

## State of Utah 2019 Municipal Financial Disclosure Dates

Please note, these dates and deadlines *do not* take into account local financial disclosure ordinances. *Candidates should check with their respective municipal clerk/recorder* to ensure that they are in full compliance with their local financial disclosure ordinances.

Campaign financial disclosures are due by 5:00 p.m. on the due date.

### *Municipal Candidates*

<b>Report Due Date (by 5:00 p.m.)</b>	<b>Report includes transactions between</b>	<b>Who this applies to</b>
08-06-2019	01/01/2019 – 08/01/2019	Candidates in a Primary
09-12-2019	08/02/2019 – 09/07/2019	Candidates eliminated at Primary
10-29-2019	01/01/2019 – 10/24/2019 (no primary) 08/02/2019 – 10/24/2019 (won primary)	Candidates not in a Primary, or Candidates who won Primary
12-05-2019	10/25/2019 – 11/30/2019	Candidates in the General Election
30 days after disqualification	Varies, contact your municipal clerk/recorder	Candidates who are disqualified for failing to file a financial report by the deadline

## Campaign Finance Statutes: Municipal Candidates

### **10-3-208. Campaign finance disclosure in municipal election.**

(1) Unless a municipality adopts by ordinance more stringent definitions, the following are defined terms for purposes of this section:

(a) "Agent of a candidate" means:

- (i) a person acting on behalf of a candidate at the direction of the reporting entity;
- (ii) a person employed by a candidate in the candidate's capacity as a candidate;
- (iii) the personal campaign committee of a candidate;
- (iv) a member of the personal campaign committee of a candidate in the member's capacity as a member of the personal campaign committee of the candidate; or
- (v) a political consultant of a candidate.

(b) "Anonymous contribution limit" means for each calendar year:

- (i) \$50; or
  - (ii) an amount less than \$50 that is specified in an ordinance of the municipality.
- (c)

(i) "Candidate" means a person who:

- (A) files a declaration of candidacy for municipal office; or
- (B) receives contributions, makes expenditures, or gives consent for any other person to receive contributions or make expenditures to bring about the person's nomination or election to a municipal office.

(ii) "Candidate" does not mean a person who files for the office of judge.

- (d)
- (i) "Contribution" means any of the following when done for political purposes:
- (A) a gift, subscription, donation, loan, advance, or deposit of money or anything of value given to a candidate;
  - (B) an express, legally enforceable contract, promise, or agreement to make a gift, subscription, donation, unpaid or partially unpaid loan, advance, or deposit of money or anything of value to the candidate;
  - (C) any transfer of funds from another reporting entity to the candidate;
  - (D) compensation paid by any person or reporting entity other than the candidate for personal services provided without charge to the candidate;
  - (E) a loan made by a candidate deposited to the candidate's own campaign; and
  - (F) an in-kind contribution.

(ii) "Contribution" does not include:

- (A) services provided by an individual volunteering a portion or all of the individual's time on behalf of the candidate if the services are provided without compensation by the candidate or any other person;
- (B) money lent to the candidate by a financial institution in the ordinary course of business; or
- (C) goods or services provided for the benefit of a candidate at less than fair market value that are not authorized by or coordinated with the candidate.

(e) "Coordinated with" means that goods or services provided for the benefit of a candidate are provided:

- (i) with the candidate's prior knowledge, if the candidate does not object;
- (ii) by agreement with the candidate;
- (iii) in coordination with the candidate; or
- (iv) using official logos, slogans, and similar elements belonging to a candidate.

(f)

(i) "Expenditure" means any of the following made by a candidate or an agent of the candidate on behalf of the candidate:

- (A) any disbursement from contributions, receipts, or from an account described in Subsection (3)(a)(i);
- (B) a purchase, payment, donation, distribution, loan, advance, deposit, gift of money, or anything of value made for political purposes;
- (C) an express, legally enforceable contract, promise, or agreement to make any purchase, payment, donation, distribution, loan, advance, deposit, gift of money, or anything of value for a political purpose;
- (D) compensation paid by a candidate for personal services rendered by a person without charge to a reporting entity;
- (E) a transfer of funds between the candidate and a candidate's personal campaign committee as defined in Section 20A-11-101; or
- (F) goods or services provided by a reporting entity to or for the benefit of the candidate for political purposes at less than fair market value.

(ii) "Expenditure" does not include:

- (A) services provided without compensation by an individual volunteering a portion or all of the individual's time on behalf of a candidate; or
  - (B) money lent to a candidate by a financial institution in the ordinary course of business.
- (g) "In-kind contribution" means anything of value other than money, that is accepted by or coordinated with a candidate.

(h)

(i) "Political consultant" means a person who is paid by a candidate, or paid by another person on behalf of and with the knowledge of the candidate, to provide political advice to the candidate.

(ii) "Political consultant" includes a circumstance described in Subsection (1)(h)(i), where the person:

(A) has already been paid, with money or other consideration;

(B) expects to be paid in the future, with money or other consideration; or

(C) understands that the person may, in the discretion of the candidate or another person on behalf of and with the knowledge of the candidate, be paid in the future, with money or other consideration.

(i) "Political purposes" means an act done with the intent or in a way to influence or tend to influence, directly or indirectly, any person to refrain from voting or to vote for or against any candidate or a person seeking a municipal office at any caucus, political convention, or election.

(j) "Reporting entity" means:

(i) a candidate;

(ii) a committee appointed by a candidate to act for the candidate;

(iii) a person who holds an elected municipal office;

(iv) a party committee as defined in Section 20A-11-101;

(v) a political action committee as defined in Section 20A-11-101;

(vi) a political issues committee as defined in Section 20A-11-101;

(vii) a corporation as defined in Section 20A-11-101; or

(viii) a labor organization as defined in Section 20A-11-1501.

(2)

(a) A municipality may adopt an ordinance establishing campaign finance disclosure requirements for a candidate that are more stringent than the requirements provided in Subsections (3), (4), and (5).

(b) The municipality may adopt definitions that are more stringent than those provided in Subsection (1).

(c) If a municipality fails to adopt a campaign finance disclosure ordinance described in Subsection (2)(a), a candidate shall comply with financial reporting requirements contained in Subsections (3), (4), and (5).

(3)

(a) Each candidate:

(i) shall deposit a contribution in a separate campaign account in a financial institution; and

(ii) may not deposit or mingle any campaign contributions received into a personal or business account.

(b) In a year in which a municipal primary is held, each candidate who will participate in the municipal primary shall file a campaign finance statement with the municipal clerk or recorder no later than seven days before the day described in Subsection 20A-1-201.5(2).

(c) Each candidate who is not eliminated at a municipal primary election shall file with the municipal clerk or recorder a campaign finance statement:

(i) no later than seven days before the day on which the municipal general election is held; and

(ii) no later than 30 days after the day on which the municipal general election is held.

(d) Each candidate for municipal office who is eliminated at a municipal primary election shall file with the municipal clerk or recorder a campaign finance statement within 30 days after the day on which the municipal primary election is held.

(4) Each campaign finance statement described in Subsection (3) shall:

(a) except as provided in Subsection (4)(b):

(i) report all of the candidate's itemized and total:

(A) contributions, including in-kind and other nonmonetary contributions, received up to and including five days before the campaign finance statement is due, excluding a contribution previously reported; and

(B) expenditures made up to and including five days before the campaign finance statement is due, excluding an expenditure previously reported; and

(ii) identify:

(A) for each contribution, the amount of the contribution and the name of the donor, if known; and

(B) for each expenditure, the amount of the expenditure and the name of the recipient of the expenditure; or

(b) report the total amount of all contributions and expenditures if the candidate receives \$500 or less in contributions and spends \$500 or less on the candidate's campaign.

(5) Within 30 days after receiving a contribution that is cash or a negotiable instrument, exceeds the anonymous contribution limit, and is from a donor whose name is unknown, a candidate shall disburse the amount of the contribution to:

(a) the treasurer of the state or a political subdivision for deposit into the state's or political subdivision's general fund; or

(b) an organization that is exempt from federal income taxation under Section 501(c)(3), Internal Revenue Code.

(6)

(a) A municipality may, by ordinance:

(i) provide an anonymous contribution limit less than \$50;

(ii) require greater disclosure of contributions or expenditures than is required in this section; and

(iii) impose additional penalties on candidates who fail to comply with the applicable requirements beyond those imposed by this section.

- (b) A candidate is subject to the provisions of this section and not the provisions of an ordinance adopted by the municipality under Subsection (6)(a) if:
- (i) the municipal ordinance establishes requirements or penalties that differ from those established in this section; and
  - (ii) the municipal clerk or recorder fails to notify the candidate of the provisions of the ordinance as required in Subsection (7).
- (7) Each municipal clerk or recorder shall, at the time the candidate for municipal office files a declaration of candidacy, and again 14 days before each municipal general election, notify the candidate in writing of:
- (a) the provisions of statute or municipal ordinance governing the disclosure of contributions and expenditures;
  - (b) the dates when the candidate's campaign finance statement is required to be filed; and
  - (c) the penalties that apply for failure to file a timely campaign finance statement, including the statutory provision that requires removal of the candidate's name from the ballot for failure to file the required campaign finance statement when required.
- (8) Notwithstanding any provision of Title 63G, Chapter 2, Government Records Access and Management Act, the municipal clerk or recorder shall:
- (a) make each campaign finance statement filed by a candidate available for public inspection and copying no later than one business day after the statement is filed; and
  - (b) make the campaign finance statement filed by a candidate available for public inspection by:
    - (i) posting an electronic copy or the contents of the statement on the municipality's website no later than seven business days after the statement is filed; and
    - (ii) verifying that the address of the municipality's website has been provided to the lieutenant governor in order to meet the requirements of Subsection 20A-11-103(5); or
    - (iii) submitting a copy of the statement to the lieutenant governor for posting on the website established by the lieutenant governor under Section 20A-11-103 no later than two business days after the statement is filed.
- (9)
- (a) If a candidate fails to timely file a campaign finance statement required under Subsection (3), the municipal clerk or recorder shall inform the appropriate election official who:
    - (i) shall:
      - (A) if practicable, remove the candidate's name from the ballot by blacking out the candidate's name before the ballots are delivered to voters; or
      - (B) if removing the candidate's name from the ballot is not practicable, inform the voters by any practicable method that the candidate has been disqualified and that votes cast for the candidate will not be counted; and
    - (ii) may not count any votes for that candidate.
  - (b) Notwithstanding Subsection (9)(a), a candidate who timely files each campaign finance statement required under Subsection (3) is not disqualified if:
    - (i) the statement details accurately and completely the information required under Subsection (4), except for inadvertent omissions or insignificant errors or inaccuracies; and
    - (ii) the omissions, errors, or inaccuracies are corrected in an amended report or in the next scheduled report.
  - (c) A candidate for municipal office who is disqualified under Subsection (9)(a) shall file with the municipal clerk or recorder a complete and accurate campaign finance statement within 30 days after the day on which the candidate is disqualified.
- (10) A campaign finance statement required under this section is considered filed if it is received in the municipal clerk or recorder's office by 5 p.m. on the date that it is due.
- (11)
- (a) A private party in interest may bring a civil action in district court to enforce the provisions of this section or an ordinance adopted under this section.
  - (b) In a civil action under Subsection (11)(a), the court may award costs and attorney fees to the prevailing party.



# The Dos and Do-Nots of Campaign Financial Disclosures Candidates & Officeholders

-updated 1/3/2019-

## Expenditures

### Personal use expenditures are prohibited.

Utah Code [20A-11-104](#)

A "personal use expenditure" means an expenditure that "primarily furthers a personal interest of a candidate or officeholder or a candidate's or officeholder's family, which interest is not connected with the performance of an activity as a candidate or an activity or duty of an officeholder."

A candidate or officeholder who has made a personal use expenditure is subject to an administrative penalty of half the amount of the personal use expenditure and repaying the campaign account the full amount of the personal use expenditure.

Below are examples of some expenditures reported in previous years which were determined to be personal use expenditures for which fines were paid:

- Shirts for session\*
- Tie\*
- Citizenship application fees
- Combo passes for Thanksgiving Point
- Mister Car Wash
- Gym dues for Capitol Fitness Center
- Cold medicine

\*Clothing expenditures are explicitly prohibited unless the clothing bears the candidate's name or campaign slogan or logo AND is used in the candidate's campaign.

### Your expenditures must clearly indicate who was ultimately paid, and the specific purpose of the expenditure.

Utah Code [20A-11-101.5](#) and Utah Code [20A-11-101\(11\)\(b\)\(iii\)](#)

Reports must disclose:

- The "specific purpose, item, or service acquired by the expenditure" and
- The "actual person or entity to whom the disbursement is *ultimately* made... and may not merely list the transactional intermediary" such as a credit card company.

Be sure you report the *ultimate* payee of an expenditure, and not a transactional intermediary, such as American Express. You didn't pay American Express for your campaign signs, you paid Office Warehouse, using American Express.

The law is concerned with where your money is *ultimately* spent. Therefore, if you use your personal account to pay for something campaign related, and later reimburse your personal account with campaign funds, then you are only required to report where you *ultimately* expended the money. The same is true if you use a business account which you later reimburse.

The specific purpose of an expenditure should be clear and specific. Ask yourself, "What did I buy and how did I use it in my campaign, or how did I use it for my officeholder duties?" Include that in the specific purpose field.

### If you pay campaign staff, report the name of the staffer as the Name of Payee.

If you pay people to work on your campaign, list the name of each staffer in the Name of Payee field(s). The Specific Purpose can be something like, "campaign staff," or "payment for work on campaign." The ultimate payee should not be "Payroll," the ultimate payee is the person you pay.

**DISCLAIMER:** This document is not a substitute for Utah State Code, and it is not intended to be comprehensive or an authoritative statement of law. For further legal information, please consult Utah State Code or other appropriate legal resources. Updated January 3, 2019.



# The Dos and Do-Nots of Campaign Financial Disclosures Candidates & Officeholders

-updated 12/27/2018-

## Contributions

### You must report each contribution within 31 days or 3 business days.

Utah Code [20A-11-201](#), Utah Code [20A-11-301](#), and Utah Code [20A-11-1301](#)

Each contribution (including in-kind contributions) must normally be reported within 31 calendar days of receiving it. This window shortens for candidates who are contested during convention, the primary election, or the general election; during the 30 days prior to a convention, primary election, or general election, a contested candidate must report each contribution within 3 *business days* of receiving it.

The received date of a contribution is the date you have the ability to use it, which means you receive:

- Cash – as soon as your campaign has it in hand.
- A check – the day it is deposited into your campaign account.
- An in-kind contribution – when you benefit from it.

**Save** the contribution to the ledger to report it.

Statutorily the Lieutenant Governor's office shall impose a fine against a candidate if he or she reports a contribution after this 31 day or 3 business day time period.

### You must report the actual source of the contribution.

Utah Code [20A-11-101.5](#)

Reports "shall reveal the actual source of the contribution... the *actual identity* of the donor and may not merely list, disclose, or report the transactional intermediary."

PayPal, Square, Venmo, or ActBlue are considered transactional intermediaries, more commonly referred to as "pass-through entities." These pass-throughs are entities through which donors give to campaigns or PACs. Remember, the pass-through entity (PayPal) did not contribute to your campaign; Jane Doe contributed to your campaign *using* PayPal. You must report Jane Doe as the contributor, not PayPal.

Report the name and address of the donor who actually gave to your campaign.

### You must give anonymous contributions that are greater than \$50 to a charity, a city, or the State.

Utah Code [20A-11-201](#), Utah Code [20A-11-301](#), Utah Code [20A-11-401](#), and Utah Code [20A-11-1301](#)

If a candidate or officeholder receives a contribution (or public service assistance) which exceeds \$50 and is from an unknown source, the candidate or officeholder **shall** disburse the amount of the contribution (or public service assistance) within 31 days to:

- (a) the state or a political subdivision for deposit into the general fund; or
- (b) a 501(c)(3) organization.

Candidates and officeholders may not use funds that are greater than \$50 and from an unknown source. If you receive an anonymous contribution (or public service assistance) that is greater than \$50, you must give it to a charity, a city, or the State.

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# CAMPAIGN FINANCIAL REPORT

To

\_\_\_\_\_ of \_\_\_\_\_  
(City Recorder/Town Clerk) (Municipality)

For

Full name of candidate \_\_\_\_\_

Street Address \_\_\_\_\_

City \_\_\_\_\_, Utah 84 \_\_\_\_\_

Name of office \_\_\_\_\_ (District \_\_\_\_\_ )

1. If a candidate has received only \$500 or LESS in total, then report just the total amount received.

Contributions received totaling \$500 or LESS ..... \$ \_\_\_\_\_

2. If a candidate has received \$501 or MORE in total, then enter each donor's name and amount on Form A on the back of this sheet (regardless of the amount donated) and

Enter the total of all received from Form A ..... \$ \_\_\_\_\_

3. If the candidate has spent only \$500 or LESS in total, then report just the total of the expenditures.

Expenditures totaling \$500 or LESS ..... \$ \_\_\_\_\_

4. If a candidate has spent \$501 or MORE in total, then enter each expenditure on Form B on the back of this sheet (regardless of the amount spent) and

Enter the total of all expenditures from Form B ..... \$ \_\_\_\_\_

5. Balance at the end of the reporting period ..... \$ \_\_\_\_\_

Date \_\_\_\_\_ Signed \_\_\_\_\_  
(Candidate)

NOTE: Utah election code 10-3-208 states that all municipalities shall adopt an ordinance establishing campaign finance disclosure requirements for candidates running for city or town office. You should check with your city recorder or town clerk for the disclosure requirements which pertain to your municipality.

**ITEMIZED CONTRIBUTION REPORT (Form "A")**

Date Received	Name of Contributor	Mailing Address & Zip Code	Amount of Contribution

*(If additional space is needed, use blank paper and list information like the above format and then attach to report)*

**ITEMIZED EXPENDITURE REPORT (Form "B")**

Date of Expenditure	Person or Organization To Whom Expenditure was made	Mailing Address & Zip Code	Amount of Expenditure

*(If additional space is needed, use blank paper and list information like the above format and file with this report)*