

## Chapter 5 – PACs, Ballot Issue Committees, Party Central Committees, Legislative Party Caucus Committees

### 5.1 Political Action Committees (PACs)

#### 1. Generally

- A PAC is a political committee that seeks to advance its political interests or purposes through the promotion of candidates, political parties, or questions. A political action committee is essentially any political committee that is not a political party, central committee, slate, legislative party caucus, authorized candidate campaign committee, or ballot issue committee.  
*- § 1-101(ff) of the Election Law Article*
- Any political committee whose purpose is to support or oppose a single ballot issue cannot be a PAC.
- In order to form a PAC, a Statement of Organization must be filed with the State Board. The PAC must identify its purpose on the Statement of Organization.

#### 2. Naming a PAC

The law requires that the name of the PAC include the name of any entity that sponsors or affiliates with the PAC. For example, if a company, Environment Group, Inc., sponsors a PAC, then the name of the company, the Environment Group, Inc., must be used in the name of the PAC (Environment Group PAC). PACs that are not affiliated with or sponsored by a group or entity have more flexibility when choosing a name, but must choose a name that does not deceive people as to the true nature or character of the PAC.

*-§ 13-208(d)(3) of the Election Law Article*

Additionally every Maryland PAC must include its official name and “Maryland registered political action committee” or “MD registered PAC” on its checks.

*- § 13-228 of the Election Law Article*

#### 3. Campaign Finance Limits

PACs may give up to \$6,000 to a single political committee in an election cycle. There is no aggregate limit for transfers to different political committees a PAC may make in an election cycle. (*See Section 8.3 of the Summary Guide.*)

#### 4. Compliance Account

A PAC may establish one compliance account separate from the electoral account for the purposes of record keeping, filing reports or other accounting work. Donations to the compliance account are not subject to the contribution limit.

## 5. PAC or Independent Expenditure entity?

A PAC is required to register when two or more persons raise or spend money to support or oppose candidates, political party, or ballot questions for a State election. If the entity's major purpose is to engage in electoral matters, i.e. promoting the success or defeat of a candidate or political party, then it must register as a PAC. For most organizations—including unions and corporations—the advantages of a PAC include the ability to receive contributions from members or employees and to direct campaign expenditures on their behalf.

Without a PAC, an organization may make “independent expenditures” in support of or opposition to a candidate, political party, or ballot question. The funding for the independent expenditure can come directly from the organization's general operation funds. If the organization conducts campaign finance activity to support the independent expenditure, it will need preform an internal analysis to see if the major purpose threshold applies.

## 6. Super PACs

### What is a Super PAC?

A PAC that **makes independent expenditures only** is commonly referred to as a Super PAC. It may not coordinate or make any direct transfers to candidates. In order to establish a Super PAC, you must file a Statement of Organization, designate at the time of registration that the PAC will make only independent expenditures, and identify which candidate(s) it tends to support or oppose.

Consistent with the legal authority on this issue, the State Board does not interpret the contribution limits of Election Law Article § 13-226(b) to apply to contributions or donations to Super PACs or political groups or PACs that make only independent expenditures or electioneering communications. However, candidate committees, slates, political parties, and legislative party caucus committees may not make a contribution or transfer to a Super PAC or any entity that makes only independent expenditures or electioneering contributions because, in that event, the contribution or transfer would amount to “coordination.” Once coordination exists, the contribution limits would apply to all contributions or donations received by the Super PAC and any amounts exceeding the legal limits would be subject to civil penalties.

### Special Reporting Requirements

A Super PAC must file a disclosure report within 48 hours after making aggregate expenditures of \$10,000 on campaign material. This does not relieve the Super PAC from the regular scheduled campaign finance reports due for all political committees.

## 5.2 **Ballot Issue Committees**

### 1. Generally

- A ballot issue committee is a political committee formed to promote the success or defeat of one or more questions or potential questions to be submitted to a vote at an election.

*-§ 1-101(f) of the Election Law Article*

- In order to form a ballot issue committee, a Statement of Organization must be filed with the State Board.
- The ballot issue committee must identify the ballot issue and whether the committee is being formed to support or oppose the issue.

## 2. When a ballot issue committee needs to be formed

A ballot issue committee must be established at the State Board before collecting signatures for a petition effort seeking to place a question or referendum on the ballot.

*-§ 13-202 of the Election Law Article*

If the question is automatically placed on the ballot by legislation, then a ballot issue committee must be formed before engaging in campaign finance activities, i.e., money is collected or spent to promote its success or defeat.

## 3. Where to File

A ballot issue committee must file its campaign finance reports with the State Board.

## 4. Campaign Finance Activity

The major purpose of a ballot issue committee is to promote the success or defeat of one or more questions or potential questions appearing on the ballot.

A ballot issue committee can receive unlimited contributions from an individual, business entity, or any other organization. In addition, there is no restriction on the amount that a political committee may transfer to a ballot issue committee.

*-§§ 13-226(a) and 13-227(b) of the Election Law Article*

## 5. Reporting Responsibilities

A ballot issue committee must file campaign finance reports like any other political committee. However, its first report is due at the time the petition is submitted to the appropriate local board or Secretary of State. If there was opposition to the petition effort, the ballot issue committee in opposition must file a first report 10 days later. Any subsequent petition submission by the ballot issue committee must include filing a campaign finance report.

After the petition process is complete, then all ballot issue committees file reports on the last Tuesday in August and the second and fourth Friday immediately preceding the general election. The final report should be filed after the election on or before the second Tuesday after the general election. If a final report was not filed with the Post-General Report, then the ballot issue committee is required to file reports every 3<sup>rd</sup> Wednesday in January.

*-§ 13-309 of the Election Law Article*

**Note:** A ballot issue committee does not have to file pre-primary related campaign finance reports. If the ballot issue committee is established a year or more before the election, it is

required to file an Annual Report each year until the year of the election. The committee will remain open and liable for filing reports until it files a final (closeout) report with the State Board.

## 6. Petition Effort

Please consult the Petition Manual on the State Board website or contact the appropriate local board for more information including the number of signatures required and deadlines to file the petition.

## 5.3 Party Central Committees

### 1. Generally

A State central committee is the governing body of the political party and may be composed of members of the central committees of the counties.

*-§ 4-201 of the Election Law Article*

Every recognized political party must establish and maintain a State central committee. The political party has the option to establish one in each county. For example, the Republican and Democratic Parties each have a State central committee and 24 county central committees, all of which have Statements of Organization on file with the State Board. The central committee must maintain a chair and treasurer with the State Board.

### 2. Reporting and Disclosure Responsibilities

A central committee must report like any other type of political committee.

In addition to campaign finance reporting, each State and local central committee is required to file and maintain a current version of its constitution and by-laws with the State Board. Any amendment to a constitution, bylaw or rule must be filed with the State Board within 30 days.

*-§ 4-204(d) of the Election Law Article*

#### **Common reporting problems**

Central committees often forget to inform the State Board when officers change. For example, if John Doe loses the election and therefore stops serving as treasurer and Jane Smith takes over, this must be reported to the State Board. John Doe must file a resignation form and Jane Smith files an appointment form for a new officer. Failure to do so will cause John Doe to remain as treasurer for liability purposes with the State Board.

### 3. Campaign Finance Activity

- Contributions to a Central Committee

Campaign contributions to a central committee are subject to the \$6,000 contribution limits discussed in Chapter 7 of this Summary Guide.

However, donations to a central committee for strictly administrative purposes (such as maintaining the party's normal headquarters and staff) do not count against the contribution limit and must be identified on the campaign finance reports filed by the central committee. Additionally, the donor must earmark the donation for administrative purposes; otherwise it would be considered an electoral contribution subject to the limits.

The central committee is required to segregate the administrative funds from its other funds and accounts.

*-COMAR 33.13.13*

- Contributions and Transfers by a Central Committee

Central committees may make *coordinated campaign contributions*<sup>13</sup> to party candidates during an election cycle in the following amounts:

- For a State central committee, not more than \$1 for every two registered voters in the State (regardless of party affiliation) as of first day of the election cycle.
- For a local central committee, not more than \$1 for every two registered voters in the county (regardless of party affiliation) as of first day of the election cycle.

*-§ 13-226(c) of the Election Law Article*

In addition to these coordinated campaign contributions, a central committee may also transfer up to \$6,000 to other political committees. (*See Section 8.3 of the Summary Guide.*)

#### 4. Control over Campaign Funds

Unlike other political committees, a treasurer of a central committee may not make any disbursements or incur any liability on the committee's behalf, without authority and direction from the chair. However, the chair may not make any disbursements; only the treasurer has that authority.

*-§ 13-218(c) of the Election Law Article*

### 5.4 Forming a Political Party

#### 1. Generally

A partisan organization is a combination of two or more individuals joining together to form a new political party. Any group of registered voters may form a new political party by filing with the State Board an interim constitution and bylaws, and a petition stating the following:

- The intent to organize a State political party;

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<sup>13</sup> A coordinated campaign contribution is an expenditure made by the party central committee or legislative party caucus committee for the purpose of supporting one or more candidates and done with direct approval, knowledge, and cooperation of the candidate(s). For example, a coordinated campaign contribution could be a television ad campaign that is paid for by the party but that was coordinated with the candidates benefiting from the campaign. It is considered an in-kind contribution to that candidate and must be reported on the candidate's campaign finance report as well.

- The name of the partisan organization;
- The name and signature of the State Chairman of the partisan organization;
- The names and addresses of 25 registered voters, including the State Chairman, who shall be designated as constituting the initial governing body of the partisan organization; and
- Signatures of 10,000 registered voters.

The petition to form a new political party may be filed at any time except after the first Monday in August until voter registration opens after the general election. Additionally, in a presidential election year, a petition cannot be filed during the period when voter registration is closed prior to and after the primary election.

*-§ 4-102 of the Election Law Article*

The political party must file the Statement of Organization creating the central committee with the State Board at the time the new party petition process is successfully completed and the constitution and by-laws are approved.

## 2. Retention of Political Party Status

A new political party retains its status as a political party until December 31 in the year of the second statewide general election after the party first qualified. Thereafter, a political party may retain its status in either one of two ways:

- a. If the party nominated candidate for the highest office on the ballot (President or Governor) in a statewide general election receives 1% of the vote for that office, then the political party retains its status through the end of the year of the following general election; or
- b. If the party achieves 1% of the registered voters of the State as of December 31, then it retains its status through the end of the next year.

Once political party status is lost, the central committee of the political party can no longer exist and will need to re-register with the State Board as a PAC.

## 5.5 **Legislative Party Caucus Committees**

A legislative party caucus committee means a political committee established to promote the election of candidates of a single political party to one of the two Houses of the General Assembly.

### Special Campaign Finance Limits

Unlimited transfers can occur from a member's authorized candidate campaign committee to the legislative party caucus committee.

A legislative party caucus committee may only transfer up to \$24,000 in an election cycle to a member's authorized candidate campaign committee. However, the legislative party caucus

committee may make a *coordinated in-kind contribution* to a candidate that it seeks to elect up to \$1 per two registered voters in the State.

*-§§ 13-226 and 13-227 of the Election Law Article*

Please note that member to member transfers are limited to \$6,000 in an election cycle.

A person may make an unlimited donation to the administrative account of the legislative party caucus committee. This does not count against the \$6,000 contribution limit. The donation must be earmarked by the donor for the exclusive use in the administrative account. Failure to earmark the donation will result in the donation being considered a contribution subject to the limits.

*-COMAR 33.13.13*