

GUIDEBOOK FOR CANDIDATE COMMITTEES



*State of Hawaii
Campaign Spending Commission
July 2014*

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CANDIDATE COMMITTEE GUIDEBOOK

Introduction

The Hawaii Campaign Spending Commission (“Commission”) has prepared this Guidebook to assist candidates in complying with the requirements of the campaign finance laws. Also available is the “Treasurer’s Guidebook for Candidates and Noncandidate Committees” to assist campaign treasurers with developing and maintaining an organized recordkeeping system for contributions and expenditures as well as the “Candidate Filing System Manual” to assist committees in using the Commission’s electronic filing system to properly file periodic disclosure reports. This Guidebook and other publications are intended to provide general guidance only. All candidates, chairpersons, treasurers, and other persons assisting the candidates should review the campaign finance laws and rules.¹ All of the Commission’s resources including login to the candidate electronic filing system to file your reports are available on our website at www.hawaii.gov/campaign.

For Assistance

Oahu Candidates

The Commission’s office is open from 7:45 a.m. to 4:30 p.m. Monday through Friday. The office is closed on regular State holidays.

If there are any questions regarding the law or the Candidate Filing System (“CFS”), please visit our website or contact our office:

Website: www.hawaii.gov/campaign

Campaign Spending Commission
Leiopapa A Kamehameha Building
235 South Beretania Street, Room 300
Honolulu, Hawaii 96813
Telephone: (808) 586-0285
Fax: (808) 586-0288

Neighbor Island Candidates

Call the applicable number below and enter extension 60285:

Hawaii	974-4000
Kauai	274-3141
Lanai	1-800-468-4644
Maui	984-2400
Molokai	1-800-468-4644

¹ The laws and rules take precedence over any provisions in this Guidebook. Moreover, each campaign is different; the candidate and the candidate committee may be faced with issues and factual circumstances that differ from or are not addressed in this Guidebook.

I. REGISTRATION

Registration with the Commission as a candidate committee is required within **ten (10) days** of either of the following events occurring:

- You file nomination papers for a state or local office with the office of elections or county clerk's office; or
- You receive contributions or make expenditures in an aggregate amount of more than \$100.

Registering with the Commission means electronically filing an Organizational Report in the CFS. In order to access or login to the CFS, the candidate committee must complete and submit an Electronic Filing Form to obtain a username and password.

Electronic Filing Form

The registration process begins by completing the "Candidate Committee Electronic Filing Form" and mailing or delivering the form to the Commission's office at 235 South Beretania Street, Room 300, Honolulu, Hawaii 96813. The form is available on the Commission's website under "Candidate Committees," click on "Forms." The candidate, chairperson, and treasurer must sign the form. The Commission will email a username and password to the email address provided on the form.

Organizational Report

The candidate may access the CFS from the Commission's website under "Candidate Committees," click on "Candidate Filing System," then click on "Candidate Committee Filing System ("CFS") Login." Login by entering the Administrator username and password that you were emailed.

An elected official who is a candidate for re-election to the same office in successive elections is not required to re-file the committee's Organizational Report if the official has not sought election to any other office during the period between elections unless there is a change in information required to be reported.

The Organizational Report requires the following information:

- Name and Mailing Address of the Candidate and Candidate Committee
The candidate name, committee name, mailing address, business and residence phone numbers must be provided. The mailing address is the address that the Commission will use to mail correspondence and notices to the candidate. It is therefore very important that this information is kept current because by law all Commission correspondence will go to the address listed via first class mail. The Commission may also try to call you so it is important that the phone numbers listed are current. The candidate must also provide: a webpage address (if the candidate has one), the office sought, district, county, and party affiliation.

- Chairperson and Deputy Chairperson

The candidate must appoint at least one (1) chairperson. The chairperson's name, mailing address, and business and residence phone numbers must be provided. The chairperson must sign the "Candidate Committee Electronic Filing Form" to certify acceptance of the appointment and that the information on all electronically filed reports are true and accurate.

A deputy chairperson may be appointed, but is not required. If a deputy chairperson is appointed, the candidate must provide the name, mailing address, and business and residence phone numbers of the deputy chairperson.

- Campaign Treasurer and Deputy Campaign Treasurer

The candidate must appoint at least one (1) campaign treasurer. The candidate may appoint himself/herself as treasurer; **however, it is strongly recommended that the treasurer be someone other than the candidate.** The treasurer's name, mailing address, and business and residence phone numbers must be provided. The treasurer must also sign the "Candidate Committee Electronic Filing Form" to certify acceptance of the appointment and that the information on all electronically filed reports are true and accurate.

A deputy campaign treasurer may be appointed, but is not required. Up to five (5) deputy treasurers may be appointed. If a deputy treasurer is appointed, the candidate must provide the name, mailing address, and business and residence phone numbers of the deputy treasurer.

Only an appointed campaign treasurer and deputy campaign treasurer are authorized to receive contributions and make expenditures on behalf of the candidate. In case of death, resignation, or removal of the treasurer, the candidate committee shall promptly appoint a successor. During the period the office of treasurer is vacant, the candidate or chairperson shall serve as treasurer. Once a successor is appointed, an amended "Candidate Committee Electronic Filing Form" must be submitted to the Commission first and then an amended Organizational Report must be electronically filed with the Commission within **ten (10) days** of the appointment to disclose the name of the successor with the updated mailing address, and business and residence phone numbers.

- Committee Depository (Bank)

The candidate must open a depository (e.g., a bank account) to deposit contributions and to make expenditures. The candidate must provide the name and address of the depository institution in which the committee will maintain its campaign account and each applicable account number. The depository must be at a financial institution duly authorized to do business in the state, such as a bank, savings bank, savings and loan association, depository financial services loan company, credit union, intra-Pacific bank, or similar financial institution, the deposits or accounts of which are insured by the Federal Deposit Insurance Corporation, or the national credit union administration.

Campaign funds must not be commingled with a candidate's personal or any other funds.

NOTE: For first time registrants, you must enter \$0 as your cash on hand.

Amended Organizational Report

It is very important that the information listed on a candidate committee's Organizational Report is kept current. Whenever there is a change in a chairperson or treasurer ("officer"), a new "Candidate Committee Electronic Filing Form" must be submitted to the Commission with the signature of the candidate and that of the new officer(s). The Commission will input the name(s) of the new officer(s). The committee must then update the contact information for the new officer(s) within the CFS. Under "Administration," click on "Edit Organizational Report" and enter the required information.

Amended Organizational Reports must be electronically filed no later than **11:59 p.m. Hawaiian standard time on the tenth (10th) calendar day** after the change is brought to the attention of the committee chairperson or treasurer.

II. KEEPING RECORDS

Complete records of contributions and expenditures must be maintained for at least **five (5) years** and the records shall include "bank records, with respect to the matters required to be reported, vouchers, worksheets, receipts, bills, and accounts, which shall provide in sufficient detail the necessary information and data with which the filed reports and statements may be verified, explained, or clarified, and checked for accuracy and completeness." The candidate, chairperson, and treasurer should refer to the "Treasurer's Guidebook for Candidates and Noncandidate Committees" for assistance with developing and maintaining an organized recordkeeping system for contributions and expenditures.

Recording Contributions (Monetary and Non-Monetary)

The candidate must establish and maintain an itemized record showing the name, address, and amount of each monetary contribution and the description and fair market value of each non-monetary contribution of more than \$25. The Commission recommends the establishment and maintenance of itemized records of all contributions including those that are \$25 or less, to ensure compliance with the requirement that a candidate report all contributions aggregating more than \$100 during the election period.

The law requires that contribution records be kept as follows:

For contributions that are more than \$25, but less than \$100:

- Date of receipt and deposit;
- Contributor's full name and address; and
- Contribution amount.

For contributions of more than \$100:²

- Date of receipt and deposit;
- Contributor's full name and address;
- Contribution amount; and
- Contributor's employer and occupation (if the contribution aggregates \$1,000 or more during the election period).

Recording Expenditures

The candidate must itemize all expenditures to consultants, advertising agencies and similar firms, credit card payments, salaries, and candidate reimbursements to permit a reasonable person to determine the ultimate intended recipient of the expenditures and their purpose.

The law requires that expenditure records be kept as follows:

- Date of expenditure;
- Vendor's full name and address;
- Authorized use (campaign funds only used for certain purposes);
- Purpose of the expenditure (a brief description of why the expenditure was made); and
- Amount of the expenditure.

Expenditures reported under vague purposes or consolidated into categories such as petty cash, VISA, Master Card, reimbursement to employee, or ad agency, will not meet the requirements of the campaign finance laws. All expenditures made, incurred, or authorized by or for the candidate must be reported, including the name and address of each vendor and the amount, date, authorized use, and purpose of the expenditure. Expenditures are reported based on the date that the goods are delivered or the service is provided to the candidate committee. Financial institutions, individuals reimbursed for expenses, lump sum cash payments, and advertising or employment agencies are viewed as intermediaries of expenditures. Any use of intermediaries that would have the result of concealing the true and complete nature of the expenditure will not meet the requirements of the campaign finance laws.

Reports that describe the purpose in vague terms or fail to include the name of the vendor for the expenditure are defective and subject to a fine and/or additional remedies including a court order.

III. REPORTING ON THE CFS

By law, if you run for an office in the State of Hawaii, you are required to electronically file reports even if you raise no money, self-fund your campaign, or spend zero dollars. The U.S. Supreme Court has stated that voters should know who elected officials' and candidates' contributors are in order to understand who may have an influence on their

² If the information required for the contributions of more than \$100 is not on file, the contribution shall be returned to the contributor within **thirty (30) days** of deposit.

decisions and which special interests they may support.³ Transparency and disclosure of contributions and expenditures are therefore critical to informed voting, the integrity of the electoral process, and to deter actual corruption or avoid the appearance of corruption.

As such, the candidate and/or treasurer are required to electronically file a series of disclosure reports on the CFS in accordance with a reporting schedule which has been set by law. These reporting schedules are available on the Commission's website and in a compact disk included in your packet you received from the Office of Elections when you filed your nomination papers.

All candidate disclosure reports shall be filed electronically on the CFS. There are no exceptions or waivers.

To be timely filed, the reports must be electronically filed on or before **11:59 p.m. Hawaiian standard time** on the filing deadline. Failure to file the required report by the applicable deadline will result in monetary fines and/or additional remedies including a court order. Moreover, if you are elected to serve in the State of Hawaii and you have not filed your disclosure reports, the Commission will not be able to certify to the Chief Election Officer or County Clerk that you are in compliance, and thus, you will not be sworn into office.

Disclosure Reports

The disclosure report is a summary of contributions received, expenditures made, other receipts, loans, unpaid expenditures, and durable assets for the applicable reporting period. Each of these areas has its own schedule and must be electronically filed for each report.

- Schedule A Contributions;
- Schedule B Expenditures Made;
- Schedule C Other Receipts;
- Schedule D Loans;
- Schedule E Unpaid Expenditures; and
- Schedule F Durable Assets.

Although each disclosure report has a different name depending on when it is due and what period it covers (e.g., Supplemental Report, 1st Preliminary Primary Report, 2nd Preliminary Primary Report, Final Primary Report, Preliminary General Report, Final Election Period Report), they all require you to complete the schedules mentioned above if you have activity pertaining to that schedule. As you file each report, the closing cash on hand for the current reporting period will "carry over" as the beginning cash on hand for the next reporting period. Until you terminate your registration with the Commission (see Part XI), a disclosure report must be timely filed even if you have no contributions and no expenditures.

For detailed instructions on electronically filing these schedules with your disclosure report, please refer to the "Candidate Electronic Filing System Manual."

³ See, Buckley v. Valeo, 429 U.S. 1, 67, 96 S.Ct. 612, 658 (1976).

Non-Election Year Reporting

Non-election years are odd-numbered years in which there are no regularly scheduled state and local elections.

Two Supplemental Reports must be filed in nonelection years:

- The 1st Supplemental Report, covering campaign financial activity from January 1st through June 30th of a nonelection year, must be filed no later than **11:59 p.m. Hawaiian standard time on July 31st**.
- The 2nd Supplemental Report, covering campaign financial activity from July 1st through December 31st of a nonelection year, must be filed no later than **11:59 p.m. Hawaiian standard time on January 31st**.

Supplemental Reports must be filed until a candidate files nomination papers to be on the election ballot or terminates registration with the Commission.

Election Year Reporting

Please refer to your office's Reporting Schedule located on our website under "Candidate Committees," click on "Reporting Schedules." When a reporting deadline falls on a holiday or weekend, the deadline shall be the first working weekday after the date the report is due. This applies to non-election and election year reporting deadlines.

Reporting for Candidates with Aggregate Contributions and Expenditures of \$1,000 or Less

A candidate who does not plan to receive contributions or make expenditures of more than \$1,000 for the election period must notify the Commission by checking the appropriate box when completing the "Candidate Committee Electronic Filing Form." A candidate whose aggregate contributions and expenditures for the election period total \$1,000 or less, need only electronically file the Final Election Period Report which is due thirty (30) days after a general election. Failure to notify the Commission will require the filing of all the required disclosure reports.

Notably, if the candidate exceeds the \$1,000 threshold at any time during the election period, the candidate must file the next required report (i.e., preliminary, final, or special election report) and disclose all activity from the beginning of the election year through the reporting period in which the threshold was exceeded. All subsequent reports must be filed thereafter until the candidate terminates registration with the Commission.

Late Contributions Report

The Late Contributions Report is a special report which must be electronically filed by candidates that receive contributions aggregating more than \$500 from any person within the period of fourteen (14) calendar days through four (4) calendar days prior to a primary, special primary, general, or special general election. The report is required to

be electronically filed no later than **three (3) calendar days** prior to the applicable election. If your committee did not receive any late contributions, you do not have to submit these reports.

The report requires the following information:

- Date of the contribution;
- Name and address of the contributor;
- Employer and occupation of the contributor;
- Contribution amount; and
- Aggregate contribution amount for the election period.

Late contributions will also be reported on the applicable disclosure reports.

Filing Confirmation

When a disclosure report is filed on the CFS, a “Filing Confirmation” page will appear on your screen. You may print this page as a receipt. This page confirms that the report has been filed. It is strongly advised that you double-check that your report is properly filed by going to the Commission’s website and under “Candidate Committees,” click on “View Reports & Fundraiser Notices,” then click on “Candidate Contribution and Expenditure Reports and Organizational Reports,” then “Standard Report,” and type in the candidate’s name and click “Search.” When the candidate’s name comes up, click on the name of the candidate to confirm that the report is there. Neither the acknowledgment nor the receipt of the report constitutes expressed or implied approval, or in any manner indicates that the contents of the report fulfill the requirements of the campaign finance laws and rules.

Filing Amendments

The candidate must electronically file an amended report if the candidate:

- Discovers that an earlier report contained erroneous information; or
- Is ordered to amend the report by the Commission.

Click on “Amend Mode” in the CFS and then select the relevant Schedules to make the applicable changes, validate the report, and then file the report. Each report previously filed for a reporting period occurring after the reporting period for a report that is amended will also need to be filed in amend mode following the process described above if the amendment results in a change in the election period or cash on hand totals.

The Commission will inform you if your disclosure report is substantially defective or deficient. By law, the corrections must be electronically filed on or before the **14th day** after the notice of deficiency has been mailed to the candidate and candidate committee. A fine of \$50 for the first seven (7) days begins on the 15th day after the notice was mailed, and \$200 per day thereafter; provided that the fine shall not exceed 25% of the total amount of contributions or expenditures, whichever is greater, for the period covered by the report. The minimum fine for not filing a corrected report more than eighteen (18) days after the notice, if assessed, shall be \$200.

Candidate and candidate committees that fail to timely correct a deficiency are published on the Commission's website.

Fines for Failing to Timely File a Report

Candidate and candidate committees that fail to file by a reporting deadline are assessed a \$50 fine per day for the first seven (7) days, then \$200 per day thereafter, except for the 2nd Preliminary Primary Report and the Preliminary General Report, for which the fines are \$300 per day; provided that the fine shall not exceed 25% of the total amount of contributions or expenditures, whichever is greater, for the period covered by the report. The minimum fine for a report filed more than four (4) days after the due date, if assessed, shall be \$200. The minimum fine for the 2nd Preliminary Primary Report and the Preliminary General Report, if assessed, shall be \$300. To be timely filed, reports must be electronically filed on or before **11:59 p.m. Hawaiian standard time** on the filing deadline.

Candidate and candidate committees that fail to timely file or correct a report are published on the Commission's website.

Public Inspection and Copies of Reports

All reports filed with the Commission are available for public inspection on the CFS public website at <https://nc.csc.hawaii.gov/CFSpublish> or the Commission's website under "Candidate Committees," click on "View Reports & Fundraiser Notices" and then click on "Candidate Contribution and Expenditure Reports and Organizational Reports" and "Standard Report." Enter the candidate's name in the Search Box. When the candidate's name comes up, click on the candidate's name for a list of reports filed. Copies of reports may be downloaded from the CFS public website at no charge. Alternatively, copies may be purchased for a fee by visiting the Commission's office or making a request via telephone, fax, or mail. Call the Commission at (808) 586-0285 for inquiries regarding manually filed reports for the 2002, 2004, and 2006 elections by candidates who were not required to file electronically. All candidates for all state and local offices in the State of Hawaii are required to file electronically starting with the 2008 election.

Restrictions

The law prohibits anyone from selling or using information in reports for the purpose of soliciting contributions or for any commercial purpose.

IV. REPORTING CONTRIBUTIONS – SCHEDULE A

Contributions Defined

A contribution is anything of value given to influence the nomination for election, or election of any candidate to office, or for or against any issue on the ballot and includes the following:

- A gift;
- Subscription;
- Deposit of money or anything of value including personal services;
- Cancellation of a debt or legal obligation;
- Purchase of tickets to fundraisers;
- Payment of services rendered to the candidate or candidate committee without charge or at an unreasonably low charge;
- A contract, promise, or agreement to make a contribution; and
- Any loans or advances that are not documented or disclosed.

It is recommended that all contributions be entered on Schedule A. The CFS will aggregate all contributions for you.

A contribution does not include:

- Volunteer services;
- Candidate's own funds (but reported as an "Other Receipt" under Schedule C);
- Loans or advances (but reported as "Loans" under Schedule D); and
- Unpaid internet activities for the purpose of influencing an election.

Monetary Contributions

A monetary contribution may be made to a candidate committee by check, debit card, credit card, or cash. Cash contributions of more than \$100 shall not be accepted by the candidate committee without issuing a receipt to the contributor.

For each contribution, the candidate must report the following on Schedule A:

- Date of deposit (the date a monetary contribution is deposited is deemed to be the date the contribution is received);
- Contributor's full name and address;
- Contributor's employer and occupation (if the contribution aggregates \$1,000 or more during the election period);
- Contribution amount for the reporting period; and
- Aggregate contribution amount for the election period.

Non-Monetary Contributions

Non-monetary contributions are donations of goods or services offered without charge or at a charge that is less than the usual and normal charge for the goods or services.

If the goods or services are provided at less than the usual and normal charge, the amount of the non-monetary contribution which must be reported on the disclosure report is the difference between the usual and normal charge for the goods or services at the time of the contribution and the amount paid by the committee. Moreover, non-monetary contributions are aggregated with monetary contributions for contribution limit purposes.

All non-monetary contributions valued at more than \$100 shall be reported in the same manner as monetary contributions on Schedule A.

- If a non-monetary contribution is received (i.e., Schedule A), an identical off-setting expenditure on “Schedule B – Expenditures Made” must be entered into the CFS to avoid inflating the amount of the cash on hand.

Volunteers

When services are volunteered (i.e., the volunteer is not paid for by any person), this is not a non-monetary contribution.

However, if a person other than the candidate pays volunteers for their services, the activity is no longer considered voluntary and the payments are non-monetary contributions to the candidate.

Contributions Limits

How much a candidate committee may receive in contributions depends on what office is being sought. The following is a list of offices and their respective contribution limits during an election period:

- 2-year office (i.e., State House of Representatives, County Council (Hawaii, Maui, Kauai)) → \$2,000
- 4-year non-statewide office (i.e., State Senate, Mayor, Prosecuting Attorney, Honolulu City Council) → \$4,000
- 4-year statewide office (i.e., Governor, Lt. Governor, Office of Hawaiian Affairs) → \$6,000

No person or any other entity shall make contributions in excess of these limits.

“Election period” means the two-year period between general election days if a candidate is seeking nomination or election to a two-year office and the four-year period between general election days if a candidate is seeking nomination or election to a four-year office. For example, for a two-year office in the 2014 election, the election period is November 7, 2012 (i.e., the day after the general election day in the preceding election) through the day of the next general election which is November 4, 2014. For a four-year office in the 2014 election, the election period is November 3, 2010 (i.e., the day after the general election day in the preceding election) through November 4, 2014.

Limits on Candidate’s Personal Funds

Loans and the use of personal funds by candidates to their own candidate committee are exempt from any limits. If a candidate contributes his/her own funds to their candidate committee, this is never reported on Schedule A. It would be reported either on “Schedule C – Other Receipts” (see Part VI) or “Schedule D – Loans” (see Part VII) depending on whether the candidate seeks reimbursement from his/her campaign funds.

Limits for the Candidate's Immediate Family

Contributions from a candidate's immediate family are exempt from the candidate's contribution limits but are limited in the aggregate to \$50,000 in any election period. The \$50,000 aggregate limit includes any loans made for campaign purposes from the candidate's immediate family to the candidate. A candidate's immediate family is defined as a candidate's spouse or reciprocal beneficiary, and any child, parent, grandparent, brother, or sister of the candidate, and the spouses or reciprocal beneficiaries of such persons. If a candidate receives a loan from an immediate family member, this must be reported on "Schedule D - Loans" (see Part VII).

Spouse and Dependent Minor Contributions (Non-Immediate Family Contributions)

A husband and wife are treated as separate persons for contribution limit purposes. A person may not make a contribution on behalf of a spouse or any other individual. Any contribution by check will be attributed to the spouse that signs the check.

A contribution by a dependent minor must be reported in the name of the minor but is counted against the contribution limit of the minor's parent or guardian. Therefore, you must obtain the parent's name and enter it into the CFS if a contribution is received by a dependent minor.

Contributions to be Promptly Deposited; Acknowledgment

The date a contribution is deposited into a financial institution is the date used for reporting that contribution. A contribution must be deposited no later than **seven (7) days** after a candidate or any individual authorized to receive contributions on behalf of the candidate has received the contribution.

Contributions may not be spent without first being deposited into a financial institution.

Failure to timely deposit a contribution is a violation of the campaign finance laws and may result in an administrative fine. Therefore, the Commission recommends that the candidate devise a workable method to ensure that contributions are deposited in a timely manner.

Itemized Contributions

Monetary and non-monetary contributions of \$100 or less are not itemized on Schedule A. Only an aggregate total for the reporting period is reported on the disclosure report. However, once a contributor contributes an aggregate of more than \$100 for the election period, the contribution will be itemized on Schedule A.

For example, a contributor makes two (2) contributions to a candidate committee during the same election period. The contributor contributes \$50 during the first month of the election period. Because the contribution does not exceed \$100, the contribution will not be itemized. Instead, the \$50 is reported in the aggregate total of contributions of \$100 or less. Subsequently, the same contributor makes an additional contribution of \$100 during the same election period. This contribution will be itemized, since the aggregate total of \$150 for the election period now exceeds the \$100 threshold.

Therefore, we strongly recommend that all contributions be entered on Schedule A, regardless of whether the amounts are \$100 or less, because the CFS will aggregate all contributions for you. Additionally, even though you enter all contributions into Schedule A, only those contributions that aggregate more than \$100 will show on the public site.

Earmarked Contributions

An earmarked contribution is a contribution received by a committee or party on the condition that the funds be contributed or expended on certain candidates. When a party collects and transmits earmarked contributions to a candidate, the amount of the earmarked contribution is counted toward the contribution limit of the party and the person contributing such funds.

Fundraisers

The entire amount paid to attend a political fundraiser or to purchase a fundraiser ticket is a contribution. For example, if a contributor pays \$100 to buy a fundraiser ticket to a candidate's golf tournament, the contributor has made a \$100 contribution to the candidate, even though the golf fees may have cost the candidate \$35.

A candidate may have any number of fundraisers. A fundraiser "means any function held for the benefit of a candidate or candidate committee that is intended or designed, directly or indirectly, to raise contributions for which the price or suggested contribution for attending the function is more than \$25 per person."

A "Notice of Intent to Hold a Fundraiser" must be filed with the Commission **prior to** the date of the fundraiser if the cost of the ticket is more than \$25 per person (i.e., \$26 or more). This form is available on our website under "Candidate Committees," click on "Forms."

Candidates may host joint fundraisers but expenses must be shared or pro-rated. Contributions received from the fundraiser must be made to individual candidates and not to one candidate who later pays the rest.

Fundraising in government facilities is prohibited unless you pay a fee or have a reservation and the facility has no rules prohibiting it. Violation of the prohibition of fundraising on state or county property is a misdemeanor offense.

Prohibited Contributions

There are six (6) categories of prohibited contributions which are considered violations of the campaign finance laws. They are:

1 - Excess Contributions - An excess contribution is a contribution that exceeds the candidate's contribution limit. If an excess contribution is returned within seven (7) days of receipt, the excess contribution is not required to be reported. If an excess contribution is returned within thirty (30) days of receipt, the excess contribution must be reported to the Commission, but will not escheat to the Hawaii Election Campaign Fund. The excess contributor may be subject to an administrative fine. Lastly, if the excess contribution is not returned after thirty (30) days of receipt, the excess contribution must

be reported to the Commission and will escheat to the Hawaii Election Campaign Fund. The excess contributor may be subject to an administrative fine.

2 - Nonresident Contributions - A nonresident contribution is a contribution from any person, except for a member of the candidate's immediate family, who is not a resident of the state at the time the contributions are made, including a noncandidate committee organized under the laws of another state and whose participants are not residents of the state. Nonresident contributions shall not exceed thirty percent (30%) of the total contributions received by a candidate or candidate's committee for each election period.

3 - False Name Contributions - A false name contribution is a contribution made in the name of another person. Contributions to candidates must be from a person's own money and reported in the name of the same person. A contribution by a person that is reimbursed or in any way compensated by another person (e.g., given a bonus) for that contribution is prohibited. All contributions made in the name of a person other than the owner shall escheat to the Hawaii Election Campaign Fund.

4 - Anonymous Contributions – No candidate shall knowingly receive, accept, or retain an anonymous contribution of any amount, or enter or cause such contribution to be entered in the candidate's account as an anonymous contribution. If a candidate receives an anonymous contribution and the contributor cannot be identified, the contribution shall escheat to the Hawaii Election Campaign Fund.

Candidates may retain contributions that aggregate less than \$500 when obtained through multiple contributions made by ten (10) or more persons at the same political function (e.g., calabash bowls). Detailed records must be retained of the political function. It is strongly advised that someone should be there to keep a record on who contributed and how much. Report the contributions as one lump sum using the deposit date for the contributions, the name of the function, and the address of where the function was held.

5 - Foreign National Contributions – No contributions or expenditures shall be made to or on behalf of a candidate by a foreign national or foreign corporation. A domestic subsidiary of a foreign corporation, a domestic corporation that is owned by a foreign national, or a local subsidiary where financial control is retained by the foreign corporation, may not make contributions or expenditures.

An individual is eligible to make a contribution if the individual has a "green card" indicating that he or she has been lawfully admitted for permanent residence and the source of the funds are generated locally.

A foreign-owned domestic corporation may make contributions if the contributions are domestically-derived and foreign national individuals do not participate in the decisions concerning the contributions.

6 – State and County Contractor Contributions – Persons with certain contracts with the state, any of its counties, or any department or agency thereof, are prohibited from making contributions between execution and completion of the contract. These are contracts where funds are appropriated by the legislature for the purchase or sale of state or county property; the rendition of personal services in the fields of health, law, engineering, architecture, construction, accounting, actuarial science, performing arts, or

consulting; and the furnishing of materials, supplies, or equipment. The prohibition is against the person whose name is on the government contract and does not apply to personal contributions from personal assets by employees, partners, shareholders, or officers of the business with the government contract (unless the contractor is a sole proprietor).

Refunds and Returned Contribution Checks

Contribution Refunds – When a candidate refunds a contribution, the candidate must report the refund on Schedule B as an expenditure.

Contribution Check with Insufficient Funds – If a candidate receives a contribution check and the check cannot be cashed due to insufficient funds, the contributor's check should be returned with a letter. If the contribution has not yet been reported, an amended disclosure report does not have to be filed. If, however, the contribution has been reported and the report has been electronically filed on the CFS, the candidate should file an amended disclosure report for the period that the contribution was originally reported in and subtract the amount of the contribution from the line by entering a negative sign (-\$) in front of the contribution amount and file the report in amend mode.

V. REPORTING EXPENDITURES – SCHEDULE B

Expenditure Guidelines

The following guidelines are provided here for reference purposes only. Candidates should consult with the Commission for any expenditure that may be of a questionable nature. There are further limitations on the types of expenditures permitted from public funds by a candidate who received public funds. Candidates who are interested in public funding should refer to the “Partial Public Funding Guidebook for Candidate Committees.”

Expenditures Defined

An expenditure, when made or incurred for the purpose of influencing the nomination for election, or election of any candidate to office whether or not the candidate has filed nomination papers, includes the following:

- Any purchase or transfer of money or anything of value;
- A promise or agreement to purchase or transfer money or anything of value;
- Any payment incurred or made; and
- The use or consumption of a non-monetary contribution.

An expenditure is made or incurred when the services are rendered or the product is delivered.

All expenditures are reported on Schedule B regardless of the amount. For each expenditure, the candidate must report the following on Schedule B:

- Date of the expenditure;

- Vendor's full name and address;
- Authorized use (campaign funds only used for certain purposes);
- Purpose of the expenditure (a brief description of why the expenditure was made); and
- Amount of expenditure.

An expenditure does not include:

- Volunteer services;
- Nonpartisan voter registration efforts; and
- Unpaid internet activities for the purpose of influencing an election.

Authorized Campaign Expenditures

There are eight (8) authorized categories that candidate committee's campaign funds may be used. They are:

1 – Purchases Directly Related to a Candidate's Campaign – These are expenses that are predominantly and directly related to a candidate's campaign to influence the nomination or election of the candidate. Authorized campaign expenditures include the following:

- Office rent for campaign headquarters;
- Airfare and hotel accommodations to campaign;
- Attend state or county political conventions (i.e., travel, meals, and registration, but not clothing or entertainment expenses);
- Meal or food expenses or entertainment incurred at a fundraising event or other campaign activity;
- Professional services that are necessary in a candidate's campaign to seek the nomination or election of the candidate;
- Reasonable expenses for a "mahalo party";
- Penalties, fines, judgments, or settlements imposed on a candidate or candidate committee by a court or regulatory agency that are related to a campaign to seek the nomination or election of the candidate;
- Durable assets (non-consumable supply or equipment such as a computer, software, printer, camera, or cell phone with a minimum purchase value of \$250 and a useful life of 12 months or more); and
- Gifts for campaign volunteers/employees subject to monetary thresholds (i.e., \$500 aggregate for a 2-year office, \$1,000 aggregate for a 4-year non-statewide office, and \$1,500 aggregate for a 4-year statewide office).

Other examples of appropriate expenditures include:

- Advertisements
- Banners, flyers, brochures
- Employee services
- Food for volunteer signholders
- Office supplies
- Postage and mailing

- Surveys, polls, and voter lists

2 – Charitable Donations – Donations to any community service, educational, youth, recreational, charitable, scientific, or literary organization of up to twice the contribution limit of your office in an election period (i.e., \$4,000 for a 2-year office, \$8,000 for a 4-year non-statewide office, and \$12,000 for a 4-year statewide office). **However, you cannot make a charitable donation between the filing of your nomination papers and the general election.**

3 – Donations to Public Schools or Public Libraries – Donations to any public school or public library of up to twice the contribution limit of your office in an election period (i.e., \$4,000 for a 2-year office, \$8,000 for a 4-year non-statewide office, and \$12,000 for a 4-year statewide office). There is no prohibited period for making donations to public schools or public libraries.

4 – Full-time Student Scholarships Awards – Scholarships to full-time students attending an institution of higher education or a vocational education school leading to a degree, certificate, or other recognized educational credential of up to twice the contribution limit of your office in an election period (i.e., \$4,000 for a 2-year office, \$8,000 for a 4-year non-statewide office, and \$12,000 for a 4-year statewide office). **However, you cannot make a scholarship award between the filing deadline for nomination papers and the general election.**

5 – Two (2) Tickets to Fundraiser – The purchase of not more than two (2) tickets to an event held by another candidate or committee.

6 – Party Contributions – A contribution to your party not to exceed \$25,000 in any 2-year election period.

7 – Ordinary and Necessary Expenses as Elected Official – To pay for ordinary and necessary expenses incurred in connection with your duties as an office holder. Ordinary and necessary expenses means expenses incurred in connection with the candidate's duties as a holder of an elected state or county office. These expenses must be reasonable, usual, and directly related to the office. Examples include purchase of office furniture, costs to establish and close down a legislative office, food and beverage for legislative opening day and inaugural activities (but does not include leis or gifts to other legislators), and food and beverage for meeting constituents or office meetings that include others that are not staff members.

8 – Mixed Benefit – To purchase or lease goods or services that provide a mixed benefit to the candidate; provided that an amount attributed to a personal benefit for the candidate shall be determined and the candidate shall reimburse that amount to the committee unless the personal benefit to the candidate is de minimus. Examples include the following:

- Purchase or lease of a vehicle, including any operation and maintenance costs, where the title to the vehicle is in the name of the candidate committee;
- Reimbursement for the use of a personal vehicle at the federal optional standard mileage rate, not including operation and maintenance expenses, shall be authorized and documented for audit purposes at the time the

- vehicle is used (please contact the Commission to verify the mileage rate); and
- Lease of real property to a candidate or candidate committee for a renewable period not to exceed one year.

Advertising

Advertising is a common way campaign funds are expended. An advertisement means any communication, excluding sundry items such as bumper stickers, pins, buttons, and similar small items, that:

- Identifies a candidate directly or by implication;
- Identifies an issue or question that will appear on the ballot at the next applicable election;
- Advocates or supports the nomination, opposition, or election of the candidate; or
- Advocates the passage or defeat of an issue or question on the ballot.

If you place an advertisement for your campaign (or against your opponent), it must state:

- Who paid for the advertisement (i.e., “paid for by”) including the name and address of the candidate, committee, or other persons paying for the advertisement; and
- Notice in a prominent location that the advertisement is published, broadcast, televised, or circulated either “with the approval and authority of the candidate,” or “without the approval and authority of the candidate” (but not necessary if the advertisement is paid for by the candidate or candidate committee).

NOTE: Radio advertisements must also provide the above disclaimer in audio.

The penalty for not complying with the requirements above is a fine not to exceed \$25 for each advertisement that lacks the required disclaimer and no more than \$5,000 in the aggregate.

Prohibited Expenditures

Campaign funds shall not be used:

- To campaign for or against another candidate outside the office to which they seek election; and
 - This includes door prizes for another candidate’s fundraiser or event (but you may use personal funds and it will be considered a non-monetary contribution).

- There is an exception to this prohibition; that is, a candidate for Governor or Lt. Governor may support a co-candidate in the general election.
- For personal expenses.

Personal expenses means expenses that would exist irrespective of a candidate's campaign to seek nomination or election to office. Examples include the following:

- Household food items and supplies purchased for daily personal consumption by the candidate, a family member of the candidate, or candidate committee;
- Gifts or donations for weddings, Christmas, birthdays, funerals, or other personal occasions;
- Clothing usually and customarily worn for everyday wear; provided that a campaign expense for clothing identifying the candidate or campaign for an office shall not be prohibited;
- Tuition and educational fees or expenses not directly related to the performance of duties or responsibilities in a candidate's campaign for elected office;
- Mortgage, rent, and utility expenses for a personal residence; provided that if a clearly segregated portion of the personal residence is being used for campaign purposes, contributions may be used to reimburse the owner of the property a fair rental value for the actual apportioned and actual use of the personal residence;
- Entertainment or sporting events;
- Dues, fees, or other expenses to a country club, health club, recreational or exercise facility and not arising from a fundraising activity or function held at the facility; provided that contributions may be used to pay for membership dues or other expenses in a community or civic organization where the candidate is directly involved in the activities of the organization;
- Compensation for personal services paid to the candidate or candidate's immediate family or relatives, unless the payments are for bona fide services necessary to maintain a campaign to influence the nomination or election of the candidate and is comparable to the compensation paid to other persons in the community providing similar services;
- Legal expenses not related to the nomination or election of a candidate; and
- Vacation expenses.

Campaign Expenditure Limits

The candidate can voluntarily agree to limit the candidate's campaign expenditures by filing the "Affidavit to Voluntarily Agree with Campaign Expenditure Limits" ("Affidavit") (Form CC-2) with the Commission. The candidate must agree to limit expenditures in both the primary election and general election. The last day to file the Affidavit is the date the candidate files nomination papers with the chief election officer or county clerk. Once the Affidavit is filed, it cannot be withdrawn.

The benefit of filing the Affidavit is that you will receive a discounted filing fee of your nomination papers (\$25 versus \$250) and you can be eligible to receive partial public

funding. Candidates interested in receiving public funds should also refer to the “Partial Public Funding Guidebook for Candidate Committees.”

The expenditure limit periods are applied on a per election basis. For example, for the primary election in 2014, the expenditure limit period is from January 1, 2014 through August 9, 2014; and for the general election in 2014, the expenditure limit period is from August 10, 2014 through November 4, 2014.

A candidate who files the Affidavit and exceeds the respective expenditure limit for either the primary or general election is required to notify all opponents, the Office of Elections, and the Commission by telephone and in writing on the day the expenditure limit is exceeded. Further, the candidate must pay the balance of the full filing fee for nomination papers to the Office of Elections, and provide reasonable notice to all contributors within thirty (30) days of exceeding the limit that the expenditure limit was exceeded.

VI. REPORTING OTHER RECEIPTS – SCHEDULE C

Candidates must report all “Other Receipts” that were received during the applicable reporting period on Schedule C. Example of Other Receipts includes:

- Interest earned on the committee’s bank account;
- Returns (by vendors), refunds, rebates;⁴
- Sales of Durable Assets;
- Candidate’s use of personal funds that are not considered loans (i.e., no reimbursement expectation); and
- Public funds (Candidates participating in the Partial Public Funding Program).

Other Receipts are reported on Schedule C regardless of the amount. Schedule C contains the following information:

- Date of deposit;
- Source’s full name and address;
- Description of the other receipt; and
- Amount of the other receipt.

VII. REPORTING LOANS – SCHEDULE D

Loans Defined

A loan is an advance of money, goods, or services with a promise to repay in full or in part within a specified period of time. Loans are reported on Schedule D.

Schedule D contains the following information:

⁴ Rebates must be offered in the ordinary course of business and on the same terms and conditions as those offered to nonpolitical entities. Otherwise, they must be reported as contributions.

- Source of the loan (Candidate, Immediate Family, Financial Institution, Other);
- Date of the loan;
- Lender's full name, address, employer, and occupation; and
- Amount of loan.

A loan does not include expenditures made on behalf of a committee by a candidate, volunteer, or employee if:

- The candidate's, volunteer's, or employee's aggregate expenditures do not exceed \$1,500 within a thirty (30) day period;
- A dated receipt, a written description of the name and address of each vendor with the amount, date, and purpose of each expenditure is provided to the committee before the committee reimburses the candidate, volunteer, or employee; and
- The committee reimburses the candidate, volunteer, or employee within forty-five (45) days of the expenditure being made.

Loan Types and Loan Limits

There are four (4) types of loans a candidate may accept. Depending on the entity giving the loan, there are loan limits that a candidate may accept.

1. Candidate's own funds → unlimited amount;
2. Financial institution regulated by the state or a federally chartered depository institution and made in accordance with applicable laws in the ordinary course of business → unlimited amount;
3. Candidate's immediate family → in an aggregate not to exceed \$50,000 during an election period; and
4. Others persons → in an aggregate not to exceed \$10,000 during an election period (but may not receive any more loans until the entire \$10,000 is repaid). If the loan is not repaid within one (1) year of the date that the loan is made, all subsequent contributions received and any surplus retained shall be used to repay the outstanding loan in full.

Documentation

Regardless of the type of loan, any loan to a candidate in excess of **\$100** shall be documented and disclosed to the Commission by reporting the following information:

- Lender's name, address, employer, occupation, and purpose of the loan; and
- Executed loan document, terms of the loan, repayment schedule, and interest rate. A loan document template is available on our website.

A copy of the executed loan document must be manually filed with the Commission **by 4:30 p.m.** on or before the date the disclosure report for that reporting period is due.

Failure to document the loan or disclose the loan to the Commission shall cause the loan to be treated as a contribution.

A loan must be reported until fully repaid. If a lender cancels the debt (forgives the loan) in whole or in part, the amount of the cancelled debt (loan) shall be treated as a contribution and will be applied to the contribution limit for that person.

Candidate's Personal Funds

There is no limit on the funds a candidate may provide to his or her committee. When a candidate uses personal funds for campaign purposes, the candidate reports the personal funds as an "Other Receipt" (Schedule C) or a loan (Schedule D) to the candidate's committee. If the candidate reports the personal funds as a loan, the candidate's committee may reimburse the candidate at a future time.

Outstanding Loans

A candidate may reclassify the candidate's personal loan to the candidate's committee as an "Other Receipt" (Schedule C). If a candidate reports the personal funds as an "Other Receipt," the candidate cannot be reimbursed. Loans from "immediate family members" and "other persons," with their permission, may be reclassified as a contribution (Schedule A) subject to the candidate's contribution limits for immediate family members.

VIII. REPORTING UNPAID EXPENDITURES – SCHEDULE E

Expenditures are made or incurred when services are rendered or the product is delivered. Expenditures, which are made or incurred, but not paid, are considered unpaid expenditures.

Schedule E contains the following information:

- Date of the unpaid expenditure;
- Vendor's full name and address;
- Authorized use (campaign funds only used for certain purposes);
- Purpose of the expenditure; and
- Amount of the unpaid expenditure.

Unpaid expenditures are reported regardless of the amount. Unpaid expenditures must be reported until payment is made in full or the debt is forgiven. Forgiven debts are considered non-monetary contributions subject to the candidate's contribution limit. For each unpaid expenditure forgiven, you must enter an off-setting contribution for the same amount on "Schedule A – Contributions Received."

When the unpaid expenditure is paid, it is noted on Schedule E by checking the box "Expenditure pay off?" Unpaid expenditures and paid unpaid expenditures are not reported on Schedule B.

IX. REPORTING DURABLE ASSETS – SCHEDULE F

Durable assets are supplies and equipment purchased by the candidate committee with a purchase value of at least \$250 and a useful life of twelve (12) months or more. Durable assets include a cell phone, computer equipment, digital camera, printer, automobile, television, refrigerator or other similar goods to be used during the candidate's campaign.

The expenditure of funds for durable assets must be reported on both "Schedule B – Expenditures Made" and "Schedule F – Durable Assets." The sale or disposition of durable assets is also reported on Schedule F. If funds were obtained from the sale of a durable asset, the funds must be reported on "Schedule C – Other Receipts."

Schedule F is used to report and track durable assets. Schedule F contains the following information:

- Date durable asset was acquired;
- Vendor's/Contributor's full name and address;
- Description of the durable asset; and
- Cost/value of the durable asset.

Durable assets are automatically reported after the initial filing until the assets are sold or donated. Donations of durable assets are aggregated with charitable donations and donations to public schools or public libraries, and subject to the same limits if a durable asset is donated to one of these entities. The sale or donation is reported as follows:

- Date the durable asset was disposed;
- Method of Disposition;
- Name of the person or entity receiving the durable asset; and
- Disposition amount.

X. SURPLUS FUNDS AND DISPOSITION OF FUNDS

Surplus Funds

Candidate committees must continue filing reports with the Commission until all surplus funds have been lawfully disbursed.

Surplus funds may be used after a general or special election for any of the eight (8) authorized expenditures listed under Part V of this Guidebook.

Surplus funds may be expended by a candidate for the next subsequent election after the filing of an amended Organizational Report. This applies to candidates who failed to be nominated or elected to office who will be running again and candidates who are elected to office who will be running again for a different office to which they were elected.

Disposition of Funds

A candidate who receives contributions for an election but fails to file nomination papers for that election must return all residual funds to the contributors no later than **ninety (90) days** after the date on which nominations for that election must be filed. Contributions not returned to the contributors must escheat to the Hawaii Election Campaign Fund.

A candidate who withdraws or ceases to be a candidate because of death, disqualification, resignation, or other personal reasons shall return all residual funds to the donors no later than **ninety (90) days** after the candidate ceases to be a candidate. Residual funds not returned to the donors shall escheat to the Hawaii Election Campaign Fund.

A candidate who fails to be nominated or elected to office may expend surplus funds but under no circumstances shall expenditures be made from funds after **one (1) year** from the date of the election for which the contributions were received. Contributions not returned to the contributors shall escheat to the Hawaii Election Campaign Fund.

A candidate who is elected to office may expend surplus funds but under no circumstances shall expenditures be made from funds after **four (4) years** from the date of the election for which the contributions were received. Contributions not returned to the contributors shall escheat to the Hawaii Election Campaign Fund.

If a candidate does not win the election and the candidate has a deficit, the candidate must continue filing reports until the deficit has been cleared.

XI. TERMINATING REGISTRATION WITH THE COMMISSION

Termination of a candidate committee's registration with the Commission should be considered if:

- The candidate will no longer be receiving any contributions or making any expenditures reportable to the Commission;
- The balance of the candidate's campaign fund is zero (no surplus);
- There are no unpaid expenditures to be paid (no deficit); and
- There are no outstanding loans to be paid (no deficit).

The termination process begins by completing and mailing the "Candidate Committee Request for Termination of Registration" form. The form is available on the Commission's website under "Candidate Committees," click on "Forms." A closing bank statement must accompany the termination of registration form to verify that all relevant bank accounts have been closed. If there are durable assets, the candidate committee must sell or otherwise dispose of the assets as permitted by law and report that on "Schedule F – Durable Assets" on the CFS.

The filing of the termination form is only a request to terminate registration with the Commission. Termination of the committee occurs only upon approval by the Commission and after all fines and penalties, if any, are paid. Once the Commission

approves a request for termination, the candidate committee will no longer be required to file disclosure reports.

XII. AUDIT AND ENFORCEMENT

The law authorizes random audits and investigations of committees.

The Commission also has enforcement authority. The Commission may issue an order affecting any person violating any laws in the Hawaii Revised Statutes, Part XIII, Campaign Finance, and may assess an administrative fine up to \$1,000 for each violation of the campaign finance law, in addition to more specific fines for the late filing of disclosure reports. The Commission's authority to assess administrative fines is set forth in HRS §§11-314, 11-340, 11-409, and 11-410.

Any person who recklessly, knowingly, or intentionally violates any provision of the campaign finance laws shall be guilty of a misdemeanor.

Any person who knowingly or intentionally falsifies any report required by the campaign finance laws with the intent to circumvent the law or deceive the Commission or who violates the anonymous contribution prohibition or false name contribution prohibition shall be guilty of a class C felony and is not eligible for a deferred acceptance of guilty or nolo contendere plea.

A person who is convicted shall be disqualified from holding elective public office for a period of four (4) years from the date of conviction.

It is therefore strongly advised to familiarize yourself with the campaign finance laws and rules, file your reports, be aware of all areas in this Guidebook that have a time sensitive deadline (see generally bolded items), respond to requests or communication from the Commission, and contact the Commission if you have any questions to avoid penalties, fines, complaints, referrals to prosecuting attorney offices, and/or court orders.

XIII. TRAINING

The Commission is registered with the Hawaii State Board of Accountancy as a sponsor of continuing professional education.

One (1) credit for each hour of class time is given. The following classes are sponsored and offered by the Commission:

- Candidate and Candidate Committees – 2 hour class for 2 credits;
- Public Financing for Candidates – 1 hour class for 1 credit; and
- Noncandidate Committees – 1 hour class for 1 credit.

Training classes are generally scheduled in November in a non-election year, and February and July in an election year. Please check our website for class announcements and registration.