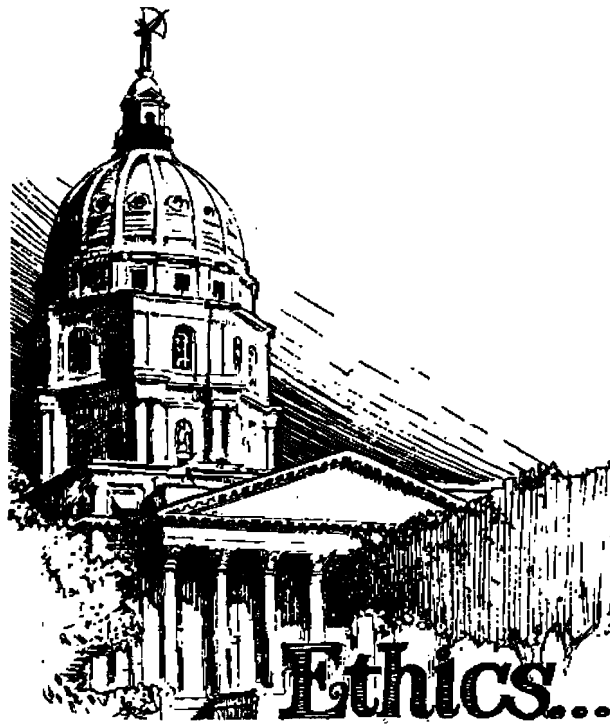


**Campaign Finance
Handbook for
Candidates and Treasurers
2016**



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INTRODUCTION

The Kansas Governmental Ethics Commission has prepared this informational brochure for use by candidates who are seeking election to state and local office, and their treasurers. It summarizes the reporting requirements of the Campaign Finance Act.

In addition to explaining to candidates and treasurers their specific reporting responsibilities under the law, this brochure also includes a summary of other related reporting requirements and bookkeeping recommendations.

The Commission urges that you and your campaign associates familiarize yourselves with the content of this brochure as early as possible.

While this summary incorporates significant provisions of the Kansas Campaign Finance Act, the user should read the publication in conjunction with the provisions of the law.

For your convenience, the Campaign Finance Act is available on our website (www.Kansas.gov/ethics).

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CANDIDATE'S RESPONSIBILITIES

In order to comply with the provisions of the Campaign Finance Act, each candidate must:

- Appoint a treasurer or candidate committee not later than ten (10) days after becoming a candidate. A candidate may serve as his or her own treasurer. A registered lobbyist is not eligible for appointment as treasurer for any candidate or candidate committee.
- File an "Appointment of Treasurer or Candidate Committee" form within ten (10) days of appointing a treasurer. State candidates file their appointment form with the Secretary of State. Local candidates file their appointment form with their county election officer. Whenever there is a change in treasurers or the candidate or treasurer has a change of address, a new form must be filed. Until an appointment form is filed, contributions cannot be received and expenditures cannot be made by or on behalf of the candidate. If the treasurer resigns or is removed, the candidate becomes the treasurer until such time as the candidate appoints a successor and files an amended "Appointment of Treasurer or Candidate Committee" form.
- Establish a checking account in a financial institution into which all contributions are to be deposited and from which all expenditures are to be made. The only exception to this rule is if the candidate is going to make all campaign expenditures from personal funds and does not accept contributions from any other source.
- Files a "Statement of Substantial Interests" within ten (10) days after the filing deadline if a candidate for State or local office. (This requirement does not apply to candidates for district or district magistrate judge, nor does it apply to incumbent office holders who filed a statement between April 15 and April 30, 2016.) Local candidates file a "Statement of Substantial Interests" not later than ten (10) days after the filing deadline with the candidate's county election office.
- Decide to file or not to file, prior to July 25, 2016, an "Affidavit of Exemption From Filing Receipts and Expenditures Reports By a Candidate for State or Local Office." This should be done only by a candidate who intends to receive less than \$1,000 and expend or contract to expend less

than \$1,000, exclusive of the candidate's filing fee, in the primary election campaign and to do the same in the general election campaign. Although reports are not required under this option, records of contributions and expenditures must still be kept.

Pay a registration fee at the time of filing for office follows:

- 1) State offices elected by statewide election\$650
- 2) State senator, state representative, state board of education, district attorney, board of public utilities of the City of Kansas City and elected county offices\$50
- 3) Members of boards of education of unified school districts having 35,000 or more pupils regularly enrollee in the preceding school year, members of governing bodies of cities of the first class and judges of the district court in judicial districts in which judges are elected\$50

PROHIBITIONS AND RESTRICTIONS

Commingle funds. Contributions or other receipts received by a candidate or candidate committee may not be commingled with the personal funds of the candidate, treasurer or any other individual.

Anonymous contributions. The Act permits the acceptance of contributions of ten dollars (\$10) or less when the name and address of the contributor is unknown. However, such contributions may not exceed an aggregate of \$1,000 per election for statewide candidates, \$500 per election for State Senate and State Board of Education, and \$250 per election for all other candidates running for state and local office. Individual anonymous contributions in excess of ten dollars (\$10) and anonymous contributions of any amount in excess of the allowable total are illegal and may not be used by a candidate or candidate committee.

Cannot receive contributions or make expenditures under certain circumstances.

No treasurer may accept or permit to be accepted any contribution or make or permit to be made any expenditure unless all reports required to be filed have been filed.

Accept a contribution in the name of another person.

The Act prohibits any person from making a contribution in the name of another person, and prohibits any candidate or candidate committee, party committee or PAC from knowingly accepting a contribution made by one person in the name of another. For example, it would be illegal for a person to contribute money to a state party

committee with the intent that the state party committee gives the contribution to a specific candidate in the name of the party committee.

Limitations on Contributions. There is no limit on the amount that a party committee may give to a candidate in an uncontested primary election and in the general election, nor is there a limit on what a candidate or candidate's spouse may give to the candidate's campaign. However, there is a limit on what a party committee may contribute if two or more candidates are seeking a party nomination. There are also limits on what a political action committee, individual, corporation, partnership, association, or organization may give to a candidate for state or local office. The limits apply to each primary election and general election and are as follows:

- \$2,000 – to candidates for Governor and Lieutenant Governor combined, Attorney General, Secretary of State, State Treasurer, and Commissioner of Insurance.
- \$1,000 – to candidates for State Senate and State Board of Education.
- \$500 – to candidates for State House of Representatives, District Attorney, District Judge, Magistrate Judge, and members of the governing body of a City of the First Class, a Unified School District having 35,000 or more pupils regularly enrolled in the proceeding school year, a County office, and the Board of Public Utilities.

The primary election limits apply to the aggregate total of all contributions (including in-kind, cash, loan, check) from any one individual, organization or committee through midnight of the day of the primary. The general election limits begin the day after the primary and run through December 31.

Contributions by minors. Contributions made by un-emancipated children under 18 years of age will be considered to be contributions made by the parent or parents of the children. The total amount of the contribution will be attributed to a single custodial parent or 50 percent of the contribution to each of two parents.

Cash contributions. Candidates can only accept a total of \$100 in cash (currency) from any one person during the primary election period and \$100 in cash from any one person during the general election period.

Personal use of campaign funds. Contributions under this Act can only be used for legitimate campaign purposes or for expenses of holding political office.

Personal use of campaign contributions by the candidate or candidate committee is prohibited.

Contributing to other candidate campaigns. A candidate is prohibited from using his or her campaign funds to make a political contribution to another candidate's campaign. In addition, a candidate cannot accept a campaign contribution which has been made from another candidate's campaign fund. Nothing in the Act prohibits a candidate from making a contribution from his or her personal funds. In addition, the candidate is not prohibited from accepting a contribution from another candidate's personal funds.

Responsibility statements on advertisements, brochures, telephone messages, websites and e-mails. Any paid political matter which expressly advocates the nomination, election or defeat of a clearly identified candidate which is published in a newspaper or other periodical, broadcast on radio or television, or printed in a brochure, fact sheet, or other political flyer, must be followed by a responsibility statement. The term "brochure, flier or other political fact sheet" includes traditional brochures, fliers, mailers, door hangers, post cards, business cards, windshield fliers, and fundraiser invitations which expressly advocate the nomination, election or defeat of a clearly identified candidate. Yard signs, tweets, billboards, bumper stickers, envelopes, pens, pencils, t-shirts, rulers, magnets or other trinket items do not have to have the "paid for by." Ads in newspapers or other periodicals must be followed by the word "advertisement" or the abbreviation "adv." in a separate line together with the name of the candidate and candidate's treasurer. Brochures, fact sheets, and other political fliers must include at the bottom a statement which states, "Paid for" or "Sponsored by" with the name of the candidate and candidate's treasurer. Any telephonic message which expressly advocates the election or defeat of a clearly identified candidate must be preceded by a statement which states "Paid for" or "Sponsored by" with the name of the candidate and candidate's treasurer. Websites, e-mails, Facebook, or other types of Internet communications viewed by or disseminated to at least 25 people must be followed by a statement which states "Paid for" or "Sponsored by" followed the name of the candidate and candidate's treasurer.

Contributions received from January 1 through final adjournment of the legislative session each year. Only individuals can make campaign contributions or be solicited to make contributions to legislators, statewide office holders, candidates for the legislature, and candidates for statewide office, from January 1

through final adjournment of the legislative session in May each year. Registered lobbyists, PACs, party committees, corporations, partnerships, trusts, unions, organizations, and associations are prohibited from making contributions during this time period.

Termination. Before the position of treasurer is terminated or a candidate committee is dissolved, the treasurer must file a termination report. This may be done by checking the appropriate space on the summary page of any receipts and expenditures report or by filing a "Termination Report for a Candidate, Party or Political Committee."

All residual funds not obligated for the payment of expenses incurred in the campaign or the holding of office must be contributed to: a charitable organization, a party committee, returned as a refund to any contributor or contributors, or paid into the State General Fund.

TREASURER'S RESPONSIBILITIES

The treasurer is the key to campaign finance recordkeeping and the reporting of campaign financial information. Although the duties of the treasurer embrace numerous other responsibilities in the campaign, the Campaign Finance Act and its regulations require the treasurer to perform these specific functions:

- Receive and record all contributions. Records each contributor by full name and complete address, the date the contribution was received, a description of the contribution (check, cash, loan, in-kind) or other receipt (rebate, refund, etc.), and the amount.
- Deposit all receipts intact and make all disbursements by check from the campaign bank account.
- Keep photocopies of contributor's checks which are in excess of \$50.00.
- Keep written receipts for cash and in-kind contributions of \$10.00 or more. These receipts must be signed by the treasurer or the treasurer's agent. Also, the receipt must contain the full name and address of the contributor, the amount of the contribution, and the date of receipt.
- Obtain and record the occupation of each contributor for any contribution over \$150. If the individual contributor is not employed, the occupation of the contributor's spouse is to be reported.
- Keep a list of all individuals authorized to solicit and/or receive contributions on behalf of the candidate or committee. Any person who

solicits and/or receives contributions on behalf of the candidate must remit the contribution, along with the name and address of the contributors, date received and amount, to the treasurer within five days of the ending date of a reporting period.

- Retain all bank statements, cancelled checks, voided checks and cancelled deposit slips.
- Document each expenditure. Record the full name and complete address of each person paid, the date the expenditure or other disbursement is made or contracted for (whichever occurs first), the purpose of the expenditure or other disbursement, and the amount.
- Keep the receipted bill, invoice or contract for each payment.
- If a payment is made to an advertising agency, public relations firm or political consultant for disbursement to other vendors, the treasurer must obtain, keep and report the same documentation as would be required if the payment had been made directly to each vendor.
- In order to resign, a treasurer must file a written statement of resignation with the Secretary of State if the treasurer is for a candidate for state office, or with the county election officer if the treasurer is for a candidate for local office. The succeeding treasurer is not held responsible for the accuracy of his or her predecessor's records.

FILING OF CAMPAIGN REPORTS

Who must report? Each treasurer for a candidate or candidate committee must file a report unless otherwise exempt.

Who is exempt? Candidates who will spend, contract to expend or have spent on their behalf less than one thousand dollars (\$1,000), exclusive of the candidate's filing fee, or receive or have received on their behalf contributions totaling less than one thousand dollars (\$1,000) are exempt from the reporting requirements. The limitation applies separately to the primary and general elections. However, an "Affidavit of Exemption From Filing Receipts and Expenditures Reports by a Candidate for State or Local Office" must be filed prior to the due date of July 25, 2016. Treasurers of candidates filing affidavits must still keep the records required by the Act.

Where must reports be filed? State candidate reports are to be filed on or before the date due in the office of the Secretary of State, Memorial Hall, Topeka, Kansas

66612. Local candidate reports are to be filed with the county election officer in the county in which the candidate is on the ballot.

When must report be filed? For the 2016 campaign, reports are due on the following dates and for the following time periods:

<u>Date Due</u>	<u>Covering Period</u>
07-25-16	01-01-16 through 07-21-16
10-31-16	07-22-16 through 10-27-16
01-10-17	10-28-16 through 12-31-16

When must reports of last minute contributions be filed? When a candidate receives a contribution in the amount of \$300 or more after the filing of the pre-primary or pre-general election report, an additional report must be filed before the primary election and/or the general election to disclose the contribution(s) on the following dates and for the following time period:

<u>Date Due</u>	<u>Covering Period</u>
07-28-16	07-22-16 through 07-27-16
11-03-16	10-28-16 through 11-02-16

What information must be reported? All receipts and disbursements must be reported on a receipts and expenditures report form. The following must be disclosed:

Contributions and Other Receipts

- The date received, the name and address of the contributor, and the amount received from each contributor whose contribution exceeds \$50 in the aggregate for any reporting period. If the contribution is over \$150, the occupation of the individual contributor is to be reported, or if the individual contributor is not employed, the occupation of the contributor's spouse is to be reported. When the receipt is a loan, the full name and address of the lender and each guarantor and endorser must be given.
- Report the full amount of any contribution received via credit card from Web-based payment processing vendors such as PayPal. The fee charged by the payment processing company is reported as an expenditure. For example, an individual makes a \$100 contribution and only \$97 is deposited into the candidate's account because \$3 is kept by the payment processing company.

The treasurer will report a \$100 contribution from the individual donor and a \$3 expenditure to the payment processing company.

- The sum of all monetary contributions from contributors who donated \$50 or less.
- The gross amount of total sales of bona fide political materials. This includes such things as political campaign buttons, hats, banners, T-shirts, etc.
- The sum of legal contributions from anonymous donors. Contributions of \$10 or less are permitted when the name and address of the contributor is unknown.

In-Kind Contributions

- The date received, the name and address of the in-kind contributor, a description of the in-kind contribution, and the amount received from each contributor whose in-kind contribution exceeds \$100 in the aggregate for any reporting period. If the in-kind contribution is over \$150, the occupation of the individual contributor is to be reported, or if the individual contributor is not employed, the occupation of the contributor's spouse is to be reported.

Expenditures & Other Disbursements

- The date paid, the name and address of the payee, the purpose, and the amount of each expenditure in excess of \$50.
- The sum of all other expenditures of \$50 or less.

Other Transactions

- All loans and other debts owed by the candidate or candidate committee must be reported showing the date the loan or debt was incurred, the name and address of the person to whom the debt is owed, and the amount. In the case of a loan, each guarantor and endorser must be listed. In addition, the purpose or the nature of the debt or loan must be disclosed.
- All loans owed to the candidate or candidate committee must be reported showing the date incurred, the name and address of the person to whom the loan was made, and the amount.
- A loan may be made in excess of the contribution limits during an election period, provided the loan is reduced to the permissible level when combined with all other contributions (monetary and in-kind) from the person making the loan. In the primary election period, the loan must be repaid on or before August 2, 2016. In the general election period, the loan must be repaid on or before December 31, 2016.

What information does not need to be reported?

- Payments by a candidate and a candidate's spouse from their own funds for personal meals, lodging and travel by personal automobile while campaigning are not reportable. These payments do not constitute in-kind contributions and no official campaign record reporting is required. If a candidate wishes to be reimbursed for miles driven while campaigning, the candidate must maintain a log containing the date, miles driven and purpose of the trip. The reimbursement rate is limited to the state mileage reimbursement rate.
- The value of volunteer services provided without compensation does not constitute an in-kind contribution and is not reportable.
- Goods donated to testimonial events valued at \$50 or less by any person need not be reported, are not considered in-kind contributions, and no record of the donation need to be kept. However, such in-kind contributions over \$50 and all other in-kind contributions over \$10 must be accounted for by written receipt.

BOOKKEEPING RECOMMENDATIONS

Before establishing a recordkeeping system, each treasurer is urged to do the following:

- Thoroughly review the Campaign Finance Act and this handbook in order to know exactly what is required.
- Consult someone with a good accounting background or the Kansas Governmental Ethics Commission staff for advice if at all uncomfortable with basic bookkeeping procedures.
- Contact the Commission staff for advice and assistance whenever questions or problems arise.

Campaign Bank Account. Both the law and good bookkeeping practice call for the establishment of a campaign depository in a bank. A policy of promptly depositing all receipts in your campaign depository should be established. After the receipts have been deposited, checks may be written to make purchases or funds withdrawn as needed to pay small incidental expenses.

In addition to complying with legal requirements, this policy will provide valuable supporting records for your reports of contributions and expenditures and safeguard your campaign's money. (Note: The treasurer should insist that campaign workers who solicit contributions promptly turn them in to the treasurer for deposit.)

Checks. Written records and supporting documents which show where money has been spent are just as important as the records showing where money came from. When all expenditures are made by check, except for those small items where use of a check would be impractical, you have a verifiable chronological history of your expenditures. This history will be recorded in at least two places. Your checkbook will then provide a permanent record for each individual check and an up-to-date record of your bank balance. In addition, information identifying the recipient of all expenditures in excess of \$50 will be recorded on your Schedule C, "Expenditures and Other Disbursements."

Receipts. Receipts are your most important source for verification of expenses. You should get a receipt for every expenditure and indicate on it the number of the check written to pay that bill. Insist at the start of a campaign that each person, including the candidate, who makes an expenditure bring a receipt to be reimbursed. Each receipt should have the following information on it:

- Amount
- Name and address of person paid
- Date
- Description of item purchased.

After payment is made, the receipt is annotated by the treasurer to show:

- Check number
- Date of payment
- Amount of payment

COMPLIANCE PROCEDURES

The Commission makes every effort to facilitate voluntary compliance with the Act. Staff members are available at all times to answer questions and provide assistance. To assure complete, accurate and timely disclosure of campaign information, all filings are evaluated. The following procedural stages make up the Commission's review and audit activities:

Preliminary Review. A preliminary review of all candidate reports occurs on each filing date. Those treasurers who have not filed the required reports receive a

“Notification of Failure to File a Receipts and Expenditures Report.” As required by law, a copy of this notice becomes a part of the candidate’s public record. Contributions cannot be received and expenditures cannot be made until the required report is filed. Moreover, the failure to file a required report within five (5) days of the date a “Notification of Failure to File a Receipts and Expenditures Report” is received will result in a complaint being filed. In addition, the failure to file a required report within fifteen (15) days from the date such failure to file notice is deposited in the mail shall result in a civil penalty being imposed. The civil penalty is \$10 per day for each day the report remains unfiled, except that no such civil penalty shall exceed \$300. A civil fine up to \$5,000 can be imposed in addition to any other penalty. Also, the criminal penalty for intentionally failing to file is a class A misdemeanor.

Comprehensive Review. The Commission’s staff conducts a detailed desk review of all receipts and expenditures reports. Each report is reviewed for compliance with general statutory provisions and to confirm receipts and expenditures. “Notifications of Material Error or Omission in a Receipts and Expenditures Report” are sent to assure correction of significant errors.

When a notification of material errors or omissions is sent to a treasurer identifying problems with one or more reports, the treasurer has thirty (30) days within which to respond. However, if after contacting the Commission there are substantial issues unresolved, a treasurer may, within ten (10) days of receipt of the notice, request a hearing before the Commission. The intentional failure to file the amended report within thirty (30) days is a class A misdemeanor.

Audits. A sample of candidates and committees is selected for audit. Such audits are based on generally accepted auditing standards and procedures adapted to the area of campaign finance. When a candidate or committee is audited, the adequacy and accuracy of the treasurer’s records are particularly important. The main purpose of the audit is to determine how well the candidate’s or committee’s records support the receipts and expenditures reports previously filed. This necessitates the photocopying of most campaign records and documents.

Complaints and Hearings. When a complaint is filed against a treasurer or anyone else, the filing itself and the nature of the complaint is kept confidential by the Commission. If the Commission determines that there is probable cause to believe a violation of the Act has occurred, the complaint is made public. Otherwise, the complaint is dismissed and the matter remains confidential.

Once the Commission determines probable cause, it schedules a public hearing. At the conclusion of the public hearing, the Commission reaches a finding of fact. If it finds no violation of the Act, the matter is dropped. If it concludes that there was a violation, the report is submitted to the Attorney General and to the appropriate county or district attorney.

GLOSSARY

- Candidate. A “candidate” is an individual who (1) appoints a treasurer or candidate committee, or (2) makes a public announcement of his or her intention to seek a state or local office, or (3) makes an expenditure or accepts a contribution for his or her nomination or election, or (4) files a declaration or petition to become a candidate for any state or local office. When an individual meets any one of these tests, he or she is a candidate and must fulfill the candidate’s responsibilities under the Campaign Finance Act.
- Candidate Committee. A “Candidate Committee” is the committee appointed by a candidate to receive contributions and make expenditures for the candidate. A candidate may not appoint more than one candidate committee. However, a candidate may appoint a single treasurer in lieu of a committee.
- Contribution. A “contribution” is money or anything of value given for the express purpose of nominating, electing, or defeating a candidate for state or local office.
- Expenditure. An “expenditure” is money or anything of value paid for the express purpose of nominating, electing, or defeating a candidate for office.
- Independent Expenditure. An “independent expenditure” means an expenditure that is made without the cooperation or consent of the candidate or agent of such candidate intended to be benefited and which expressly advocates the election or defeat of a clearly identified candidate for state or local office.
- In-Kind Contribution. An “in-kind contribution” means a contribution of value to a candidate, candidate committee, party committee, political committee or any representative of them without charge or at a charge of less than fair market value to the recipient.
- Local Office. A “local office” means a member of a governing body of a city of the first class, county, Wichita unified school district of the Board of Public Utilities.

- Other Disbursement. An “other disbursement” is money or anything of value paid that does not constitute an expenditure. Examples of “other disbursements” are payments of utility deposits, repayment of loans, and disbursements of illegal contributions.
- Other Receipts. An “other receipt” is money or anything of value received that does not constitute a contribution. Examples of “other receipts” are rebates, refunds, discounts, etc.
- Party Committee. A “party committee” means, for example, the state committee of the Democratic, Libertarian, Reform or Republican party, and designated congressional district party committee, and any Democratic or Republican county central committee. (See Article 3 of Chapter 25 of the Kansas Statutes Annotated.) In addition, each state committee can establish and designate one recognized committee for the Senate and one for the House of Representatives.
- Person. A “person” means any individual, committee, corporation, partnership, trust, organization or association.
- Political Action Committee. A “political action committee” is any combination of at least two individuals or any person other than an individual. A major purpose of the committee must be to expressly advocate the nomination, election, or defeat of a candidate for state or local office. However, this definition does not include candidate committees or party committees. Examples are women’s political clubs and the political action committees maintained by businesses, unions, associations and other organizations.
- Testimonial Events. A “testimonial event” means any event held for the benefit of an individual who is a candidate to raise funds for such candidate’s campaign. Testimonial events include but are not limited to dinners, luncheons, rallies, barbecues and picnics.