

# **CAMPAIGN FINANCE GUIDE**

*Public Employees, Public Resources*

he Office of Campaign and Political Finance ("OCPF") is an independent state agency that administers Massachusetts General Laws Chapter 55, the campaign finance law. Included in Chapter 55 are sections governing the role of public employees, public buildings and other public resources in campaigns. This brochure is intended to provide guidance to public employees and officials, political candidates and committees and other parties on the application of these sections of Chapter 55 to campaigns.

This publication is only meant to be an introductory guide to the campaign finance laws governing public employees, buildings and resources, not a substitute for these laws. OCPF is available to help public employees, officials and campaigns comply with the provisions of this statute. It is the



## ***I. Public Employees***

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### **Section 13: Soliciting and Receiving Contributions**

M.G.L. Chapter 55, Section 13 prohibits paid state, county, city or town employees, other than elected officials, from



- o Otherwise asking for contributions to support any candidate or political committee (federal, state, county or local) or a ballot question;
- o Hosting or sponsoring a political fundraising event;
- o Accepting donations or payment for admission at a political fundraising event or accepting money at the door of a political fundraising event;
- o Signing a fundraising letter or advertisement on behalf of a candidate or political committee;
- o Permitting your name to be listed on campaign stationery as an officer, member or supporter, if the stationery is used to solicit funds for a political purpose;
- o Providing persons raising money for a candidate or committee with the names of individuals who would then be solicited;
- o Providing general or specific advice to a political campaign with regard to fundraising strategies.

Despite the restriction on political fundraising, public employees may engage in a variety of other campaign activities without violating the provisions of section 13.

Examples of **ALLOWABLE** activity include:

- o Making a contribution to a candidate or political committee or attending a political fundraiser;
- o Serving as a member of a political committee or holding any committee position, aside from treasurer or any other position that involves fundraising;

- o Performing any service for a campaign that does not involve fundraising, such as holding signs, stuffing envelopes, signing endorsement letters (as long as those letters do not also ask for moneyfor money)

## **Section 15 Contributions by Public Officials**

Section 15 prohibits bribes or any “quid pro quo” payments to public officials, but allows all elected and appointed public officials of the Commonwealth, a county or a city or town to make political contributions to any candidate or political committee.

## **Sections 16-17: Coercion or politically related job actions**

Various sections of the campaign finance law protect public employees and those in the private sector from being forced to contribute to or otherwise support a political candidate or committee. Likewise, the law also protects employees from being subject to retribution from their employers for not supporting a candidate or political committee.

**Section 16** protects public employees from being required to make contributions or render political services in exchange for their employment, and protects them from retribution for failing to do so.

**Section 16A** protects individuals doing business with the Commonwealth from having to render a political service or make a political donation in exchange for doing business with the state.

**Section 16B** protects any employee, public or private, from being forced to contribute or render service to a political candidate or committee. (Employees of a political campaign are, understandably, not covered by this section.)

**Section 17** provides additional protection against retribution to a public employee or officer who fails to give or withholds a contribution or who contributes to an opposition candidate or cause.



## ***II. Public Buildings***

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### ***III. Public Resources and Campaigns***

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In *Anderson v. City of Boston* (1978), the state's Supreme Judicial Court prohibited a municipality from spending public funds and other resources for an organized campaign to convince voters to support a statewide ballot question. The court ruled that the campaign finance law prohibited the use of public resources for this purpose. OCPF has applied this principle to prohibit the use of public resources for any political campaign purpose whatsoever. Public employees, as well as other persons, are prohibited from using any public resources for political campaign purposes, including the promotion of a candidate or any political committee or party.

“Public resources” are defined as anything that is paid for with public money, whether raised through taxes or fees. This definition includes:

- o Staff time: When public employees are on the job, they are prohibited from engaging in political campaign activity. This includes activities such as holding campaign signs, stuffing or addressing envelopes with campaign literature, or in any way soliciting votes or funds for political purposes. **In addition, paid appointed public employees are prohibited from political fundraising at any time, whether at work or not.**
- o Office and other equipment: Copy machines, fax machines, typewriters, telephones, computers, cars and trucks are some examples of taxpayer funded equipment that fall under this category.
- o Public buildings: Using a public building or any part thereof for political campaign purposes is prohibited,

candidate or committee wishing to use it, under the same terms and conditions as all other groups. **Under no circumstances**, however, may any political fundraising go on in a public building or any part of any building occupied for a state, county or municipal purpose.

The principle of equal access also applies to candidates and political committees campaigning or seeking signatures on a petition in a public building: as long as equal access is provided, there is no violation of the campaign finance law. The public entity owning the building may, consistent with the campaign finance law, set a policy regarding access, as long as it is applied evenly. Remember, despite any equal access that is provided, the prohibition against soliciting or receiving political contributions still applies; any use that is allowed may not involve fundraising.

### **What are "political campaign purposes"?**

In the context of M.G.L. Chapter 55, "political campaign purposes" are broadly defined and include promoting or opposing a candidate's nomination or election to public office or a political party office such as a state, ward, t

could use public resources to send out a flyer asking voters

preparing material and giving out copies at official meetings, sending it to voters who have requested more information, or posting it on a municipal website. Officials may hold meetings concerning ballot questions and prepare and distribute information at such meetings. They are not, however, allowed to distribute such materials to voters beyond the scope of such meetings at public expense.

The issue of public resources and the *Anderson* decision is a complicated one. Officials are advised to check with OCPF if they have any concerns about prospective actions concerning a

If you have any questions concerning advisory opinions, please contact OCPF. You may also obtain informal, oral advice by calling the office.

In addition to specific advisory opinions, from time to time the Director of OCPF issues Interpretive Bulletins setting policy guidelines on a variety of subjects. These documents are publicly available from OCPF and provide helpful guidance to public employees.

## ***Filing a Complaint***

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If you have reason to believe that a violation of the campaign finance laws has occurred, you may file a complaint with this office. OCPF reviews all matters brought to its

## ***Frequently Asked Questions***

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**I am a public employee. May I...**

**Q. ...ask a friend or relative to purchase a ticket to a fundraiser for a political candidate?**

**A.** No. Section 13 prohibits this activity.

**Q. ...hold a fundraiser for a political candidate in my home?**

**A.** No. Section 13 prohibits this activity.

**Q. ...make a political contribution?**

**A.** Yes. The campaign finance law does not prohibit a public employee from making political contributions; it restricts their activities in soliciting them. Some public agencies may have restrictions on contributions by their employees; you should also make sure political contributions are not prohibited by regulations at your own office.

**Q. ...give permission for my name to appear on a fundraising letter either in the letterhead, text, or as the signatory of such letter soliciting for a candidate?**

**A.** No. This activity is not allowed under Section 13.

**Q. ...give permission for my name to appear in the body of a fundraising letter for my own candidacy?"**

**A.** Yes, as long as you do not appear to be soliciting in the letter and you do not sign such a letter.

**Q. ...have a committee use the State House or a city or town hall as an address to send a donation for a political committee?**

**A.** No. This activity is prohibited under Section 14.





your campaign or any other political campaign because of your appointed public employment.

**Q: I am an unpaid member of a city board. Are my political fundraising activities still limited by the campaign finance law?**

**A:** No. The campaign finance law allows you or any other appointed, uncompensated “person in the service” of the Commonwealth or any city or town to solicit, receive or make campaign contributions to candidates or political committees. You may also serve as an officer, including a treasurer, of a political committee. The campaign finance law does, however, prohibit you or any other person from soliciting contributions in a public building. In addition, the campaign finance law protects you and others from being removed from office for making or not making a political contribution or for rendering or not rendering a political service, such as actively supporting a candidate or committee.

**Q. May I use paper and photo copying equipment in my school office to print flyers asking people to vote for a ballot question?**

**A.** No. The use of public resources to promote or oppose a ballot question, or any matter that appears on an election ballot, is prohibited.

**Q. May I use the copier and postage meter in my school**

**ballot question, but merely provides objective information?**

**A.** No. Even if voter information commenting on the substance of a ballot question is intended to be objective and factual, it may not be produced and distributed using public funds. As a practical matter, even material billed as “objective” or “informational” contains advocacy, even implicit.

**Q. May governmental resources be used to distribute a flyer that simply informs people about the time, date and place of an election and contains a brief title describing the ballot question or its text?**

**A.** Yes, but great care should be taken to avoid the appearance of advocacy. A brief, **neutral** title identifying the ballot question may be used. For example, the title “school expansion project” would be appropriate. On the other hand, titles which would not be appropriate include “ballot question relating to need for school expansion,” or “ballot question addressing school overcrowding problem.”

**Q. I am an elected selectman. May I speak out in favor of or opposition to a ballot question and ask town staff to prepare an analysis of how that question might affect the town I represent?**

**A.** Yes, provided that no public resources are used to distribute such analysis to voters. In other words, you may take a position on a ballot question at any meetings, forums and interviews and also authorize documents or studies concerning the question for your board’s use or distribution at meetings. Such documents, however, may not be distributed to voters outside such meetings using town resources.

## **Mass. General Laws Chapter 55 Sections 13-17**

**Section 13.** No person employed for compensation, other than an elected officer, by the commonwealth or any county, city or town shall directly or indirectly solicit or receive any gift, payment, contribution, assessment, subscription or promise of money or other thing of value for the political campaign purposes of any candidate for public office or of any political committee, or for any political purpose whatever, but

this section shall not prevent such persons from being members of political organizations or committees. The soliciting or receiving of any gift, payment, contribution, assessment, subscription or promise of money or other thing of value by a non-elected political committee organized to promote the candidacy for public office of a person so employed for compensation by the commonwealth or any county, city or

Violation of any provision of this section shall be punished



***Campaign Finance Guides available from  
OCPF:***

Statewide, County and Other “Depository” Candidates  
Candidates for The General Court  
Candidates for Municipal Office  
State Ballot Question Committees  
Municipal Ballot Question Committees  
Political Action Committees and People’s Committees  
Local Political Party Committees  
Public Employees, Public Resources and Political Activity

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