i.e. the candidate receives a discount because he or she is a candidate), the amount of the discount is likewise an in-kind contribution and subject to contribution limits and source restrictions.

Q & A

A PAC pays for signs of a candidate - is this an in-kind contribution?

- ▶ Yes, the PAC provided goods to the candidate. The candidate must estimate the fair market value of the signs (ask the PAC the amount they paid for the signs) and report the contribution on Schedule A(5)(c).

What if the candidate's friend owned the sign shop and gave the PAC a discount on the signs? Is this an in-kind contribution to the candidate?

- ▶ Likely no, but it is an in-kind contribution for the PAC. The PAC should report the amount of the discount as an in-kind contribution on the appropriate schedule.

Q & A

If my candidate committee receives free computer services, does the service have to be reported as an in-kind contribution?

- ▶ It depends. What are the computer services - website design, social media messaging, internet access?
- ▶ Questions to ask: Is it a non-monetary benefit? Is it a service? Is it being provided without charge or at less than the usual and normal charge? If the answer is yes to these questions, it likely needs to be reported as an in-kind contribution UNLESS, it falls into an exemption. Remember that a volunteer's use of email, blogging, social media, or other internet activity on behalf of a campaign do not constitute contributions, as long as: (1) the volunteer's use is not paid for by the volunteer or any other person (i.e., neither the volunteer nor any other person paid to post or promote the message); (2) the volunteer is not paid or reimbursed for such activity; and (3) the emails, social media messages, or other internet activities do not contain or include transmittal of a paid advertisement or paid fundraising solicitation. A.R.S. §§ 16-911(B)(1)(d), 16-921(B)(1)(d).

Q & A: If a neighbor hosts a fundraiser for me in their home, do I have to report an in-kind contribution for any refreshments that are served at the event?

If the neighbor is a volunteer, then the cost of invitations, food, or beverages purchased or provided for by the volunteer for a campaign-related event is not considered a contribution. A.R.S. §§ 16-911(B)(1)(c), 16-921(B)(1)(c).

Is Volunteer Activity An In-Kind Contribution?

- ▶ An individual volunteer's services, including any expenses incurred in the course of volunteering, are not considered in-kind contributions to a campaign so long as the individual volunteer's services are provided without compensation or reimbursement. A.R.S. § 16-911(B)(1); A.R.S. § 16-921(B)(1).
- ▶ As non-contributions, volunteer services need not be reported or capped in any fashion.
- ▶ Travel expenses incurred by the volunteer, such as placing campaign signs, traveling to campaign events, or canvassing door-to-door, are not considered contributions. A.R.S. § 16-911(B)(1)(a); A.R.S. § 16-921(B)(1)(a).
- ▶ Use of a volunteer's real or personal property, such as using a volunteer's vehicle in a parade or hosting a fundraiser at a volunteer's home, is not a contribution. A.R.S. § 16-911(B)(1)(b); A.R.S. § 16-921(B)(1)(b).
- ▶ The cost of invitations, food, or beverages purchased or provided by a volunteer for a campaign-related event is not considered a contribution. A.R.S. § 16-911(B)(1)(c); A.R.S. § 16-921(B)(1)(c).

Determining Volunteer Activity

- ▶ A volunteer's use of email, blogging, social media, or other internet activity on behalf of a campaign do not constitute contributions, as long as:
 - ▶ (1) the volunteer's use is not paid for by the volunteer or any other person (i.e., neither the volunteer nor any other person paid to post or promote the message);
 - ▶ (2) the volunteer is not paid or reimbursed for such activity; and
 - ▶ (3) the emails, social media messages, or other internet activities do not contain or include transmittal of a paid advertisement or paid fundraising solicitation. A.R.S. § 16-911(B)(1)(d); A.R.S. § 16-921(B)(1)(d).

For example, an individual may freely share links to campaign videos found on YouTube, retweet a campaign advertisement, forward a fundraising invitation by email, post a campaign-related item on his or her Facebook timeline, or conduct any other similar internet activity.

“Social media messages” are defined as “forms of communication, including internet sites for social networking or blogging, through which users create a personal profile and participate in online communities to share information, ideas and personal messages.” A.R.S. § 16-901(46).

Example of Volunteer Activity

PAC A supports political campaigns by connecting uncompensated volunteers to volunteer opportunities in more competitive electoral districts.

PAC A hosts a meet and greet with Candidate B to encourage volunteers to make calls to eligible voters. The event is organized by paid staff of PAC A and PAC A pays for the food, drinks, and facility rental for the event.

After the event, some volunteers post flyers in support of Candidate “B” and make phone calls to voters in support of Candidate B. The volunteers are not reimbursed for their time or any expenses.

The volunteers’ services in support of Candidate B and any unreimbursed expenses incurred in connection with those activities are exempted from the definition of “contribution” (including in-kind) and do not need to be reported.

However, the expenses that PAC A incurred for staff time spent organizing the meet and greet with Candidate B and for the food, drinks, and facility rental for the event constitute **in-kind contributions** from PAC A to Candidate B.

- ▶ The statute does not require legal services to be reported; however, due to *Arizona Advocacy Network v. State*, reporting is required.
- ▶ If you are being charged and paying for legal services for your campaign, you would report as an expenditure.
- ▶ If your campaign is receiving legal services free of charge, you would report as an in-kind contribution.

Q &A: If an attorney is assisting me with my campaign, do I need to report this as an in-kind contribution?

Q &A: Is Appearing at a Business an In-Kind Contribution?

- ▶ A candidate is permitted to make campaign-related appearances at outside organizations' facilities without the "value" of that appearance being deemed an in-kind contribution. A.R.S. § 16-911(B)(11).
- ▶ This exemption applies as long as:
 - ▶ The venue is furnished by the venue's owner;
 - ▶ Usage of the venue is not paid for by a third-party; and
 - ▶ The venue is not a sports stadium, coliseum, convention center, hotel ballroom, concert hall or other similar arena that is generally open to the public. A.R.S. § 16-911(B)(11).

For example, a candidate is permitted to appear at the headquarters of ABC Corporation to address the company's employees and invited guests. However, ABC Corporation may not host a candidate fundraiser at the corporation's suite during a professional sports game. A fundraiser could be held at a stadium, coliseum, convention center, hotel ballroom, concert hall or other similar arena if the committee pays for the facility rental at fair market value.

Q & A: Are Elected Official Tours and Conferences In-Kind Contributions?

- ▶ For elected officials acting in the course of their official duties, it is not necessary to use campaign funds to meet with constituents or attend an informational tour, conference, seminar or presentation. A.R.S. § 16-911(B)(3). The exemption likewise applies to public officials who were appointed to a position normally filed by an elected official.
- ▶ A third party may provide this support without creating an in-kind contribution. For example, a timber company or conservationist organization may provide a helicopter ride to an elected official to tour wildfire devastation from the air.
- ▶ For this exemption to apply, neither the candidate nor the host may engage in any electioneering or campaign-related activity.
- ▶ Additionally, if the benefit triggers a reporting responsibility under the financial disclosure or lobbying statutes, that benefit must be properly reported under those statutes; otherwise an in-kind contribution may result. A.R.S. § 16-911(B)(3).

Extensions of Credit

Extensions of Credit Received

- ▶ Must report each creditor's name, street address (a P.O. Box is not permitted), services or goods provided on credit and date of extension of credit.
- ▶ The committee must report extensions of credit that remain outstanding.

Payments on Extensions of Credit Received

- ▶ Must report each creditor's name, street address (a P.O. Box is not permitted), services or goods originally provided on credit and date of original extension of credit.
- ▶ This is subtracted from Extensions of Credit Received on the Summary page.

SCHEDULE A(7)(a)

SCHEDULE A(7)(b)

Joint Fundraising/Shared Expense Payments Received

- ▶ Must report the payor committee name, street address (a P.O. Box is not permitted), date of joint fundraising event (if applicable) and type of shared expense (if applicable).
- ▶ Joint fundraising efforts are permissible as long as the candidates make a written agreement prior to the fundraising effort that outlines how the proceeds of the fundraising effort will be distributed or reimbursed. A.R.S. §§ 16-911(B)(6)(b), 16-921(B)(4)(b).
- ▶ A separate joint fundraising committee can also be held - checks can be made out to any of the collaborating candidates (even in amounts that exceed contribution limits for an individual candidate) as long as the recipient candidate deposits and promptly distributes the fundraising proceeds in accordance with the written fundraising agreement. Distributions and reimbursements made according to the joint fundraising agreement must be reported by the collaborating candidates. A.R.S. § 16-926(B)(4).
- ▶ If the candidates have not reached a prior agreement, any distributions or reimbursements of the joint fundraising proceeds could constitute prohibited candidate-to-candidate transfers. A.R.S. §§ 16-911(B)(6)(b), 16-921(B)(4)(b); see also A.R.S. § 16-913(A).

Other Contributions

Payments Received for Goods/Services

- ▶ Must report the payor name, street address (a P.O. Box is not permitted), services or goods purchased and payment date.

Outstanding Accounts Receivable/Debts Owed to Committee

- ▶ Must report the name, street address (a P.O. Box is not permitted), type of account receivable or debt owed and the date the debt accrued.

Transfer in Surplus Monies/Transfer Out Debt

- ▶ Must report the source of surplus monies/recipient of transferred debt.

Miscellaneous Receipts

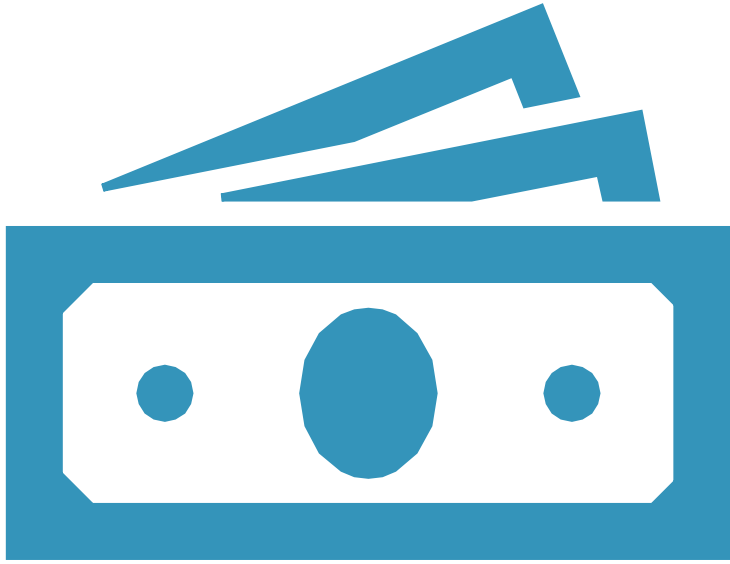
- ▶ Must report the receipt type and receipt date.

SCHEDULE A(9)

SCHEDULE A(10)

SCHEDULE A(11)

SCHEDULE A(12)



Expenditures/ Disbursements

Disbursements

- ▶ Total Disbursements. The committee must report its total disbursements during the reporting period, which includes expenditures for political purposes and any other types of payments by the committee. A.R.S. § 16-926(B)(3),(4).
- ▶ Single disbursements over \$250 during the reporting period must be itemized, which means the treasurer must record the name of the recipient, the recipient's address, a description of the disbursement, and the date and amount of disbursement, in certain categories. A.R.S. § 16-926(B)(3).
- ▶ The committee must also report totals in each category. A.R.S. § 16-926(B)(3). If any committee disbursement is earmarked for another entity, the committee is required to report the identity of the committee or entity the disbursement was earmarked for. A.R.S. § 16-926(E).
- ▶ Disbursements to a person or entity that do not exceed \$250 during the election cycle need not be itemized but may be aggregated instead.
- ▶ Must report the recipient's name, disbursement date, street address, and type of operating expense paid.

Disbursements (Monetary Contributions)

Disbursements for Operating Expenses

- ▶ Must report the recipient's name, disbursement date, street address, and type of operating expense paid.
- ▶ Disbursements for operating expenses (this is where a vast majority of committee spending is reported); A.R.S. § 16-926(B)(3)(a). Operating expenses include campaign advertising, staff salaries, rent, utilities, office supplies, and similar items necessary to keep the campaign in operation.

Monetary Contributions to Candidate Committees

- ▶ Must report the committee's name and ID number on the Statement of Org, street address, and the date the contribution is made. A.R.S. § 16-926(B)(3)(b).
- ▶ Allowable only as surplus monies. A.R.S. § 16-933(A)(3).

Monetary Contributions to PACs

- ▶ Must report the committee's name and ID number on the Statement of Org, street address, and the date the contribution is made. A.R.S. § 16-926(B)(3)(c); see also A.R.S. §16-913(E).

Monetary Contributions to Political Parties

- ▶ Must report the committee's name and ID number on the Statement of Org, street address, and the date the contribution is made. A.R.S. § 16-926(B)(3)(d); see also A.R.S. §16-913(E).

SCHEDULE B(1)

SCHEDULE B(2)(a)

SCHEDULE B(2)(b)

SCHEDULE B(2)(c)

Disbursements (Monetary Contributions)

Monetary Contributions to Partnerships

- ▶ Must report the partnership's name, street address, Corporation Commission file number, and the date the contribution is made. A.R.S. § 16-926(B)(3)(e); see also A.R.S. §16-913(E).

SCHEDULE B(2)(d)

Monetary Contributions to Corporations and LLCs

- ❓ **Not applicable to Candidate Committees;** only PACs and political parties must report the corporation/LLC name, street address, Corporation Commission file number, and the date the contribution is made. A.R.S. § 16-926(B)(3)(f).

SCHEDULE B(2)(e)

Monetary Contributions to Labor Organizations

- ❓ **Not applicable to Candidate Committees;** only PACs and political parties must report the labor organization name, street address, Corporation Commission file number, and the date the contribution is made. A.R.S. § 16-926(B)(3)(g).

SCHEDULE B(2)(f)

Refunds of Contributions Received

- ❓ Must report the contributor name, the date refund is received, street address, committee ID number, and the date of the original contribution. A.R.S. § 16-926(B)(3)(i).

SCHEDULE B(2)(h)

Disbursements (Loans)

Loans Made

- ▶ Must report the borrower name, street address, guarantor/endorser name, and date the loan is made. A.R.S. § 16-926(B)(3)(j).

Loans Guarantees Made

- ▶ Must report the guarantor name, street address, borrower name, and date the loan is guaranteed. A.R.S. § 16-926(B)(3)(j).

Forgiveness on Loans Made

- ▶ Must report the borrower name, date forgiveness made, street address, original amount of loan, and amount still outstanding. A.R.S. § 16-926(B)(3)(j).

Repayment on Loans Received

- ▶ Must report the lender name, date repayment made, street address, original amount borrowed, and amount still outstanding. A.R.S. § 16-926(B)(3)(h); see also A.R.S. § 16-913(E). If a candidate loaned personal monies to his or her own campaign, repayment of that loan should be reported in this category.

Interest Accrued on Loans Received

- ▶ Must report the lender name, date interest accrued, street address, original amount borrowed, and amount still outstanding. A.R.S. § 16-926(B)(3)(o).

Rebates and Refunds Made (Non-Contributions)

- ▶ Must report the original payor name, date rebate/refund is made, street address, Corporation Commission file number (if applicable), original payment amount, and date of original payment. A.R.S. § 16-926(B)(3)(i).

SCHEDULE B(3)(a)

SCHEDULE B(3)(b)

SCHEDULE B(3)(c)

SCHEDULE B(3)(d)

SCHEDULE B(3)(e)

SCHEDULE B(4)

Disbursements (In-Kind)

In-Kind Contributions to Candidate Committees

- ▶ Must report the committee name and ID number listed on the Statement of Org, street address, and date in-kind contribution made. A.R.S. § 16-926(B)(3)(k).
- ▶ The amount of an in-kind contribution of services is equal to the usual and normal charges for the services on the date performed. A.R.S. § 16-926(D) and only applies in the same way as surplus monies.

In-Kind Contributions to PACs

- ▶ Must report the committee name and ID number listed on the Statement of Org, street address, and date in-kind contribution made. A.R.S. § 16-926(B)(3)(k).

In-Kind Contributions to Political Parties

- ▶ Must report the committee name and ID number listed on the Statement of Org, street address, and date in-kind contribution made. A.R.S. § 16-926(B)(3)(k).

In-Kind Contributions to Partnerships

- ▶ Must report the committee name and ID number listed on the Statement of Org, street address, and date in-kind contribution made. A.R.S. § 16-926(B)(3)(k).

In-Kind Contributions to Corporations and LLCs

- ▶ **Not applicable to Candidate Committees;** Must report the corporation name, street address, Corporation Commission file number, and date in-kind contribution made. A.R.S. § 16-926(B)(3)(k).

In-Kind Contributions to Labor Organizations

- ▶ **Not applicable to Candidate Committees;** Must report the labor organization, street address, Corporation Commission file number, and date in-kind contribution made. A.R.S. § 16-926(B)(3)(k).

SCHEDULE B(5)(a)

SCHEDULE B(5)(b)

SCHEDULE B(5)(c)

SCHEDULE B(5)(d)

SCHEDULE B(5)(e)

SCHEDULE B(5)(f)

Disbursements

Independent Expenditures

- ▶ Must report recipient name, mode of advertising (TV, mail, etc.), street address, candidate supporting or opposing, including the percentage, date of first publication, display, delivery, broadcast, and election month/year. A.R.S. § 16-926(B)(3)(l).
- ▶ An “independent expenditure” is an expenditure that 1) expressly advocates the election or defeat of a clearly identified candidate; and 2) is not made in cooperation or consultation with (or at the request or suggestion of) the candidate or the candidate’s agent. A.R.S. § 16-901(31).

Ballot Measure Expenditures

- ▶ Must report recipient name, mode of advertising (TV, mail, etc.), street address, ballot measure supporting or opposing, including the percentage, date of first publication, display, delivery, broadcast, and election month/year. A.R.S. § 16-926(B)(3)(m); see also A.R.S. § 16-921(A).

Recall Expenditures Made

- ▶ Must report recipient name, mode of advertising (TV, mail, etc.), street address, supporting or opposing recall order, candidate sought to be recalled, date of first publication, display, delivery, broadcast, and office held. A.R.S. § 16-926(B)(3)(n); see also A.R.S. § 16-921(A).

Support Provided to Party Nominees

- ▶ **Not applicable to Candidate Committees;** this schedule is for political parties.

SCHEDULE B(6)

SCHEDULE B(7)

SCHEDULE B(8)

SCHEDULE B(9)

Campaign Finance - Independent Expenditures

Expenditures by an outside group advocating a candidate's election (or the candidate's opponent's defeat) are assumed to be independent. If a complaint challenges that assumption, however, Arizona law provides a roadmap how to resolve the issue.

First, an expenditure is not independent if:

- ▶ There is any actual coordination between the candidate (or candidate's agent) and the person making the expenditure; or
- ▶ Both of the following apply:
 - ▶ The expenditure is based on nonpublic information about the candidate's plans that candidate (or candidate's agent) provided to the person; and
 - ▶ The candidate (or candidate's agent) provided the nonpublic information with an intent towards having the expenditure made.

If either condition exists, the expenditure is conclusively deemed to be coordinated and thus likely to result in an in-kind contribution. A.R.S. § 16-922(B).

Campaign Finance - Independent Expenditures

Second, there are certain factors that create a presumption of coordination:

- ▶ An agent of the person making the expenditure is also an agent of the candidate whose election or whose opponent's defeat is being advocated by the expenditure. A.R.S. § 16-922(C)(1).
 - ▶ For example, a political consultant should not advise a candidate and an outside group that conducts expenditures in the candidate's race.
- ▶ In the same election cycle, the person making the expenditure or that person's agent is or has been authorized to raise or spend monies on the candidate's behalf. A.R.S. § 16-922(C)(2).
 - ▶ For example, the executive director of a trade association that conducts independent expenditures in a particular race should not serve as finance chairman for that candidate.
- ▶ In the same election cycle, the candidate is or has been authorized to raise money or solicit contributions on behalf of the person making the expenditure. A.R.S. § 16-922(C)(3).
 - ▶ For example, a candidate should not emcee a fundraising event for a PAC that later conducts expenditures on behalf of the candidate during the election cycle.

These factors constitute rebuttable evidence of coordination. Thus, if a person files a campaign finance complaint and cites one or more of the above factors, the burden of persuasion shifts, and the responding candidate must put forth contrary evidence that proves the lack of coordination.

Campaign Finance - Independent Expenditures

Maintaining a Firewall

- ▶ Notwithstanding any rebuttable evidence, coordination can be avoided if the outside group making the expenditure maintains sufficient separation between itself and its agent. This is known as a firewall. “Firewall” means a written policy that precludes one person from sharing information with another person. A.R.S. § 16- 901(28).
- ▶ If properly established, a firewall permits the agent to work with the benefitted candidate without undermining the independence of the group’s expenditures. In order to be effective, a firewall must meet the following criteria:
 - ▶ The agent may not participate in deciding to make the expenditure or in deciding the content, timing or targeting of the expenditure to benefit a particular candidate;
 - ▶ The group making the expenditure must have a written policy establishing the firewall and its requirements; and
 - ▶ Both the agent and group must follow the written firewall policy. A.R.S. § 16-922(D).

Of course, a candidate committee will not be involved in any of these behind-the-scenes considerations. However, it is important to understand the law: before working with anyone that could be deemed an agent of an independent expenditure group, the candidate may want to ensure that firewall is in place.

Disbursements

Joint Fundraising/Shared Expense Payments Made

- ▶ Must report committee name, payment date, street address, candidate supporting or opposing, including the percentage, date of joint fundraising event (if applicable) and type of shared expense. A.R.S. § 16-926(B)(3)(o).

SCHEDULE B(10)

Reimbursements Made

- ▶ Must report recipient name, street address, services or goods reimbursed, and reimbursement date. A.R.S. § 16-926(B)(3)(o).

SCHEDULE B(11)

Outstanding Accounts Payable/Debts Owed By Committee

- ▶ Must report name, street address, type of account payable or debt owed, and date that debt accrued. A.R.S. § 16-926(B)(3)(o).

SCHEDULE B(12)

Transfer Out Surplus Monies

- ▶ Must report surplus monies/source of transferred debt. A.R.S. § 16-934(B).

SCHEDULE B(13)

Miscellaneous Disbursements

- ▶ Must report any other disbursements or expenditures. A.R.S. § 16-926(B)(3)(o).

SCHEDULE B(14)

Q & A

- ▶ Can I use committee monies to pay for an election night party? Yes, there is no prohibition. It would likely be reported as an operating expenditure.
- ▶ If a PAC circulates my petitions, is that considered a contribution that has to be reported? Yes, it is a contribution if you are paying an individual, PAC or organization to collect signatures on your petitions.

Penalties for Late or Incomplete Reports

- ▶ A candidate committee must file a timely and complete campaign finance report. A.R.S. §§ 16-926(A), 16-937(A).
- ▶ If a candidate committee fails to file a campaign finance report by the applicable deadline, the clerk must send a written notice to the committee treasurer by email within 5 calendar days after the filing deadline. A.R.S. § 16-937(A). At the filing officer's discretion, the filing officer may also email the committee chairman or any other persons associated with the committee.
- ▶ The notice must 1) Identify the campaign finance report that was notified; 2) Explain that penalties accrue at \$10.00 per day for the first 15 days following the deadline, and \$25.00 per day for each day thereafter the report is not filed; and 3) Identify permissible methods of payment. A.R.S. § 16-937(A),(B).
- ▶ Financial penalties accrue until the late report is filed.
- ▶ The clerk must accept a campaign finance report regardless of whether past-due financial penalties have been paid.
- ▶ If the candidate committee does not file its campaign finance report within 30 days after the filing deadline, the clerk may refer the committee to the city or town attorney for enforcement. A.R.S. § 16-937(C).

Committee Transfers

Candidate Committee Transfers

These are transfers between committees for the same candidate.

There are three types:

- ▶ Transfers to the same municipal office (continued use of funds without terminating and forming new committee);
- ▶ Transfers to a different municipal office;
- ▶ Transfers to a county office; and
- ▶ Transfers to a state or legislative office (direct transfer prohibited).

Candidate Committee Transfers: Running for the Same Municipal Office

A candidate committee is permitted to use funds raised during a prior election cycle for the same municipal office. This is not really a transfer since it's more of a continuation.

The candidate is not required to terminate and reorganize the committee, or amend the committee's statement of organization, in order to reuse the campaign committee in a subsequent race for the same office. Arizona law prohibits a candidate from having multiple committees open for the same office, however. A.R.S. § 16-906(F).

For example, a council member who opened a committee in August 2017 and is running for reelection in August 2020 for the same office does not have to terminate his 2017 committee and reopen a new committee for this year's election.

Candidate Committee Transfers: Running for a Different Municipal Office

A candidate may transfer funds to a new committee for a different municipal office under certain circumstances and depending on the election jurisdiction. A.R.S. § 16-913(B). A candidate committee still must follow all laws applicable to contributions, expenditures, reporting, transfers, and termination.

For example, a council member who has an open committee and wants to run for mayor must form a separate mayoral committee (if the \$500 threshold is met). He cannot raise monies for both council and mayor in the same committee. But transfers of monies from the council member committee to the mayoral committee are allowed because it's for a different municipal office.

WARNING

WARNING: Upon transfer, an individual's aggregate contributions to both candidate committees during the election cycle shall not exceed the individual's contribution limit for that candidate. A.R.S. § 16-913(B)(3).

WHAT THIS MEANS: If you've received the maximum contribution of \$6,450 from an individual to your council member candidate committee, you can only transfer it to your mayoral committee if the individual has not contributed to your mayoral committee.

Candidate Committee Transfers: Running for a County Office

A candidate may transfer funds to a new committee for a county office. A.R.S. § 16-913(B).

The county filing officer is not the same as the municipal clerk. You will have to contact your county to obtain the registration and reporting forms from that jurisdiction.

For example, a council member is serving in the final year of his term this year and is not seeking re-election to the council. After filing the required reports for the election cycle, the former council member keeps the committee open. Two years later he decides to run for county supervisor. He may transfer the remaining funds in the municipal committee to the county committee.

REMINDER: If you leave your committee open, you are subject to all reporting requirements.

Candidate Committee Transfers: Running for a State or Legislative Office

A candidate may not directly transfer funds from a municipal committee to a new committee for a state or legislative office. A.R.S. § 16-913(B)(1).

For example, a city or town committee must transfer the committee funds to a county committee first and then wait at least 24 months before transferring funds to a legislative or statewide committee. A.R.S. § 16-913(B)(2). Violation of this “cooling off” period may serve as a basis for a campaign finance complaint before either filing officer. Transfers from a candidate’s state, legislative, or local committee to the candidate’s federal campaign committee are prohibited under federal law. 11 C.F.R. § 110.3(d).

Advertising & Disclosure Requirements



Campaign Advertising

- ▶ Any campaign advertisement or fundraising solicitation must include a disclaimer that indicates it was paid for and authorized by the candidate. A.R.S. § 16-925(A). For example, a proper disclaimer would read: Paid for by Smith for Mayor Authorized by Bob Smith.
- ▶ If a disclaimer contains any acronym or nickname that is not commonly known, the disclosure must spell out the acronym or provide the full name. A.R.S. § 16-925(C).
- ▶ An “advertisement” means information or materials, other than nonpaid social media messages, that are mailed, emailed, posted, distributed, published, displayed, delivered, broadcasted or placed in a communication medium and that are for the purpose of influencing an election. A.R.S. § 16-901(1).

Advertising Disclaimer

The disclaimer on a fundraising solicitation should be clearly readable.

With respect to campaign advertisements, how the disclaimer must be presented depends upon the medium in which the advertisement appears. For example, if the advertisement is:

- ▶ Broadcast on radio, the disclaimer must be clearly spoken at the beginning or end of the advertisement; A.R.S. § 16-925(D)(1).
- ▶ Delivered by hand, by mail, or electronically, the disclaimer must be clearly readable. A.R.S. § 16-925(D)(2).

Advertising Disclaimer

- ▶ Displayed on a sign or billboard, the disclaimer must be displayed in a height that is at least four percent of the vertical height of the sign or billboard. A.R.S. § 16-925(D)(3).
- ▶ Broadcast on television or in a video, both of the following requirements must be met:
 - ▶ The disclaimer must be both written and spoken at the beginning or end of the advertisement, except that if the written disclaimer is displayed for the greater of at least one-sixth of the broadcast duration or four seconds, a spoken disclaimer is not required; and
 - ▶ The written disclaimer must be printed in letters that are displayed in a height that is at least four percent of the vertical picture height. A.R.S. § 16-925(D)(4).

When a Disclaimer is Not Required

- ▶ Campaign advertisements or fundraising solicitations made via social media messages, text messages, or messages sent by a short message service; A.R.S. § 16-925(E)(1). EXCEPT Pre-recorded audio messages distributed directly to the voicemail boxes of recipients do not qualify as “messages sent by a short message service” and, therefore, are not exempted from the disclaimer requirement.
- ▶ Advertisements that are placed as a paid link on a website, as long as the message is not more than two hundred characters in length and the hyperlink directs the user to another website that contains the requisite disclaimer. A.R.S. § 16-925(E)(2).
- ▶ Advertisements that are placed as a graphic or picture link where the disclaimer cannot be conveniently printed due to the size of the graphic or picture, as long as the hyperlink directs the user to another website that contains the requisite disclaimer. A.R.S. § 16-925(E)(3).
- ▶ Bumper stickers, pins, buttons, pens and similar small items on which a disclaimer cannot be conveniently printed; A.R.S. § 16-925(E)(4) or
- ▶ A published book or a documentary film or video. A.R.S. § 16-925(E)(7).

Terminating a Committee

Q & A: When Do I Terminate My Committee?

- ▶ There is no set requirement or date for when to terminate. As long as the committee is open, you are subject to the reporting requirements.

Winding Down and Terminating A Campaign

- ▶ The process of winding down a committee entails ceasing all campaign activity, zeroing out the committee's bank account (in accordance with Arizona law), and filing a termination statement with the clerk.
- ▶ **Repayment of Debts:** A candidate committee must repay its debts to creditors before terminating. If the committee has sufficient cash on hand at the conclusion of a campaign to pay all outstanding creditors, this process is routine.
 - ▶ **Fundraising to Retire Debt:** Sometimes a candidate committee lacks sufficient funds to pay creditors and must continue to fundraise after the election. However, source restrictions and the contribution limits from the prior election still apply. 62 A.R.S. § 16-901(11)(a).
- ▶ **Debt Forgiveness:** Another way to retire debt is through debt forgiveness, although forgiveness generally has the same effect as making a contribution. Since a candidate may contribute unlimited personal monies to his or her own campaign, the committee may forgive a loan of personal monies without restriction. A.R.S. § 16-913(F). Additionally, campaign staff may consent to converting their paid services to volunteer service in order to retire debt. A.R.S. § 16-911(B)(1); see also 11 C.F.R. § 116.6.
- ▶ A debt may be settled or forgiven in its entirety only if the candidate committee has been unable to repay the debt after 5 years, the creditor has agreed to discharge the debt, and the creditor consents to committee termination. A.R.S. § 16-934(B)(2)(b).

Disposal of Surplus Funds

“Surplus monies” are defined as monies that remain after a committee’s expenditures have been made, all debts have been extinguished, and the committee ceases to accept contributions. A.R.S. § 16-901(50).

If a terminating candidate committee has surplus monies remaining after payment of all debts, the committee may dispose of those surplus monies only in specified ways:

- ▶ Transfer the surplus to a candidate committee organized by the same candidate (A.R.S. § 16-906(F));
- ▶ Return surplus monies to the original contributor (A.R.S. § 16-933(A)(1)).
- ▶ Contribute surplus monies to a PAC or political party within contribution limits (A.R.S. § 16-933(A)(2));
- ▶ Contribute surplus monies to another candidate under certain conditions (A.R.S. §§ 16-311(A) and 16-933(A)(3)(a),(b)); or
- ▶ Donate surplus monies to a nonprofit organization that has tax exempt status under § 501(c)(3) of the Internal Revenue Code (74 A.R.S. § 16-933(A)(4)).

Regardless of how the candidate committee disposes of surplus monies, the monies may not be converted for personal use for local candidates. A.R.S. § 16-933(B).

Terminating a Committee

Once a candidate committee has wound down its financial affairs, the committee may file a **Termination Statement** with the clerk. A.R.S. § 16-934(A).

In the termination statement, the committee treasurer is required to certify under penalty of perjury that all of the following apply:

- ▶ The committee will no longer receive any contributions or make any disbursements;
- ▶ The committee either has no outstanding debts or obligations; or has outstanding debts or obligations that are more than 5 years old, the committee's creditors have agreed to discharge the debts/obligations, and the creditors have agreed to termination of the committee.
- ▶ Any surplus monies have been disposed of and that the committee has no cash on hand; and
- ▶ All contributions and expenditures have been reported in a final campaign finance report, including any disposal of surplus monies. A.R.S. § 16-934(B).

A filing officer may reject the termination statement if it appears to the filing officer that the above requirements have not been satisfied. A.R.S. § 16-934(C). After a termination statement is filed and accepted, a candidate committee is not required to file any further campaign finance reports. A.R.S. § 16-934(D).

Enforcement / Penalties

Campaign Finance Complaint Process

A third-party written complaint is required for the clerk to initiate an investigation. Email submissions are acceptable. A.R.S. § 16-938(B).

The following process is outlined in the 2019 State Election Procedures Manual, Chapter 16, which has the force and effect of law. A.R.S. § 16-452.

Regardless of whether a complainant is represented by counsel, a complaint must contain the full name and mailing address of the complainant.

A complaint should also:

- ▶ Clearly recite the facts that describe a violation of Arizona campaign finance law under the filing officer's jurisdiction as specifically as possible (citations to the law are highly encouraged);
- ▶ Clearly identify each person, committee, organization or group that is alleged to have committed a violation;
- ▶ Include any supporting documentation (such as sworn affidavits from persons with firsthand knowledge, media reports, advertisements, website links, etc.) supporting the alleged violation, if available; and
- ▶ Differentiate between statements based on a complainant's personal knowledge and those based on information and belief. Statements not based on personal knowledge should identify the source of the information.

Campaign Finance Complaint Process

Complaints should be filed as soon as possible after the alleged violation becomes known to the complainant in order to preserve available evidence and initiate the enforcement process within the four-year statute of limitations period. See A.R.S. § 12-550.

The clerk must review the complaint for compliance with the required criteria outlined above, including confirmation that the complaint falls within their jurisdiction.

If the complaint does not meet the criteria, the clerk should notify the complainant of the deficiencies and that no action will be taken on the complaint.

Campaign Finance Complaint Process

If the complaint is deemed sufficient, the clerk will:

- ▶ Assign the complaint a complaint number (in a format determined by the filing officer);
- ▶ Confirm in writing that the complaint has been received;
- ▶ Inform the complainant that the respondent will be provided an opportunity to submit a response and the complainant may submit a reply within specified time periods; and
- ▶ Inform the complainant that the filing officer will notify him or her once a preliminary decision has been made.

A “respondent” is the person who is the subject of the campaign finance complaint or referral.

Campaign Finance Complaint Process

- ▶ Within five business days after receiving a properly filed complaint, the clerk will send the respondent a copy of the complaint and a letter describing the clerk's campaign finance processing procedures.
- ▶ The notification letter reflects no judgment about the accuracy of the allegations, but simply: (i) informs the respondent that the clerk has received allegations as to possible violations of campaign laws by the respondent; (ii) provides a copy of the complaint or referral document, or in limited circumstances, a summary of the complaint; and (iii) gives the respondent an opportunity to respond in writing in a timely manner.
- ▶ Respondents must be provided an opportunity to respond to both a third-party complaint and an internally-initiated investigation. There is no prescribed format for responses.
- ▶ The clerk may set a response deadline not to exceed 30 calendar days. Upon request by the respondent and for good cause shown, the clerk may grant a reasonable extension of the response deadline. The respondent must make the request to the clerk in writing, and the clerk must copy the complainant on the clerk's decision on the extension request.

Campaign Finance Complaint Process

- ▶ Within five business days after receiving a response, the clerk will send the complainant a copy of the response and a letter that explains the opportunity for the complainant to submit a reply.
- ▶ There is no prescribed format for replies and complainants are not required to file a reply. However, the reply is the complainant's opportunity to address issues raised in the response and/or buttress the complaint's original allegations.
- ▶ The reply may not raise new issues that were not addressed in the original complaint. The clerk may set a reply deadline not to exceed 14 calendar days.
- ▶ The clerk may not take any action on the complaint or referral (other than dismiss the matter) until this time period has passed.
- ▶ Upon request by the complainant and for good cause shown, the clerk may grant a reasonable extension of the reply deadline.

Campaign Finance Enforcement

- ▶ The clerk will make a preliminary determination whether a campaign finance violation has occurred, known as a “reasonable cause” finding.
- ▶ If the clerk makes a "reasonable cause" finding, the clerk will refer the matter to the enforcement officer. A.R.S. § 16-938(C). The enforcement officer in municipalities is the city or town attorney. A.R.S. § 16-901(21).
- ▶ The enforcement officer makes the final determination whether a legal violation occurred, which may require an additional investigation beyond the information provided by the clerk. A.R.S. § 16-938(C),(E).
- ▶ If the enforcement officer concludes that a campaign finance violation occurred, the enforcement officer may issue a notice of violation to the alleged violator. If the violation has not been remedied in 20 days, the enforcement officer may initiate legal action to secure compliance with campaign finance law. A.R.S. § 16-938(C),(E)-(G).

Campaign Finance Enforcement

Violations are enforced through civil penalties, based on amount of money improperly spent or accepted. A.R.S. § 16-938(E)(2).

On the criminal side, a candidate committee may not knowingly accept a contribution in the name of another person. A.R.S. § 16-1022(B).

- ▶ For example, a donor may have reached his or her contribution limit to the candidate and seek to give additional money through someone else. If the candidate knows that a contribution is from a straw donor, the candidate could be charged with a class 6 felony. Arizona law also makes it a crime to give a contribution in the name of another or allow one's name to be used in this manner. A.R.S. § 16-1022(B).

QUESTIONS?

Christina Estes-Werther

(602) 258-5786

cwerther@azleague.org