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The *Campaign Finance Disclosure Act of 2006* (CFDA), with the exceptions noted in section 1.1 below, apply to all elections for state and local public office in the Commonwealth and to nominations of political party candidates for those offices, whether by primary, nominating conventions, mass meetings, or other nominating methods. [§ 24.2-945](#). Virginia regulates through disclosure and imposes no contribution limits.<sup>1</sup> The electoral board secretary and/or the general registrar are required by CFDA to perform certain duties relating to the filing of campaign finance reports, assessing civil penalties and referring matters to the Commonwealth's Attorney. Neglect of official duties is punishable as a Class 1 misdemeanor. [§ 24.2-1004](#). The statute of limitations for campaign finance violations is the earlier of one year following discovery or three years after the violation. [§§ 19.2-8, 24.2-953](#). In any case, when it is determined that the public interest will be served, SBE can request the Attorney General or a Governor designated counsel to participate. [§ 24.2-104](#).

The Code sets forth disclaimer requirements for campaign advertisements and telephone calls also discussed herein. *See*, [§ 24.2-955 – 959.1](#).

## 21.1 Who Is Not Required To File

Referring to [§ 24.2-945](#), the following candidates for certain offices are exempt from the provisions of CFDA:

- Members of the U.S. Congress
- Candidates for President and Vice President of the United States
- Candidates for Soil and Water Conservation District Director
- Candidates for town offices in towns with a population less than 25,000, except by ordinance
- Candidates for political party committee officers

 Write-in candidates are subject to the reporting requirements under CFDA and campaign advertising laws. For the purposes of [§ 24.2-945 et seq.](#) and [§ 24.2-955 et seq.](#), "candidate" includes any person who raises or spends funds in order to

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<sup>1</sup> Federal law does impose one important prohibition applicable in state and local elections on contributions from foreign nationals. 8 USC § 441e. This prohibition is enforced by [United States Attorneys](#) to whom any questions about compliance should be directed.

seek or campaign for an office of the Commonwealth, excluding federal offices, or one of its governmental units in a party nomination process or general, primary, or special election. [§ 24.2-101](#). Such persons are considered candidates until a final report is filed. *See*, [§ 24.2-947 et seq.](#) Certain requirements may have amount thresholds. *E.g.*, [§ 24.2-955](#).

## 21.2 Allocation of Responsibilities

SBE is responsible for a centralized database to receive campaign finance reports from local candidates and other required filings. Localities remain responsible for maintaining and reviewing local candidate reports as well as assessing any appropriate civil penalties.

Summary of Code filing requirements (§§ 24.2-947.1, 24.2-947.5)

Office or Entity	Filing Type	Filing Location
Local Political Party Committee	Paper Filers	Local, SBE
Political Party	Electronic	SBE
Local <sup>2</sup> or Constitutional	Paper	Local
Local or Constitutional	Electronic	Local <sup>3</sup> Statement of Organization, copy SBE; SBE all others
General Assembly	Paper	SBE; and locality of candidate's residence
General Assembly	Electronic	SBE
Statewide	Electronic filing required	SBE

For persons that may not have Internet access, SBE recommends that the GR/EB provide copies at a reasonable cost of all reports filed with SBE for public inspection locally. Only the office required to receive a filing must preserve the records for public inspection and copying for the period required in [§ 24.2-946.2](#) (one year after final report or through next pertinent general election, whichever is later).

<sup>2</sup> Local offices include town offices in towns with population over 25,000 or that have enacted ordinances requiring compliance with campaign finance reporting requirements.

<sup>3</sup> The local candidate should transmit to SBE (e.g., by fax) a copy of the statement of organization. [§ 24.2-947.1\(B\)](#) (candidate requirement).

## 21.3 When a Candidate Must Register

According to [§ 24.2-947.1](#), a person is required to file a Statement of Organization (Form SBE-947.1) within 10 calendar days of meeting any one of the requirements listed below:

- Acceptance of a contribution
- Expenditure of any funds (including personal funds)
- The payment of a filing fee for any party nomination method
- The filing of a candidate statement of qualification (Certificate of Candidate Qualification Form [Form SBE-501])
- The appointment of a campaign treasurer, designation of campaign committee, or designation of a campaign depository (bank account)

The candidate is still required to file a Statement of Organization (Form SBE-947.1) and open a *separate* bank account prior to filing the request for exemption. The exemption form can be submitted with the Statement of Organization. The form must be filed before the first filing is due.

- ① Virginia does not have any financial threshold before a candidate must file a statement of organization; there are no “exploratory” candidate committees under Virginia law.

### 21.3.1 Amending the Statement of Organization; Candidates Changing Residence

When any information previously submitted on the Statement of Organization changes the committee has 10 days from the date of the change to amend the Statement of Organization. If a candidate relocates from one locality to another they are required to file an amended statement of organization and subsequent reports with the GR/EB in the new locality. However, if the residence change disqualifies the candidate for the office, a final report should be filed with the former locality and SBE, if appropriate.

### 21.3.2 Election Cycles

Election cycles that begin January 1<sup>st</sup> after the date of the election for that office: Candidates automatically advance to the next election cycle and file on the prescribed schedule for when that office is on the ballot. This does not mean that the candidate’s name will be on the ballot. It means that they are required to file on the prescribed schedule for that office.

The cover page of reports filed in the next election cycle should indicate the next general election date and year for that office beginning with the first report that contains financial activity in the year immediately following the election. If, at any point, the candidate decides not to run for election for the same office, then they are still required to file all required reports related to that

office until such time as they file a Final Report or they will be subject to civil penalties for failure to file the required reports.

Candidates can close their committee registration at anytime by filing a final report.

A candidate may campaign for an election to fill a vacant seat. If a special election has not been called, the Election date on the Statement of Organization will be the next general election date for the office sought. The statement of organization must be amended to reflect the date of the special election, once known.

### **21.3.3 Certain Candidates Exempt**

Candidates for local office are allowed to request an exemption from filing campaign finance reports (Form SBE-948.1E). [§ 24.2-948.1](#). The exemption applies if the candidate meets the following requirements:

- Has not and will not solicit or accept any contribution from any person or political committee during the course of his campaign
- Has not and will not contribute to his own campaign more than \$1,000 of his own personal funds
- Has not and will not expend more than \$1,000 of his own personal funds during his campaign
- Has and will comply with the requirements of CFDA

The candidate is still required to file a Statement of Organization (Form SBE-947.1) and open a separate bank account *before* filing the request for exemption. The request for the exemption can be filed with the Statement of Organization form. The request form must be filed before the first report is due. A final report must be filed before taking the oath of office.

By law, a candidate claiming exemption cannot take office until a final report is filed. [§ 24.2-948.1](#). The final report must show all financial activity of the campaign.

Candidates with a current exemption on file may purchase voter lists with funds drawn on the candidate's personal account. [§ 24.2-948.1](#). These expenditures by the candidate for voter lists shall not count against the candidate's \$1,000 personal expenditure limit.

If the candidate determines that they will solicit contributions *or* expend more than \$1,000 of their own funds, they are required to rescind their exemption by filing Form SBE-948.1R prior to taking such actions. The first contributions and expenditures report must show all receipts and expenditures from the first activity date and must file on the regular schedule thereafter. A final report is due the earlier of 30 days after the Election Day or before taking the oath of office.

## 21.4 Processing Reports

The secretary of the electoral board or, if decided by the electoral board, the general registrar receives and reviews campaign finance reports required to be filed with them according to the procedures outlined by the SBE. [§ 24.2-946.3\(C\)](#).

### 21.4.1 Catalog Receipt

Separate records must be kept for each candidate filing locally. All official communications to and from each committee must be kept with the committee's file.

When reports are received, the date must be entered on the form and a preliminary check should be performed to verify the following:

- The report is legible.
- All amounts shown on Schedule G Statement of Funds are itemized on the appropriate schedules and included with the report.<sup>4</sup>
- The report is properly signed and dated by the candidate or treasurer.

Candidates should be notified in writing about omissions and errors and given 10 days to file an amended report. [§ 24.2-953.3](#).

### 21.4.2 Review

A detailed review is required within 21 days of the report's receipt. [§ 24.2-946.3\(E\)](#). This review should check for the following:

- Missing information in required fields
  - Blank entries or entries such as "N/A," "none," "unknown" etc. are considered "missing information."
  - In fields where "requested," "unable to obtain" or similar statement is entered, the filer should provide copies of letters to the contributors requesting this information.
- The beginning balance of the current report (Schedule H, Line 16) equals the ending balance of the previous report (Schedule H, Line 19).
- The numbers entered on Lines 19 and 29 of Schedule H match.
- Contributors are listed in alphabetical order on Schedule A and Schedule B as required by [§ 24.2-947.4](#).
- All large pre-election contributions or local large contribution reports were reported in a timely manner (if applicable).
- Expenditures are listed in chronological order (earliest first) on Schedule D.

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<sup>4</sup> Un-itemized contributions should be included on Schedule G, Lines 3 & 4. Contributions of \$ 100.01 or more must be itemized on Schedule A of the Contributions and Expenditures report.

Local election officials are not required to verify the validity of the information provided. Persons who challenge the validity of the information contained in a committee's report should be directed to the local Commonwealth's Attorney.

Local election officials are not required to review campaign finance reports for General Assembly candidates who file their reports on paper. SBE is responsible for reviewing these reports. However, if a required report filed by the General Assembly candidate with the locality is not filed or filed late, then the GR/EB is required to assess and collect the required civil penalties following the appropriate procedure.

### **21.4.3 Complete Filings**

It is recommended that the responsible local election official sends a letter to the committee acknowledging receipt of the filing and provide the due date for the next report once the filing has been determined to be complete. SBE has a comprehensive set of recommended templates for campaign finance correspondence, including acknowledgment of a complete report.

Reporting forms may be included in the correspondence with candidates, but it is not required that they be provided. Local election officials are not required to provide forms to candidates for the General Assembly. All required forms are available on the SBE website.

### **21.4.4 Incomplete Filings**

For incomplete reports, the responsible local election official should proceed as follows:

- Prepare a letter to the candidate or treasurer which outlines the errors found in the report.
  - *See below*, Exhibit D.
  - The letter must state that an amended report must be received within ten days of mailing the letter or the prescribed civil penalty will be assessed.
  - Due to the short turnaround time for amending the report, SBE recommends that the responsible local election official also contact the committee via email (if known) or phone in order to ensure that they receive the necessary information.
- Send the letter by Certified Mail - Return Receipt Requested.
- Preserve the original copy of each letter the stamped USPS receipt for certified mail, and either the return receipt signed by the recipient or the envelope returned by the USPS as unclaimed by the addressee.
  - These records may be needed as evidence in a court proceeding.

The committee must amend the report by the due date or request additional time. Extensions of no more than 14 calendar days may be granted. [§ 24.2-953.3](#).

The schedules for assessing penalties for committees that fail to respond to requests for additional information are on SBE's website. Illustrative schedules are also provided later in this chapter.

Reports filed electronically with SBE, by local or constitutional candidates will be forwarded to the appropriate locality. The email will contain the necessary information to assist the responsible local election official in cataloging, reviewing and acknowledging the report.

## 21.5 Late Reports

The procedures for assessing and collecting civil penalties for the failure to file a required statement or campaign finance report are found in [§ 24.2-946.3](#). Short extensions of filing deadlines may be requested in writing, before the date the report is due, but only for a very limited list of the most serious types of emergencies. See, [§ 24.2-946.4, Candidate Campaign Committee Summary](#). The schedule for assessing penalties for late reports can be found on SBE's website. Illustrative schedules are provided later in this chapter. If a statement or report is submitted after the deadline, the responsible local election official must follow the procedure below to collect the required penalty:

- A letter must be sent to the committee's primary mailing address as reported on Statement of Organization Form SBE-947.1 notifying them of the violation and assessing the prescribed civil penalty for the missing statement or report.
  - See, Exhibit B.
  - This letter must be sent via *Certified Mail - Return Receipt Requested*.
- A copy of each letter must be carefully preserved along with the stamped USPS receipt for certified mail and either the return receipt signed by the recipient or the envelope returned by the USPS as unclaimed by the addressee.
  - These records may be needed as evidence in a court proceeding.
- If the candidate or committee fails to pay the assessed civil penalty within **60** days of the letter's receipt date, the matter must be reported to the Commonwealth's Attorney to initiate collection procedures.
- If the letter comes back as unsigned or undeliverable, 60 days should elapse before referring the matter to the Commonwealth's Attorney.

## 21.6 Failure to File Reports

The procedures for assessing and collecting civil penalties for the failure to file a required Statement of Organization or campaign finance report are found in [§ 24.2-946.3](#). The schedule for assessing civil penalties can be found in SBE's website. Illustrative schedules are also provided later in this chapter.

For any committee that failed to file a statement or report by the applicable deadline, the appropriate local election official must do the following:

- Send a letter to the committee’s primary mailing address as reported on the Statement of Organization (SBE-947.1) notifying the committee of the violation and assessing the prescribed civil penalty for the missing statement of organization or report.
  - *See*, Exhibit C.
  - This letter must be sent via *Certified Mail - Return Receipt Requested*.
- Preserve the copy of each letter, the stamped USPS receipt for certified mail and either the return receipt signed by the recipient or the envelope returned by the USPS as unclaimed by the addressee.
  - These records may be needed as evidence in a court proceeding.

The civil penalty will increase for any candidate or committee that fails to submit a requested campaign finance report within ten days of receipt of the local election official’s letter. The schedule for assessing civil penalties can be found on in the Candidate Summary of Laws and Policies. The matter must be reported to the local Commonwealth’s Attorney to initiate collection procedures if the candidate or committee fails to pay the assessed civil penalty within sixty (60) days of receipt of the letter.

The matter should be reported to the Commonwealth’s Attorney to initiate criminal procedures if the candidate pays the penalty but fails to file the required statement or report within ninety (90) days.

The matter should be forwarded to the Commonwealth’s Attorney if a letter comes back as unsigned or undeliverable.

## **21.7 Special Large Pre-Election Contribution Reporting**

Certain candidates are required to file a Large Pre-Election report (Form SBE-947.9) if they receive a contribution exceeding statutory thresholds (\$1,000 or more for General Assembly candidates; \$500 or more for local or constitutional candidates) in the twelve (12) days prior to any nomination or election. [§ 24.2-947.9](#). The Code provides important details such as coverage of party nominating events in addition to elections in some circumstances. Candidates running unopposed in a primary or other nominating event are not required to file Large Pre-Election Reports. However, they are required for unopposed candidates running in a General Election. Candidates running for the General Assembly and filing electronically file these reports only with SBE. General Assembly candidates who file on paper must file the reports with the locality and SBE.

The report must be filed no later than 5 pm on the day following receipt (Monday if a contribution is received on a Saturday). The contributions shown on these reports must also be reported again on the candidate’s next report.

## **21.8 Independent Expenditure Reports**

Persons, candidate campaign committees, and political committees are required to submit Independent Expenditure reports within 24 hours of making an independent expenditure exceeding statutory thresholds (\$1,000 for statewide elections and \$200 for other elections). [§ 24.2-945.2](#). Please note that this requirement pertains to independent expenditures for the election cycle, not for the support or opposition of a single candidate.

An independent expenditure is an expenditure made without coordination or involvement of the candidate benefited. “Coordinated or Coordination” is defined as (i) the express request or suggestion of a candidate, a candidate's campaign committee, or an agent of the candidate or his campaign committee; or (ii) with material involvement of the candidate, a candidate's campaign committee, or an agent of the candidate or his campaign committee in devising the strategy, content, means of dissemination, or timing of the expenditure. [§ 24.2-945.1](#).

### **21.8.1 Where to File Independent Expenditure Reports**

Independent expenditures made to support or oppose a candidate for General Assembly or statewide office must be reported to SBE. Independent expenditures made to support or oppose candidates for local and constitutional offices must be submitted to the local electoral board. The Independent Expenditure Report (Form SBE-945.2) is used.

Any independent expenditure reports filed locally should be placed in the same file with the candidate who is indicated on the report as being supported or opposed.

### **21.8.2 Deadline for Filing Independent Expenditure Reports**

Expenditure reports are due within 24 hours either after the funds are expended, or after express advocacy materials are published or broadcast to the public; whichever occurs first.

There are special requirement for political action and political party committees. PACs and party committees filing independent expenditures reports must also have a current Statement of Organization on file. If the committee is a PAC, state party, or caucus, the local election official receiving a report should check with SBE to ensure that the filer has a current Statement on file with SBE. If the filer is a local party committee, the local election official should make sure that the committee has a Statement of Organization on file with the local election office or with SBE, whichever is appropriate depending on the electronic filing status.

If the committee does not have an active Statement of Organization (typically in the case of a new committee) they must submit a Statement of Organization at the same time that they submit their independent expenditure report. If they are an individual (not a candidate), no additional reporting is required at the time of the independent expenditure report. Because of the \$200 statutory threshold for Statements of Organization, PACs and party committees who must file

independent expenditure reports must also file statements of organization if they have not done so already. See, [§§ 24.2-945.1, 24.2-949.2](#) and [24.2-950.2](#).

The definitions in [§ 24.2-945.1](#) determine status as a PAC, party committee or individual.

## **21.9 Filing a Final Report**

All candidates are required to file a final report. [§ 24.2-948.4](#). However, there is no required time in which a candidate must file their final report except when an exempt candidate wins the election. See, [§ 24.2-948.1](#). Further, a final report can be filed at any time. It does not have to be filed during a regular reporting deadline.

## **21.10 Election Cycles**

The candidate's election cycle begins on January 1 of the year that the candidate first seeks election for the office through December 31 immediately following the election for such office. [§ 24.2-947](#). The next election cycle, and any subsequent election cycles, for the candidate who seeks election in successive elections for the same office shall begin on January 1 immediately following each election for the same office and continue through December 31 immediately following the next successive election for the same office. For example, a candidate for the House of Delegates who was elected in November 2011 will begin a new election cycle on January 1, 2012 and it will end on December 31, 2013 whether the candidate is re-elected or not.

Solely for administrative purposes, any candidate with an open campaign finance account is required to report in a new election cycle and shall be presumed to be a candidate for election in the succeeding election even if the candidate is not on the ballot.

### **21.10.1 Candidates Seeking Election to the Same Office in Successive Elections**

As of January 1 after the November election day, candidates begin a new election cycle. At that time they must automatically begin filing campaign finance reports for the new election cycle. It is *not* necessary to request that the committee file an amended Statement of Organization to change the "Election Date" unless other information on the Statement has changed. The cover page of each subsequent report should indicate the next general election date for that office beginning with the first report that contains financial activity in the year immediately following the election.

## **21.10.2 Candidates No Longer Running for Election to the Same Office**

A candidate must continue to file campaign finance reports on the appropriate schedule until all debts for the campaign are paid and the committee's balance is zero. [§ 24.2-948.4](#). Debts may not be transferred to another campaign. However, a candidate who is running for the same office in successive elections may keep their campaign account open.

When filing a final report, the candidate must sign a *Termination Statement*. This statement is the Cover Sheet to the Final Report (SBE-948.4) indicating that all debts have been paid, all monies received and spent have been reported and, if surplus funds remain, the amount and disposition of those funds. The termination statement must be filed on paper even if the committee files their reports electronically.

## **21.10.3 Disbursement of Surplus Funds**

According to [§ 24.2-948.4](#), a campaign committee is authorized to disburse surplus funds by the methods listed below:

- Transfer to a future election for the candidate or to retire the deficit of the current campaign
- Return to a contributor in an amount not to exceed the contributor's original contribution
- Donation to any organization described in the Internal Revenue Code, 26 USC 170(c)
- Contribution to one or more candidates or to any political committee
- Contribution to any political party committee
- Defraying any ordinary, non-reimbursed expense related to his elective office

No candidate may convert any contributed moneys, securities, or like intangible personal property to his personal use. Prohibited personal use extends to immediate family members. The Attorney General's office has provided a written explanation of the provisions of the Campaign Finance Disclosure Act that prohibit "personal use." This explanation is available on the SBE website for all candidates, committees, and persons subject to the Act's provisions.

## **21.11 Retention of Reports**

Campaign Finance Reports filed locally must be retained through the next general election for the office to which they pertain unless the candidate has filed a Final Report. Reports for terminating candidates must be retained at least (1) one year after the final report is filed, or (2) the next general election for the office to which they pertain. After expiration of the applicable retention period, the reports can be destroyed according to the instructions set forth in [GS-01, Voter Registration and Election Records, Library of Virginia](#).

## 21.12 Reporting Forms

Reporting forms for all committee types are available on SBE's website. Any questions regarding reporting forms can be directed to the SBE toll-free line (800-552-9745). SBE provides a set of reporting forms in candidate packets which are provided to candidates upon their request.

## 21.13 Summaries of the Act

The *Summaries* of the Act for each type of committee are available on SBE's website.

## 21.14 Prohibited Methods of Fundraising Inconsistent with Reporting Requirements

While Virginia law generally does not prohibit any political contribution properly reported, certain fundraising methods incompatible with reporting requirements are prohibited. These prohibited methods include anonymous "pass the hat" activities as well as raffles of any kind. Raffles are not a permitted form of campaign fundraising and may also violate criminal law.<sup>5</sup>

In contrast, door prizes among qualified attendees, casino nights and auctions are permitted if the required donor information is collected for all participants. *See*, [http://www.sbe.virginia.gov/cms/Campaign\\_Finance/Cidate\\_Training.ppt#327](http://www.sbe.virginia.gov/cms/Campaign_Finance/Cidate_Training.ppt#327). The Department of Agriculture and Consumer Services should be contacted for guidelines on casino nights.

Required information for individual contributors is full name, mailing address, contribution amount, date, occupation, employer name or principal business and its locality. [§ 24.2-949.5](#). Anonymous contributions of any amount are not permitted.

## 21.15 Mandatory Reporting for Apparent Willful Violations

There are certain procedures for reporting willful violations of campaign finance laws. *See*, [§ 24.2-946.3](#). Local election officials are required to report to the Commonwealth's Attorney the name and address of any candidate committee that, after being properly notified, has failed to file, failed to amend incomplete pages of any required report, or failed to pay any civil penalty that has been assessed.

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<sup>5</sup> See <http://www.oag.state.va.us/OPINIONS/2007opns/06-093-Durham.pdf> (page 4 n.19). *See also*, [§§ 18.2-340.16](#), [18.2-340.23](#). Political organizations are not eligible for the below \$25,000 gross receipts exemption in [§ 18.2-340.23](#) because limiting language in the definition of "organization" in [§ 18.2-340.16](#) requires that the organization use the funds raised exclusively for charitable, educational, religious or community purposes.

Local election officials must advise the Commonwealth's Attorney in writing of the name of any candidate who filed an incomplete pre-election report of large contributions or who, upon review of a report, is discovered to have failed to report a large contribution as required. *See below*, Exhibit E (template letter).

All correspondence sent to the Commonwealth's Attorney should include originals or copies of any incomplete pages and letters to the filer with the stamped USPS receipt to document mailing and return receipt signed by the recipient or the USPS returned envelope showing unclaimed by the addressee if applicable. Copies of all communications must be maintained.

SBE must be copied on all letters and any attachments sent to any General Assembly Candidates.

The Commonwealth's Attorney has statutory discretion whether to prosecute any apparent willful violation referred to that office. After determining no criminal charges will be filed, the Commonwealth's Attorney may refer the matter to SBE to impose civil penalties.

## **21.16 Penalties**

A civil penalty is required to be assessed for incomplete filings, late filings or the failure to file required campaign finance statements or reports. [§ 24.2-953](#).

The law requires SBE to provide uniform schedules for local election officials to follow in carrying out their responsibility to assess civil penalties for campaign finance report violations. [§ 24.2-946.3\(I\)](#). No electoral board, Election Official or Commonwealth's Attorney has the authority to waive or reduce these penalties. All election officials must follow the uniform schedules published on the SBE website. Schedules are reproduced in this Chapter for illustration purposes and in the event of any conflict, the website information controls.

The local electoral board has a legal duty to request the Commonwealth's Attorney to initiate collection action if the required payment is not received within **90 days** of the filing deadline for the report to which the penalty relates. [§ 24.2-946.3\(G\)](#). Willful neglect of official duties is criminal offense. [§ 24.2-1001](#). Candidates for local office must make their checks payable to the local general fund.

The complete schedule of penalties for all committees can be found on our [website](#).

## **21.17 Political Advertisements**

The law commonly known as "Stand By Your Ad" (SBYA) contains the requirements for disclosures on political advertisements. [§ 24.2-955](#) et seq.

## 21.17.1 When Disclaimers are Required

A disclaimer is the statutorily required disclosure statement for all political advertisements that “expressly advocate” the election or defeat of a clearly identified candidate (e.g. “Vote for..”; “Support”; “Oppose”; “John Smith for Congress”). Case law includes advertising that is the functional equivalent of express advocacy (capable of no reasonable interpretation other than advocating the election or defeat of a clearly identified candidate). The proper disclaimer must be used in order to comply with the requirements of the law. Political advertisements can appear on television, radio, or print media.

## 21.17.2 Print Media Definition

The following is a list of specific items that constitute *Print Media*:

- Billboards
- Bumper Stickers
- Cards
- Sample Ballots
- Newspaper ads
- Newspaper inserts
- Magazines
- Mailed printed advertisements
- Pamphlets
- Fliers
- Periodicals
- Websites
- Electronic mail (E-mail)
- Outdoor advertising facilities (e.g. Barn sides, Stadium billboard ads)

These items do not require a disclaimer (*see*, § 24.2-955.1):

- Pens
- Pencils
- Magnets
- Buttons to be attached to wearing apparel
- Hats
- T-Shirts
- Yard Signs

The provisions of the SBYA not expressly include or exclude political campaign yard signs protected from discriminatory local content regulation under [§ 15.2-109](#). Because prior law did require disclaimers for yard signs, SBE recommends as a best practice that candidates consider voluntarily including a disclaimer on campaign yard signs they sponsor to avoid criticism. Candidates also need to contact local government administrators about content neutral local

regulations that may apply. *See*, SBE’s candidate bulletin (discussing signage location issues such as DMV right of way restrictions).

### **21.17.3 Print Media Disclaimer Requirements for Candidates**

The visual disclaimer required on print media advertisements must be displayed in a conspicuous manner. Advertisements with multiple folds, faces, or pages must include the disclaimer on at least one fold, face or page. Committees will be considered to have complied with the law if the disclaimer legend or statement conveys the required information.

#### **21.17.3.1 “Paid for by...”**

The disclaimer for every political advertisement sponsored by a candidate that appears in Print Media must state who paid for the advertisement. The disclaimer must include the name of the candidate or the candidate’s campaign committee.

If the candidate or his campaign committee is the sponsor of the advertisement AND the advertisement does *not* refer to any other clearly identified candidate, then the disclaimer can use “Authorized by... instead of “Paid for by...”

In the case of a print media advertisement that has more than one sponsor, the disclaimer must name all sponsors.

#### **21.17.3.2 “Authorized by...”**

If the political advertisement refers to any other clearly identified candidate, other than the sponsor of the advertisement, then the disclaimer must state whether it was authorized by the candidate mentioned in the advertisement.

The disclaimer must state “Authorized by... [Name of candidate], candidate for [Name of office]” or “Not Authorized by any other candidate.”

### **21.17.4 Television Disclaimer Requirements for Candidates**

Televised political advertisements must also comply with the federal Communications Act of 1934 as well as the relevant sections of the Code of Virginia. [47 USC 315, 317](#); [§ 24.2-957](#) et seq.

Every televised political advertisement sponsored by a candidate must visually state who paid for the advertisement. The statement must be 20 scan lines in size and must include the name of the candidate or the candidate’s campaign committee. The statement must appear on screen for at least four (4) seconds. [47 USC 315](#).

If the candidate or his campaign committee sponsors the advertisement *and* the advertisement does not refer to any other clearly identified candidate, then the disclaimer can use “Authorized by...” instead of “Paid for by...”

In the case of a television advertisement that has one or more sponsors, the disclaimer statement must name all sponsors and a sponsoring candidate must speak the disclaimer statement.

If the sponsor of the advertisement does not control the audio, then the disclaimer standards for Print Media apply.

#### **21.17.4.1 “Authorized by...” Spoken Disclaimer**

Any televised political advertisement sponsored by a candidate that refers to another clearly identified candidate or candidates not sponsoring the advertisement must include a disclaimer spoken by the sponsoring candidate. At least the following language must be included: “I am... (Or “This is...”) [Name of candidate], candidate for [name of office], and I (or “my campaign”) sponsored this advertisement.” There must be a full-screen, un-obscured photographic picture or actual appearance of the candidate throughout the entire spoken statement.

The spoken statement can be spoken at any time during the advertisement unless the duration of the advertisement is more than 5 minutes. The spoken statement must be delivered at the beginning and the end of the advertisement if the advertisement is more than 5 minutes.

If multiple candidates sponsor the advertisement then at least one sponsoring candidate must speak the disclaimer statement.

### **21.17.5 Radio Disclaimer Requirements for Candidates**

Political advertisements broadcast on radio must comply with the federal Communications Act of 1934 as well as the relevant sections of the Code of Virginia. [47 USC 315, 317](#); [§ 24.2-958](#) et seq. The disclaimer statement must last at least two seconds and must be spoken so that its contents can be easily understood.

If the radio advertisement has multiple sponsors, the disclaimer statement must name all sponsors and the candidate must speak the disclaimer statement. If multiple candidates sponsor the advertisement then at least one candidate must speak the disclaimer statement.

#### **21.17.5.1 Spoken Disclaimer**

Any radio broadcast political advertisement sponsored by a candidate that refers to another clearly identified candidate not sponsoring the advertisement must include a disclaimer spoken by the sponsoring candidate. At least the following language must be included: “I am... (Or

“This is...” [Name of candidate], candidate for [name of office], and I (or “my campaign”) paid for this advertisement.”

If the candidate or his campaign committee sponsored the advertisement AND the advertisement does *not* refer to any other clearly identified candidate, then the disclaimer can use “Authorized by ...” instead of “Paid for by...”

### **21.17.6 Campaign Telephone Call Disclaimer Requirements**

Campaign telephone calls that meet all of the following criteria are subject to SBYA disclaimer requirements:

- A series of telephone calls (electronic or otherwise)
- Made to twenty-five or more telephone numbers in the Commonwealth
- During the 180 days before a general or special election or during the ninety days before a primary
- Conveying or soliciting information relating to any candidate or political party participating in the election or primary
- Under an agreement to compensate the telephone callers

A violation of the telephone call disclaimer requirements will not void any election. [§ 24.2-955.3](#).

It is unlawful for any candidate or campaign committee to make campaign telephone calls or to contract with persons making telephone calls without disclosing before the conclusion of each telephone call, information to identify the candidate or campaign committee that has authorized and is paying for the calls. The requirement does not apply if the call is terminated prematurely by means beyond the caller’s control. The person making the campaign telephone calls must disclose the name of the candidate(s) or candidate campaign committee(s) paying for the call and authorizing the call, prior to the call’s conclusion.

No candidate, candidate campaign committee, person, corporation, or political committee making telephone calls to intentionally modify caller identification information in order to mislead the recipient as to the identity of the caller. [§§ 24.2-959, 959.1](#).<sup>6</sup>

### **21.17.7 Procedure for Reporting Violations to Disclaimer Requirements**

In contrast to campaign finance reports, the law does not impose any duty on local election officials to report or sanction possible advertising violations. Because of the politically charged nature of campaign advertising, complaints alleging disclosure violations normally originate from a citizen.

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<sup>6</sup> Updated 7/2010 (HB 215)

All complainants should be referred to SBE which has authority to assess civil penalties payable to the State Treasurer and refer possible willful violations to the appropriate Commonwealth's Attorney for investigation. [§ 24.2-955.3](#).

### **21.17.8 Penalties for Candidates for General Assembly, Local or Constitutional Office**

The following table summarizes the penalties for General Assembly, local or constitutional office candidates and/or their campaign committees that sponsor political campaign advertisements calls without a disclaimer:

<b>Type/Total Expenditures per cycle</b>	<b>Within 14 days pre-election</b>	<b>More than 14 days</b>
Print /< \$10,000	\$500	\$100
Print/>\$ 10,000	\$1,000	\$500
TV /< \$10,000	\$1,000	\$500
TV/>\$ 10,000	\$2,500	\$1,000
Radio /< \$10,000	\$500	\$250
Radio>\$ 10,000	\$1,000	\$500

#### **21.17.8.1 Print Media**

Violators whose total expenditures for the election cycle are less than \$10,000 are assessed a penalty of \$100 unless the advertisement appears in the 14 days before or on the relevant Election Day, in which case the penalty is \$500.

Violators whose total expenditures for the election cycle are \$10,000 or more are assessed a penalty of \$500 unless the advertisement appears in the 14 days prior to or on the relevant Election Day, in which case the penalty is \$1,000.

#### **21.17.8.2 Television**

Violators whose total expenditures for the election cycle are less than \$10,000 are assessed a penalty of \$500 per occurrence unless the advertisement is broadcast in the 14 days before or on the relevant Election Day, in which case the penalty is \$1,000 per occurrence.

Violators whose total expenditures for the election cycle are \$10,000 or more are assessed a penalty of \$1,000 per occurrence unless the advertisement is broadcast in the 14 days before the relevant Election Day, in which case the penalty is \$2,500 per occurrence.

Penalties for multiple broadcasts of the same advertisement are capped at \$10,000.

### **21.17.8.3 Radio**

Violators whose total expenditures for the election cycle are less than \$10,000 are assessed a penalty of \$250 per occurrence unless the advertisement is broadcast in the 14 days before or on the relevant Election Day, in which case the penalty is \$500 per occurrence.

Violators whose total expenditures for the election cycle are \$10,000 or more are assessed a penalty of \$500 per occurrence unless the advertisement is broadcast in the 14 days before the relevant Election Day, in which case the penalty is \$1,000 per occurrence.

Penalties for multiple broadcasts of the same advertisement are capped at \$10,000.

### **21.17.8.4 Campaign Telephone Calls**

A civil penalty not to exceed \$2,500 per occurrence is authorized for violations of the campaign telephone call disclaimer requirement. [§ 24.2-955.3](#).

## 21.18 Letter Templates

The following are recommendations for letters to be sent to delinquent committees:

### 21.18.1 Exhibit A - Unfiled Statement of Organization

Candidate/Committee  
Address Line 1  
Address Line 2  
City, VA Zip Code

Dear Filer:

The Statement of Organization is required to be submitted within 10 days of filing your Candidate Qualification form. ***Our records indicate that your Statement of Organization is past due.***

In the code of Virginia § [24.2-947.1](#) the Campaign Finance Disclosure Act requires that a civil penalty be imposed for failure to file a Statement of Organization within 10 days.

As a result the (county/city) Electoral Board must assess a penalty in the amount of \$\_\_\_\_\_. Please make your check payable to “(county/city Treasurer” and forward this payment to the (county/city) Electoral Board within 10 business days. If payment is not received within 30 days, (county/city) Electoral Board will be required to forward this matter to the appropriate Commonwealth's Attorney who must initiate proceedings for its collection.

The Statement of Organization must be filed within ten (10) business days from the date of this letter.

If you have questions or if there may be other pertinent information you require, feel free to contact the Campaign Finance Division at the number listed below.

If you feel that you have received this letter in error please contact me at (phone number).

Sincerely,

Staff Name  
Staff Title

## 21.18.2 Exhibit B - Late Filing

Candidate/Committee

Address Line 1

Address Line 2

City, VA Zip Code

Dear Candidate/Committee:

A careful review of our records shows that “Candidate/Committee, (Candidate/Committee Code)” filed its report on «SUBMISSION\_DATE» which was after the report’s required deadline of «Report\_Due\_Date».

According to the civil penalty schedule adopted by the State Board of Elections, the committee must be assessed a penalty of \$«AMOUNT\_FINED» for not submitting the required campaign finance report by the deadline.

Finally, the failure to pay the civil penalty within 90 days of the deadline for this filing period will result in the (county/city) Electoral Board will request the Commonwealth’s Attorney to enforce collection.

<b>Filing Period Ending</b>	<b>Report Deadline</b>	<b>Assessed Penalty</b>
Invoice Number :	<b>TOTAL AMOUNT DUE</b>	

Please make your check in the amount of \$«AMOUNT\_FINED» payable to the “(county/city) Treasurer.” Please reference invoice number «FINE\_ID» and forward this payment to the (county/city) Electoral Board.

If you feel that you require additional information or have received this letter in error please contact your (county/city) Electoral Board as soon as possible at (phone number).

Sincerely,

Staff Name

Staff Title

**21.18.3 Exhibit C - Failure to File**

Candidate/Committee

Address Line 1

Address Line 2

City, VA Zip Code

Dear Candidate/Committee:

A careful review of our records shows that “Candidate/Committee, Candidate/Committee Code” failed to file a required campaign finance report.

According to the civil penalty schedule adopted by the State Board of Elections, a committee must be assessed a penalty of \$(Amount of Penalty) for not submitting this required campaign finance report by the deadline. The (county/city) Electoral Board will be forced to turn this matter over to the Commonwealth’s Attorney, who shall be required to initiate collection procedures and to determine if a criminal violation has occurred, if the failure to file the required report and pay the civil penalty is not satisfied within 60 days of receipt of this letter.

Filing Period Ending	Report Deadline	Assessed Penalty
Invoice Number : <b>TOTAL AMOUNT DUE</b>		

Please make your check in the amount of \$«AMOUNT\_FINED» payable to the “county/city Treasurer”. Please reference invoice number «FINE\_ID» and forward this payment to your (county/city Electoral Board).

If you feel that you have received this letter in error please contact (county/city) Electoral Board at (phone number).

Sincerely,

Staff Name

Staff Title

## 21.18.4 Exhibit D - Incomplete Report

Candidate/Committee  
Address  
City, State Zip Code

Dear Filer:

This letter acknowledges receipt of your \_\_\_\_\_ report for your \_\_\_\_\_ campaign. This report, though filed timely, has been reviewed and it has been determined to be incomplete. The report is missing the following information required by Virginia Code § 24.2-947.4:

Incomplete Required Information	Date Amended Report is Due

\_\_\_\_\_ has 10 days from the receipt of this letter to re-file the aforementioned completed report or will be subject to a fine as established in Virginia Code §24.2-953.3.

Please be advised that the penalties required to be assessed for late or incomplete filings are detailed in the *Campaign Finance Disclosure Act Summary* booklet or on our website at [www.sbe.state.va.us](http://www.sbe.state.va.us). If you have any questions you may contact the Campaign Finance Division at 800-552-9745.

Sincerely,

Staff Name  
Staff Title

## 21.18.5 Exhibit E - Letter to Commonwealth's Attorney

Commonwealth's Attorney

Address Line 1

Address Line 2

City, VA Zip Code

Dear Commonwealth's Attorney:

As required by § 24.2-928 of the Code of Virginia, I am hereby notifying you that \_\_\_\_\_ has apparently willfully failed to file several required reports of contributions and expenditures after being duly notified and given an extended opportunity to do so. This person was a candidate in the \_\_\_\_\_ *General/Special Election*.

I have written to \_\_\_\_\_, advising him/her of his/her failure to file the reports in question, the letter also provided an extended deadline for the reports' receipt and it assessed the prescribed civil penalties for failure to comply. That letter also warned the candidate that if payment for this violation was not received in 30 days, we would be notifying your office, in order to collect the appropriate civil penalty. A copy of that letter is enclosed.

In accordance with § 24.2-929 of the Code of Virginia, this matter is referred to you for your review. I ask that you please institute proceedings for the collection of the civil penalties assessed and, if you deem it appropriate, prosecution of a Class 1 misdemeanor as provided by § 24.2-929.

Civil penalties collected are to be made payable to the *Treasurer of Virginia* and must be forwarded to this agency for deposit.

Thank you and if you require further information, you may contact the Electoral Board at (county/city) phone number.

Sincerely,

Staff Name

Staff Title