

# TEXAS ETHICS COMMISSION

## GUIDE TO A COUNTY FILING AUTHORITY'S DUTIES UNDER THE CAMPAIGN FINANCE LAW



This guide is intended for county campaign finance filing authorities. In most counties the county campaign finance filing authority is the county clerk. In some counties it is the elections administrator or the county tax assessor-collector.

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**GUIDE TO A COUNTY FILING AUTHORITY’S DUTIES  
UNDER THE CAMPAIGN FINANCE LAW**

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## GUIDE TO A COUNTY FILING AUTHORITY'S DUTIES UNDER THE CAMPAIGN FINANCE LAW

This guide explains the responsibilities of county campaign finance filing authorities under the Texas campaign finance law, which is set out in title 15 of the Election Code. In most counties the county campaign finance filing authority is the county clerk. In some counties, however, the county campaign finance authority is the elections administrator or the county tax assessor-collector. Staff members of the Ethics Commission are available at (512) 463-5800 to answer questions about title 15. You should direct other questions about election law to the Secretary of State at (512) 463-5650 or (800) 252-8683.

### PART I. THE ROLE OF THE FILING AUTHORITY

#### WHAT IS TITLE 15 ABOUT?

The campaign finance law, title 15 of the Election Code, regulates the acceptance of, expenditure of, and reports regarding money in political campaigns by candidates, officeholders, and political committees. There are civil and criminal penalties for violations of title 15. Title 15 has nothing to do with ballot access. A violation of title 15 will not keep a person off the ballot; nor will it invalidate an election.

#### WHAT ARE MY RESPONSIBILITIES UNDER THE CAMPAIGN FINANCE LAW?

**Forms:** You may print the various title 15 forms listed in this guide and the accompanying instructions from the Ethics Commission's website at <http://www.ethics.state.tx.us> on the Internet.

You are responsible for copying the forms and making them available to filers. You may not charge filers for forms.

**Code of Fair Campaign Practices:** Under chapter 258 of the Election Code, which is known as the Fair Campaign Practices Act, you must provide the following documents to each candidate or political committee that files a campaign treasurer appointment with you: (1) a copy of the Fair Campaign Practices Act and (2) a form on which the candidate or treasurer of the committee may subscribe to the Code of Fair Campaign Practices (FORM CFCP). A candidate or committee treasurer may complete Form CFCP and file it with you.

**Filings:** You are responsible for accepting documents filed in accordance with title 15. Always remember to date-stamp a filing and to save postmarks and receipt marks on envelopes.

**No Filing Fees:** Section 251.003 of the Election Code states that you may not charge a filing fee for filings required by title 15.

**Notices to File:** You are not required to send filers notices to file.

**Notices to Judicial Candidates:** Under the judicial campaign finance law, you must make available to each candidate for district judge, statutory county court judge, or statutory probate court judge who files with you written notice of the contribution and expenditure limits applicable to the office the candidate seeks. See "Part V. Judicial Campaign Fairness Act" in this guide.

**Judicial Documents Forwarded to Ethics Commission:** The Judicial Campaign Fairness Act requires county filing authorities to forward certain information to the Ethics Commission. For more information, see "Part V. Judicial Campaign Fairness Act" in this guide.

**Penalties:** You are not responsible for making sure that candidates, officeholders, or political committees file the required documents; nor do you have authority to penalize a filer for failure to submit a required filing. Filers should be aware, however, that there are penalties for violating title 15. See "Part VI. Penalties" in this guide.

**Public Access:** Forms filed under title 15 are public records and must be made available for public inspection during regular business hours.

**Retention of Records:** You must keep a campaign treasurer appointment for two years *after the campaign treasurer appointment is terminated*. Also, if a candidate or committee treasurer files a form subscribing to the Code of Fair Campaign Practices, you must keep the form for the same period for which you keep the candidate's or committee treasurer's campaign treasurer appointment. You must keep other title 15 records for at least two years after filing. If a criminal investigation or proceeding is pending in regard to the election to which title 15 records pertain, you must keep the records until the investigation or proceeding is over. The Texas State Library and Archives Commission can provide general information about records retention and destruction. You may write the Library and Archives Commission at P.O. Box 12927, Austin, Texas 78711-2927. You may call the commission at (512) 463-5460.

**Questions from Filers:** You are not expected to be a title 15 expert. Filers will find answers to most of their questions either in the instructions to the forms or in the applicable Ethics Commission campaign finance guide. For further information filers may call the Ethics Commission.

## WHO FILES WITH ME?

**Candidates and Officeholders.** The following candidates and officeholders file with you:

1. Candidates for and holders of elective county offices;
2. Candidates for and holders of elective precinct offices within the county;
3. Candidates for and holders of the office of district attorney; and
4. Candidates for not-yet-created boards. (Occasionally a person is a candidate for an office of a political subdivision that has not yet been formed. If the planned political subdivision is wholly within your county, the candidate files with you.)

**Specific-Purpose Political Committees.** Some political committees (commonly known as “PACs”) file with the county filing authority. See “Part IV. Specific-Purpose Political Committees” in this guide.

### WHO FILES WITH OTHER FILING AUTHORITIES?

**Texas Ethics Commission.** The following candidates and officeholders file with the Ethics Commission:

1. Statewide candidates and officeholders;
2. Legislators and legislative candidates;
3. Candidates for and holders of the office of multi-county district attorney and multi-county district judge;
4. Candidates for and holders of the office of single-county district judge. (**Note:** Effective June 19, 2009, single-county district judges and candidates for single-county district judgeships are no longer required to file reports with the county filing authority. They are now required to file reports of contributions and expenditures only with the Ethics Commission.);
5. Candidates for and members of the State Board of Education; and
6. Certain candidates for state or county chair of a political party.

**School Districts.** School district candidates and officeholders file with the clerk or secretary of the school district.

**Cities.** City candidates and officeholders file with the city clerk or secretary.

**Other Political Subdivisions.** Candidates and officeholders for offices in other political subdivisions within a county (such as water districts) file with the clerk or secretary of the political subdivision or, if there is no clerk or secretary, with the presiding officer of the political subdivision.

### WHAT FORMS DO I NEED TO MAKE AVAILABLE?

For most forms, there is a separate instruction guide. ***Remember: always make the appropriate instruction guide available with a form!***

#### 1. FORM CTA and FORM CTA Instruction Guide (Appointment of a Campaign Treasurer by a Candidate)

A person who takes action to gain nomination or election to a public office must file FORM CTA even if the person does not intend to accept campaign contributions or make campaign expenditures. (**Note:** Candidates for certain judicial offices use FORM JCTA.) Additionally, before a candidate may raise or spend money for his or her candidacy, the candidate must appoint a campaign treasurer by filing FORM CTA with the appropriate filing authority. For example, a candidate must file a campaign treasurer appointment before paying a filing fee.

**2. FORM JCTA and FORM JCTA Instruction Guide (Appointment of a Campaign Treasurer by a Judicial Candidate)**

A person who takes action to gain nomination or election to the office of statutory county court judge or statutory probate court judge must file FORM JCTA even if the person does not intend to accept campaign contributions or make campaign expenditures, and must also file a declaration of intent to comply with or not to comply with expenditure limits by completing the appropriate part of FORM JCTA. (**Note:** Candidates for the office of single-county district court judge file FORM JCTA with the Ethics Commission. Such candidates file reports of contributions and expenditures with *both* the Ethics Commission and the county filing authority.) Additionally, before a candidate may raise or spend money for his or her candidacy, the candidate must appoint a campaign treasurer by filing FORM JCTA with the appropriate filing authority. For example, a candidate must file a campaign treasurer appointment before paying a filing fee.

**3. FORM ACTA and FORM ACTA Instruction Guide (Amendment: Appointment of a Campaign Treasurer by a Candidate)**

A candidate uses FORM ACTA to show changes in information provided on FORM CTA.

**4. FORM AJCTA and FORM AJCTA Instruction Guide (Amendment: Appointment of a Campaign Treasurer by a Judicial Candidate)**

A candidate for certain judicial offices uses FORM AJCTA to show changes in information provided on FORM JCTA.

**5. FORM C/OH and FORM C/OH Instruction Guide (Candidate/Officeholder Campaign Finance Report)**

Most candidates and officeholders use FORM C/OH to file periodic reports of contributions and expenditures. (District judges, statutory county court judges, statutory probate court judges, and candidates for those positions use FORM JC/OH for filing periodic reports of contributions and expenditures.) A person who is both a candidate and an officeholder reports all activity on the same form.

**6. FORM C/OH-FR and FORM C/OH Instruction Guide (Candidate/Officeholder Report: Designation of Final Report)**

A candidate uses FORM C/OH-FR to file a final report when he or she does not intend to accept further campaign contributions or make further campaign expenditures. The Ethics Commission makes Form C/OH-FR available as the last page of FORM C/OH; thus the instructions for this form are included in the FORM C/OH Instruction Guide. (FORM C/OH-FR is available as the last page of Form JC/OH for a candidate for district judge, statutory county court judge or statutory probate court judge.

**7. FORM JC/OH and FORM JC/OH Instruction Guide (Judicial Candidate/Officeholder Campaign Finance Report)**

District judges, statutory county court judges, and statutory probate court judges as well as candidates for those positions use FORM JC/OH to file periodic reports of contributions and expenditures. A person who is both a candidate and an officeholder reports all activity on the same form.

**8. FORM C/OH-FR and FORM JC/OH Instruction Guide (Judicial Candidate/Officeholder Report: Designation of Final Report)**

A candidate for district judge, statutory county court judge, or statutory probate judge uses FORM C/OH-FR when he or she does not intend to accept further campaign contributions or make further campaign expenditures. The Ethics Commission makes FORM C/OH-FR available as the last page of FORM JC/OH; thus the instructions for this form are included in the FORM JC/OH Instruction Guide.

**9. FORM C/OH-UC and FORM C/OH-UC Instruction Guide (Candidate/Officeholder Report of Unexpended Contributions)**

Former candidates and officeholders use this form to report the disposition of unexpended contributions.

**10. FORM STA and FORM STA Instruction Guide (Appointment of a Campaign Treasurer by a Specific-Purpose Political Committee)**

A specific-purpose political committee (including a judicial specific-purpose political committee as described in item 13 below) uses FORM STA to appoint a campaign treasurer. Before a political committee may accept more than \$500 in political contributions or spend more than \$500 in political expenditures, the committee must appoint a campaign treasurer.

**11. FORM ASTA and FORM ASTA Instruction Guide (Amendment: Appointment of a Campaign Treasurer by a Specific-Purpose Political Committee)**

A specific-purpose political committee uses this form to show changes in information provided on a campaign treasurer appointment.

**12. FORM SPAC and FORM SPAC Instruction Guide (Specific-Purpose Political Committee Campaign Finance Report)**

The treasurer of a specific-purpose political committee (other than a judicial specific-purpose political committee as described in item 13 below) uses this form to file periodic reports of contributions and expenditures.

**13. FORM JSPAC and FORM JSPAC Instruction Guide (Judicial Specific-Purpose Political Committee Campaign Finance Report)**

A specific-purpose political committee for supporting, opposing, or assisting a district judge, a statutory county court judge, a statutory probate court judge or a candidate for one of those positions uses FORM JSPAC to file periodic reports of contributions and expenditures.

**14. FORM PAC-DR and FORM SPAC Instruction Guide (Specific-Purpose Political Committee Report: Affidavit of Dissolution)**

The treasurer of a political committee (other than the treasurer of a judicial specific-purpose political committee as described in item 13 above) files FORM PAC-DR, along with a FORM SPAC designated as a dissolution report, to dissolve the committee. The Ethics Commission makes FORM PAC-DR available as the last page of FORM SPAC; thus the instructions for FORM PAC-DR are included in the FORM SPAC Instruction Guide.

**15. FORM JSPAC-DR and FORM JSPAC Instruction Guide (Judicial Specific-Purpose Political Committee Report: Affidavit of Dissolution)**

The treasurer of a specific-purpose political committee for supporting, opposing, or assisting a district judge, a statutory county court judge, or a statutory probate court judge or for supporting, opposing, or assisting a candidate for one of those positions uses FORM JSPAC-DR, along with FORM JSPAC, to dissolve the committee. The Ethics Commission makes FORM JSPAC-DR available as the last page of FORM JSPAC; thus, the instructions for FORM JSPAC-DR are included in the instructions for FORM JSPAC.

**16. FORM JDI-3RD (Judicial Declaration of Intent--Third Party)**

A person other than a candidate, officeholder, or the principal political committee of the state executive committee or a county executive committee of a political party must file this form before exceeding certain expenditure thresholds in connection with campaigns for district court judge, statutory county court judge, or statutory probate court judge.

**17. FORM CFCP and copy of the Fair Campaign Practices Act**

You must provide a copy of FORM CFCP and a copy of the Fair Campaign Practices Act (Election Code ch. 258) to each candidate or political committee that files a campaign treasurer appointment with you.

**18. FORM PFS (Personal Financial Disclosure Statement)**

Several provisions of the Local Government Code require or authorize certain candidates and officeholders to file annual personal financial disclosure statements with the county clerk. Local Gov't Code §§ 159.003, 159.052. For this purpose, a county clerk may either design a form or require use of the form designed by the Ethics Commission.

### **WHY IS IT SO IMPORTANT TO PROVIDE THE INSTRUCTIONS WITH THE FORMS?**

The forms consist mainly of blank spaces. The instructions explain the reporting requirements in detail.

### **IS THERE OTHER INFORMATION I CAN MAKE AVAILABLE TO FILERS?**

The Texas Ethics Commission makes the following guides available on its website at <http://www.ethics.state.tx.us> on the Internet.

1. Campaign Finance Guide for Candidates and Officeholders Who File With Local Filing Authorities;
2. Campaign Finance Guide for Political Committees;
3. Campaign Finance Guide for Judicial Candidates and Officeholders;
4. Political Advertising: What You Need To Know;
5. Guide To The Prohibition Against Using Political Subdivision Resources For Political Advertising; and
6. Schedules of filing dates.

### **HOW DO I KNOW THE FILING DEADLINES?**

Title 15 of the Election Code prescribes the filing deadlines for candidates, officeholders, and treasurers of political committees. The Ethics Commission makes filing schedules available at <http://www.ethics.state.tx.us> on the Internet. The filing schedules set out the filing deadlines for semiannual reports and pre-election reports for primary and general elections. If an election is called that is not covered on the schedule, please call the Ethics Commission for assistance in calculating the due dates for the relevant reports.

**Deadline on Weekend or Holiday.** If the due date for a report falls on a Saturday, Sunday, or legal holiday, the report is due on the next regular business day.

**5 p.m. Deadline.** The deadline for filing a report is 5 p.m. on the due date.

**Delivery by Mail or Other Carrier.** For most reporting deadlines, a document is filed on time if it is properly addressed with postage or handling charges prepaid and bears a postmark or receipt mark of a common or contract carrier indicating a time by the deadline.

**Pre-Election Reports.** A report due 30 days before an election and a report due 8 days before an election must be *received* by the appropriate filing authority no later than the report due date to be considered filed on time.

## **WHY SHOULD I DATE-STAMP FILINGS AND SAVE POSTMARKS?**

Reports are due by specific deadlines, and members of the public or a prosecutor may be interested in knowing whether a particular report was filed on time. A file stamp will show whether a hand-delivery was on time. For other filings, a postmark or receipt mark will show whether the filings were timely.

## **MAY FILERS USE COMPUTER PROGRAMS TO CREATE REPORTS?**

The Ethics Commission has developed computer software for candidates and committee treasurers to use in generating reports required under title 15. County filers may use the software to generate a report *on paper*. Local filers who have questions about the software should call the Ethics Commission directly.

## **PART II. CANDIDATES**

### **WHAT MAKES SOMEONE A CANDIDATE?**

Any action a person takes to seek nomination or election to public office makes the person a candidate for title 15 filing purposes. Every candidate must file a campaign treasurer appointment even if the candidate does not intend to accept campaign contributions or make campaign expenditures. Once a person has filed a campaign treasurer appointment, he or she must file periodic reports of contributions and expenditures as a candidate. The obligation to file reports as a candidate lasts until the person files a final report.

Additionally, a person may not accept a campaign contribution or make a campaign expenditure (even from personal funds) without a campaign treasurer appointment on file. (A candidate for district judge, statutory county court judge, or statutory probate court judge must also have a declaration of intent regarding expenditure limits on file before accepting a campaign contribution or making a campaign expenditure. In the past, a judicial candidate had to file FORM CTA to appoint a campaign treasurer and FORM JDI to make a declaration of intent regarding expenditure limits. Judicial candidates may use FORM JCTA to file a campaign treasurer appointment and a declaration of intent regarding expenditure limits.)

### **HOW DOES A CANDIDATE APPOINT A CAMPAIGN TREASURER?**

To appoint a campaign treasurer, a candidate files FORM CTA or FORM JCTA with the appropriate filing authority.

**Qualifications of Campaign Treasurer.** A candidate may appoint himself, a relative, a friend, or anyone else as campaign treasurer. Under a law that took effect on September 1, 2003, a person is ineligible for appointment as a campaign treasurer if the person is the campaign treasurer of a political committee and has outstanding filing obligations.

**Duties of Campaign Treasurer.** A candidate's campaign treasurer has no official duties or liability. The candidate, not the campaign treasurer, is required to sign reports. (The treasurer of a political committee is required to file reports for the committee.)

**Effective Date of Appointment.** If delivered by hand, a campaign treasurer appointment takes effect on the date of delivery. If delivered by mail or common carrier, a campaign treasurer appointment takes effect on the date of the postmark or receipt mark.

**Transferring a Campaign Treasurer Appointment.** A person who has a campaign treasurer appointment on file may wish to begin raising or spending money in connection with a campaign for an office that requires filing with a different filing authority. In that case, the candidate must transfer his or her campaign treasurer appointment by filing a new FORM CTA (or FORM JCTA) with the new filing authority. The candidate must also attach a certified copy of the old campaign treasurer appointment. This procedure can affect you in two ways: (1) you may receive a FORM CTA (or FORM JCTA) with a certified copy of an old campaign treasurer appointment attached, or (2) you may be asked to provide a certified copy of a campaign treasurer appointment on file with you.

**Candidate who Files a Campaign Treasurer Appointment with a New Filing Authority.** A candidate who has been filing with you may file a campaign treasurer appointment with a different filing authority. The candidate will need to file a certified copy of his or her campaign treasurer appointment with the new filing authority. This ends the person's obligation to file with you *even if he or she continues to hold an office of your political subdivision.*

**Example:** Jane Doe, a county commissioner with a campaign treasurer appointment on file with you, decides to run for the state legislature. She files a campaign treasurer appointment with the Ethics Commission along with a certified copy of her county campaign treasurer appointment. She is no longer required to file title 15 reports with you. Nonetheless, she may wish to file duplicate copies of reports with you as long as she holds a county office.

**Termination of a Campaign Treasurer Appointment.** It is important for you to know the termination date of a campaign treasurer appointment because you must keep a campaign treasurer appointment for two years *after it is terminated.* A campaign treasurer appointment may be terminated by the candidate in three different ways: (1) the candidate files a final report; (2) the candidate appoints a new campaign treasurer; or (3) the campaign treasurer or the candidate notifies you that the appointment is terminated.

An "inactive" campaign treasurer appointment may be terminated by you if the governing body of your political subdivision adopts a process by ordinance or order allowing such termination. A candidate is inactive if the candidate: (1) has never filed or has ceased to file any required campaign finance reports, (2) has not been elected to an office which requires filing a campaign treasurer appointment with you, and (3) has not filed a final report. Before a campaign treasurer appointment may be terminated, the governing body of the political subdivision must consider the proposed termination in a regularly scheduled open meeting.

## WHEN DOES A CANDIDATE HAVE TO FILE REPORTS?

**Officeholder who Files a Campaign Treasurer Appointment.** An officeholder who files a campaign treasurer appointment *and who did not already have a campaign treasurer appointment on file* must file a report no later than 15 days after filing the campaign treasurer appointment. This requirement does not apply when an officeholder simply *changes* campaign treasurers. After filing a campaign treasurer appointment and the 15-day report, the candidate/officeholder files according to the filing schedule for candidates.

**Exception.** The 15-day reporting requirement does not apply if the officeholder did not exceed \$500 in either contributions *or* expenditures during the period covered by the report.

**Semiannual Reports.** A candidate is required to file semiannual reports on January 15 and July 15 of each year. A person who is both a candidate and an officeholder (that is, an officeholder who has a campaign treasurer appointment on file) is not required to file two separate reports. Nor is a person required to distinguish between candidate activity and officeholder activity on the report.

**No Exception for Person with a Campaign Treasurer Appointment on File.** A person who has a campaign treasurer appointment on file must file semiannual reports, even for reporting periods during which there is no reportable activity and even if the person chose modified reporting. An officeholder who does not have a campaign treasurer appointment is not required to file semiannual reports if he or she did not exceed \$500 in contributions *or* expenditures during the reporting period.

**Pre-Election Reports.** An opposed candidate in an upcoming election must file pre-election reports. Pre-election reports are due 30 days and 8 days before an election. A pre-election report must be *received* by the appropriate filing authority no later than the report due date. (An opposed candidate in a runoff election is only required to file a pre-election report 8 days before a *runoff* election; there is no “30-day” pre-election report due before a runoff.)

An “opposed candidate” is a candidate who has an opponent whose name is printed on the ballot. Pre-election reports are not required if a candidate’s only opposition is a write-in candidate. (A write-in candidate must file a campaign treasurer appointment before accepting campaign contributions or making campaign expenditures. Furthermore, a person who declares himself or herself to be a write-in candidate *is* required to file pre-election reports as long as the write-in candidate has an opponent whose name appears on the ballot.)

**Modified Reporting.** An opposed candidate who selects “modified reporting” is not required to file 30-day or 8-day pre-election reports (or runoff reports). (The selection of modified reporting does not affect a candidate’s obligation to file semiannual reports.) A candidate is eligible to select modified reporting if he or she does not intend to exceed \$500 in contributions or expenditures in connection with an election. (A candidate has separate \$500 thresholds for a primary, a runoff, and a general election.) A candidate selects modified reporting by signing the appropriate blank on FORM CTA or FORM ACTA (FORM JCTA or AJCTA for judicial candidates).

A “modified filer” who exceeds one of the \$500 thresholds in connection with an election is subject to the regular filing requirements for opposed candidates. If a modified filer exceeds one of the thresholds before the due date for the 30-day pre-election report, the filer is not required to give special notice; the filer is simply required to file the pre-election reports by the scheduled due dates. A modified filer who exceeds one of the thresholds after the due date for the 30-day pre-election report must file a report within 48 hours of exceeding the threshold. If the candidate files the 48-hour report before the due date for the 8-day pre-election report, he or she must also file an 8-day pre-election report by the regular due date for that report.

Many filers at the county level select modified reporting. To understand the rules that apply to modified filing, candidates should consult the Ethics Commission's CAMPAIGN FINANCE GUIDE FOR CANDIDATES AND OFFICEHOLDERS WHO FILE WITH LOCAL FILING AUTHORITIES. (Candidates for district judge, statutory county court judge, or statutory probate court judge should consult the Ethics Commission's CAMPAIGN FINANCE GUIDE FOR JUDICIAL CANDIDATES AND OFFICEHOLDERS.)

**Runoff Reports.** A candidate in a runoff must file a runoff report. A runoff report is due no later than the eighth day before the runoff election and must be *received* by the appropriate filing authority no later than the report due date.

**Modified Reporting.** A candidate who has selected modified reporting and who remains eligible for modified reporting is not required to file a runoff report.

A candidate who has selected modified reporting has \$500 thresholds in connection with the regular election and new \$500 thresholds in connection with a runoff.

**Annual Reports of Unexpended Contributions.** A person who files a final report is no longer a candidate for title 15 purposes. If the person has surplus funds or assets (and is not an officeholder), he or she must file annual reports of unexpended contributions. (An officeholder who has filed a final report remains subject to semiannual reporting requirements, but is required to file annual reports of unexpended contributions if he or she leaves office with unexpended contributions.)

Annual reports are due not earlier than January 1 and not later than January 15 of each year on FORM C/OH-UC. The obligation to file annual reports ends when the former candidate files a report of final disposition of unexpended contributions. Final disposition must be made within six years of filing a final report or leaving office whichever is later.

**Report of Final Disposition of Unexpended Contributions.** After a former candidate or officeholder has disposed of all surplus funds and assets, he or she must file a report of final disposition of unexpended contributions, also on FORM C/OH-UC. The former candidate or officeholder may file this report at any time during the year.

### WHEN MAY A CANDIDATE STOP FILING TITLE 15 REPORTS?

Filing a final report ends a person's obligation to file title 15 reports unless (1) the filer has not yet filed past-due reports, (2) the person is an officeholder, or (3) the person has surplus funds at the time of filing a final report. An officeholder may be required to file title 15 reports as an officeholder. See “Part III. Officeholders. When Does An Officeholder Have To File Reports?”

below. A former candidate who is not an officeholder but who has surplus campaign funds must file annual reports of contributions and expenditures. See "Part II. Annual Reports of Unexpended Contributions" in this guide. A person terminates a campaign treasurer appointment by filing a final report on FORM C/OH or FORM JC/OH with FORM C/OH-FR attached.

### **PART III. OFFICEHOLDERS**

This section only applies to an officeholder who does not have a campaign treasurer appointment on file. Once an officeholder has filed a campaign treasurer appointment, he or she becomes a candidate for purposes of the title 15 filing requirements and must comply with the title 15 requirements applicable to candidates. Note that only a person who has a campaign treasurer appointment on file may accept a campaign contribution or make a campaign expenditure (even from personal funds).

#### **WHAT DOES TITLE 15 HAVE TO DO WITH OFFICEHOLDERS?**

Although title 15 is commonly referred to as the *campaign* finance law, it also requires officeholders who are not candidates (in other words, individuals who do not have a campaign treasurer appointment on file) to file reports of officeholder contributions and expenditures.

#### **WHEN DOES AN OFFICEHOLDER HAVE TO FILE REPORTS?**

**Semiannual Reports.** An officeholder is required to file semiannual reports of officeholder contributions and expenditures on January 15 and July 15 of each year. For this report officeholders use FORM C/OH. (District judges, statutory county court judges, and statutory probate judges use FORM JC/OH.)

**Exception for Certain Officeholders.** There is an exception to the requirement to file semiannual reports for a county officeholder (who does not have a campaign treasurer appointment on file) who did not exceed \$500 in either contributions or expenditures during the reporting period. An officeholder who has a campaign treasurer appointment on file must file semiannual reports even if there is no reportable activity during the reporting period.

**Report Required after Appointment of Campaign Treasurer.** An officeholder who files an appointment of campaign treasurer (and who did not already have a campaign treasurer appointment on file) must file a report of contributions and expenditures no later than 15 days after filing the appointment, using FORM C/OH (or FORM JC/OH). After filing the campaign treasurer appointment and the 15-day report, the officeholder is subject to the filing requirements applicable to candidates.

**Exception.** The 15-day reporting requirement does not apply if the candidate/officeholder had no more than \$500 in contributions or expenditures during the period covered by the report.

**Annual Report of Unexpended Contributions.** A former officeholder who did not have a campaign treasurer appointment on file at the time of leaving office may be required to file annual reports of unexpended contributions. This requirement applies if the former officeholder retained

surplus political funds or assets at the time of filing his or her last required report of contributions and expenditures. The former officeholder may not retain surplus political funds or assets for more than 6 years after leaving office.

Annual reports of unexpended contributions are due not earlier than January 1 and not later than January 15 of each year. The reports, on FORM C/OH-UC, cover the preceding calendar year. A report is due regardless of whether there is any reportable activity. The obligation to file annual reports ends when the former officeholder files a report of final disposition of unexpended contributions.

**Report of Final Disposition of Unexpended Contributions.** Once a former officeholder disposes of surplus funds and assets, he or she must file a report of final disposition of unexpended contributions. A former officeholder may file this report at any time during the year. For this report former officeholders again use FORM C/OH-UC.

**Officeholder who Files a Campaign Treasurer Appointment with a Different Filing Authority.** An officeholder (who does not have a campaign treasurer appointment on file) may file a campaign treasurer appointment with a different filing authority. This ends the officeholder's obligation to file with you *even if he or she continues to hold an office of the political subdivision.*

## **PART IV. SPECIFIC-PURPOSE POLITICAL COMMITTEES**

### **WHAT IS A POLITICAL COMMITTEE?**

A political committee, commonly referred to as a "PAC," is any group that accepts political contributions or makes political expenditures. Although the term "PAC" may suggest a powerful "special interest" group, a political committee may also be a small group such as two people who get together to raise funds for an old friend who is a candidate for county commissioner.

### **WHAT IS A SPECIFIC-PURPOSE POLITICAL COMMITTEE?**

There are two main types of political committees: general-purpose political committees and specific-purpose political committees. Basically, a general-purpose political committee exists to support or oppose a particular political point-of-view or the interests of a certain group. A specific-purpose political committee, in contrast, exists to support or oppose specific candidates, officeholders, or ballot measures. It is the filer's responsibility to determine whether a committee is a general-purpose political committee or a specific-purpose political committee. The Ethics Commission's CAMPAIGN FINANCE GUIDE FOR POLITICAL COMMITTEES explains the differences in detail.

### **WHAT POLITICAL COMMITTEES FILE WITH THE COUNTY FILING AUTHORITY?**

A specific-purpose political committee files with a county filing authority if the committee supports or opposes either individual candidates or officeholders who file with the county filing authority or ballot measures to be voted on by the voters in the county. All general-purpose political committees

file with the Ethics Commission. It is the filer's responsibility to determine where a political committee files campaign finance reports. The Ethics Commission's CAMPAIGN FINANCE GUIDE FOR POLITICAL COMMITTEES will help filers make this determination.

A specific-purpose political committee that supports county candidates, officeholders, or measures may file with the Ethics Commission if it also supports candidates, officeholders, or measures in both the county and in one or more other jurisdictions. For example, a specific-purpose political committee that supports a particular candidate for county commissioner and a particular candidate for the city council of a city within the county has two choices of where to file campaign finance reports: (1) the committee may file both with the county filing authority and with the appropriate city filing authority, or (2) the committee may file with the Ethics Commission.

### **WHEN MUST A POLITICAL COMMITTEE FILE A CAMPAIGN TREASURER APPOINTMENT?**

**\$500 Thresholds.** A specific-purpose political committee must file a campaign treasurer appointment, on FORM STA, before it exceeds \$500 in either political contributions or political expenditures. Once the committee has filed a campaign treasurer appointment, the treasurer must file periodic reports of contributions and expenditures.

**Effective Date.** If delivered by hand, a committee's campaign treasurer appointment takes effect on the day of delivery. If delivered by mail or common carrier, the appointment takes effect on the date of the postmark or receipt mark.

**Termination of a Committee's Campaign Treasurer Appointment.** It is important for you to know the termination date of a committee's campaign treasurer appointment because you must keep a campaign treasurer appointment for two years *after it is terminated*. A committee's campaign treasurer appointment may be terminated by the committee in three different ways: (1) the committee files a dissolution report; (2) the committee appoints a new campaign treasurer; or (3) you receive notification from the committee or the campaign treasurer that the appointment is terminated.

An "inactive" campaign treasurer appointment may be terminated by you if the governing body of your political subdivision adopts a process by ordinance or order allowing such termination. A political committee is inactive if the committee: (1) has never filed or has ceased to file any required campaign finance reports, and (2) has not filed a dissolution report. Before a campaign treasurer appointment may be terminated, the governing body of the political subdivision must consider the proposed termination in a regularly scheduled open meeting.

### **WHAT ARE THE RESPONSIBILITIES OF A COMMITTEE'S CAMPAIGN TREASURER?**

The treasurer of a political committee is responsible for filing the committee's reports of contributions and expenditures. (In contrast, a candidate, not his or her campaign treasurer, is responsible for filing candidate and officeholder reports of contributions and expenditures.)

## HOW DOES A COMMITTEE CHANGE TREASURER?

A specific-purpose political committee changes treasurers by filing an amended appointment of campaign treasurer on FORM ASTA. The new appointment terminates the old appointment. The outgoing treasurer is required to file a termination report on FORM SPAC (or FORM JSPAC) not later than 10 days after the termination. (A separate termination report is not required if the termination occurs on the last day of a reporting period and the proper report for that period is filed.)

## WHAT IF A SPECIFIC-PURPOSE POLITICAL COMMITTEE BECOMES A GENERAL-PURPOSE POLITICAL COMMITTEE?

A change in political activity may mean that a political committee that has been filing with you has become a general-purpose political committee. This change will require the committee to file a new campaign treasurer appointment with the Ethics Commission. In addition to filing a new campaign treasurer appointment with the Ethics Commission, the committee will be required to give notice to the county filing authority of the change in status. The committee should review the Ethics Commission's CAMPAIGN FINANCE GUIDE FOR POLITICAL COMMITTEES to become familiar with the contribution and expenditure limits that arise in connection with the transition.

## WHEN DOES THE TREASURER OF A SPECIFIC-PURPOSE POLITICAL COMMITTEE HAVE TO FILE REPORTS?

**Semiannual Reports.** The treasurer of a specific-purpose political committee is required to file semiannual reports by January 15 and July 15 of each year. The treasurer must file semiannual reports even if there is no reportable activity.

**Pre-Election Reports.** A specific-purpose political committee supporting or opposing an opposed candidate in an upcoming election must file pre-election reports. A specific-purpose political committee supporting or opposing a ballot measure must also file pre-election reports. Filers use FORM SPAC for pre-election reports, which are due 30 days and 8 days before an election. A pre-election report must be *received* by the appropriate filing authority no later than the report due date. (A political committee is only required to file a report 8 days before a *runoff* election; there is no 30-day pre-election report required before a runoff.)

For purposes of filing pre-election reports, supporting or opposing a candidate or measure means accepting political contributions or making political expenditures to support or oppose the candidate or measure.

**Modified Reporting.** The treasurer of a specific-purpose political committee that selects "modified reporting" is not required to file 30-day or 8-day pre-election reports (or runoff reports). **(The selection of modified reporting does not affect the treasurer's obligation to file semiannual reports.)** A committee may select modified reporting if the committee does not intend to exceed \$500 in contributions or expenditures in connection with an election. (A committee has separate \$500 thresholds for a primary, a runoff, and a general election.) A committee selects modified reporting by signing the appropriate blank on FORM STA or FORM ASTA.

A committee that has selected modified reporting must file pre-election reports if the committee exceeds one of the \$500 thresholds. If the committee exceeds one of the thresholds before the due date for a 30-day pre-election report, the committee is not required to give special notice of that fact; the treasurer is simply required to file the pre-election reports by the scheduled due dates. If the committee exceeds one of the thresholds after the due date for the 30-day pre-election report, the treasurer must file a report within 48 hours of exceeding the threshold and then file any pre-election or runoff reports that come due.

**Runoff Reports.** A specific-purpose political committee that supports or opposes a candidate in a runoff election must file a runoff report on FORM SPAC. A runoff report is due no later than the 8th day before the runoff and must be *received* by the appropriate filing authority no later than the report due date.

**Modified Reporting.** A specific-purpose political committee that has selected modified reporting and remains eligible for modified reporting is not required to file a runoff report.

A committee that has selected modified reporting has \$500 thresholds in connection with the main election and additional \$500 thresholds in connection with a runoff.

**Termination Report.** After the treasurer of a political committee resigns or is replaced, the outgoing treasurer is required to file a termination report not later than 10 days after the termination. (A separate termination report is not required if the termination occurs on the last day of a reporting period and the proper report for that period is filed.)

**Dissolution Report.** A specific-purpose political committee that expects to receive no further political contributions or make no further political expenditures may file a dissolution report on FORM SPAC with FORM PAC-DR attached (or on FORM JSPAC with FORM JSPAC-DR attached).

The dissolution report terminates the committee's campaign treasurer appointment and relieves the campaign treasurer of the duty to file additional reports. (In this case, the dissolution report serves as the treasurer's termination report.)

## PART V. JUDICIAL CAMPAIGN FAIRNESS ACT

In 1995 the Texas legislature adopted a Judicial Campaign Fairness Act. The Act imposes various duties on county filing authorities.

**Notice of County Population to Judicial Candidates.** By June 1 of each odd-numbered year, the Secretary of State is to send a written certification of population to each county filing authority whose county has a statutory county court or statutory probate court (other than a multi-county statutory county court). After receiving the certification, the county filing authority must make available to each candidate for statutory county court judge or statutory probate court judge who files with the county written notice of the contribution and expenditure limits applicable to the office the candidate seeks. Elec. Code § 253.167. The limits are set according to the population of the county.

**Documents Filed.** The act requires certain documents to be filed in connection with campaigns for district judge, statutory county court judge, and statutory probate court judge.

- 1. Declaration of Intent to Comply With or Exceed Limits.** A candidate for any elective office is required to file an appointment of campaign treasurer before accepting a contribution or making an expenditure in connection with an election. In addition, a candidate for district judge, statutory county court judge, or statutory probate court judge must also file with the county filing authority either a declaration of intent to comply or not to comply with voluntary expenditure limits before accepting campaign contributions or making campaign expenditures. In the past candidates used FORM JDI to file this declaration. Now a candidate may make the declaration on FORM JCTA.
- 2. Third-Party Declaration of Intent to Make Expenditures.** A person (other than a candidate, officeholder, or a political party committee) must file a written declaration with the county filing authority if the person intends to spend more than \$5,000 in the aggregate to support or oppose a district judge, a statutory county court judge, a statutory probate court judge, or a candidate for one of those offices. The county filing authority must file the declaration with the records of each candidate or officeholder on whose behalf the person is making the expenditures. If the person intends to make expenditures opposing a candidate or officeholder, the declaration must be filed with the records of each candidate for the office. A person may use the form labeled "Third Party Judicial Declaration of Intent" (FORM JDI-3RD).
- 3. Affidavits Related to Political Committees.** A general-purpose political committee may file with the county filing authority an affidavit stating that the committee has not communicated about strategic matters with the campaign of a judicial candidate on whose behalf the committee has made expenditures. A candidate may file a similar affidavit stating that he or she has not communicated about strategic matters with a specific-purpose political committee that has made expenditures on his or her behalf.
- 4. Nonjudicial Officeholder Seeking Judicial Office.** Pursuant to Ethics Advisory Opinion No. 465 (2005), a nonjudicial officeholder who becomes a judicial candidate is required to file two campaign finance reports, one reporting nonjudicial activity and the other reporting judicial activity. Alternatively, a nonjudicial officeholder who becomes a judicial candidate may select to file a single report that includes both candidate and officeholder activity if the activity is clearly and properly reported.

**Filing Two Reports for Each Deadline.** A nonjudicial officeholder who becomes a judicial candidate and files two reports (one on FORM C/OH reporting nonjudicial activity and one on FORM JC/OH reporting judicial activity) must file both reports with the filing authority with which the candidate's current campaign treasurer appointment is required to be filed. Additionally, *each* report is subject to the filing deadlines and filing penalties applicable to a candidate.

The requirement to file a report disclosing nonjudicial activity continues until the judicial candidate files an "AFFIDAVIT TO CEASE DUAL REPORTING OBLIGATIONS PURSUANT TO ETHICS ADVISORY OPINION NO. 465" form with the proper filing authority stating that he or she: (1) does not maintain unexpended political contributions raised as a nonjudicial candidate or officeholder, (2) does not maintain unexpended interest or income earned from political

contributions raised as a nonjudicial candidate or officeholder, (3) does not retain assets purchased with political contributions raised as a nonjudicial candidate or officeholder, and (4) does not retain assets purchased with interest or other income from political contributions raised as a nonjudicial candidate or officeholder.

**Filing One Report for Each Deadline.** A nonjudicial officeholder who becomes a judicial candidate may select to file a single report that includes both candidate and officeholder activity if: (1) in the description of an expenditure he or she states whether the expenditure is for nonjudicial activity, and (2) the total contributions maintained at the end of the reporting period states the amount attributed to nonjudicial contributions and the amount attributed to judicial contributions.

A nonjudicial officeholder seeking judicial office who files two campaign finance reports and later decides to instead file one campaign finance report combining judicial and nonjudicial activity must submit written notice of that decision to the filing authority with which the candidate's current campaign treasurer appointment is required to be filed before the next applicable deadline.

**Documents to be Delivered to the Ethics Commission.** In some cases, the act requires a county filing authority to deliver documents to the Ethics Commission.

- 1. Declaration of Intent to Exceed Limits.** If a candidate files a declaration of intent to exceed the voluntary expenditure limits (either on old FORM JDI or on FORM JCTA), the county filing authority must deliver a copy of the declaration to the Ethics Commission within five days of receiving it.
- 2. Notice of Candidate's Failure to File a Declaration of Intent Regarding Expenditure Limits.** If a candidate files an appointment of campaign treasurer in connection with a race for statutory county court judge or statutory probate court judge and does not file a declaration of intent regarding expenditure limits, the county filing authority must deliver notice of the candidate's failure to file the declaration and a copy of the candidate's appointment of campaign treasurer to the Ethics Commission within 5 days of receiving the appointment of campaign treasurer.
- 3. Allegation of Excessive Expenditures.** If a county filing authority receives a written allegation that a candidate who filed a declaration of intent to comply with the limits has exceeded the limits, the filing authority must deliver a copy of the allegation to the Ethics Commission within five days of receiving it.

If the Ethics Commission requests documents relevant to the allegation, the county filing authority must deliver copies of the documents to the Ethics Commission by mail or fax within 48 hours of the request, at no cost to the Ethics Commission.

- 4. Third-Party Declaration of Intent to Make Expenditures.** If a person files a declaration of intent to make expenditures exceeding \$5,000 to support or oppose a judicial candidate, the county filing authority must deliver a copy of the declaration to the Ethics Commission within five days of receiving it.
- 5. Allegation of Certain Expenditures by Third Party.** If a county filing authority receives a written allegation that a person has made expenditures of more than \$5,000 to support or oppose

a judicial candidate, the filing authority must deliver a copy of the allegation to the Ethics Commission within five days of receiving it. If the Ethics Commission requests documents relevant to the allegation, the county filing authority must deliver copies of the documents to the commission by mail or fax within 48 hours of the request, at no cost to the Ethics Commission.

**Personal Financial Disclosure Statements.** Chapter 159 of the Local Government Code requires the judge of a statutory county court or statutory probate court or a candidate for one of those positions to file an annual personal financial statement. The statement may be filed either with the Ethics Commission or the county clerk. If the filer chooses to file a personal financial statement with the Ethics Commission, the filer must give written notice to the county clerk by the filing deadline.

The county clerk must either design a financial statement that conforms to Government Code sections 572.022 and 572.023 or require that the form designed by the Ethics Commission be used for filing the financial statement.

## **PART VI. PENALTIES**

A county filing authority has no authority to penalize filers in any way for violations of title 15. Any individual may file a criminal complaint regarding a violation of title 15 with the appropriate county or district attorney. Also, any citizen may file a sworn complaint with the Ethics Commission alleging a violation of title 15.

## **PART VII. FREQUENT QUESTIONS**

If you have questions about your responsibilities as a filing authority, call the Ethics Commission. The following list contains questions that county filing authorities frequently ask:

**Q. What title 15 documents should I give to a person interested in running for a county office?**

A. In addition to any information you provide about getting on the ballot, you should give the person a copy of the Ethics Commission's CAMPAIGN FINANCE GUIDE FOR CANDIDATES AND OFFICEHOLDERS WHO FILE WITH LOCAL FILING AUTHORITIES, FORM CTA and the FORM CTA Instruction Guide. If the person is interested in running for judge of a statutory county court or judge of a statutory probate court, you should give him or her a copy of the Ethics Commission's CAMPAIGN FINANCE GUIDE FOR JUDICIAL CANDIDATES AND OFFICEHOLDERS, and FORM JCTA and the FORM JCTA Instruction Guide.

**Q. What should I give to an individual who files a campaign treasurer appointment?**

A. The person, who is now a candidate for purposes of title 15, will need FORM C/OH and the FORM C/OH Instruction Guide and a Filing Schedule. You are required to give the person a copy of the 1997 Fair Campaign Practices Act (Chapter 258 of the Election Code), and a copy of FORM CFCP. You should also make sure that the person has a copy of the Ethics Commission's CAMPAIGN FINANCE GUIDE FOR CANDIDATES AND OFFICEHOLDERS WHO FILE WITH LOCAL FILING AUTHORITIES. If the person filed a campaign treasurer appointment as a candidate for judge of a statutory county court or judge of a statutory probate court, you should give him or

her FORM JC/OH (rather than FORM C/OH) and the FORM JC/OH Instruction Guide and a copy of the Ethics Commission's CAMPAIGN FINANCE GUIDE FOR JUDICIAL CANDIDATES AND OFFICEHOLDERS. See "Part V. Notice of County Population to Certain Judicial Candidates" in this guide.

**Q. What should I give someone who is interested in forming a political committee?**

- A. A group that intends to accept political contributions or make political expenditures should get a copy of the Ethics Commission's CAMPAIGN FINANCE GUIDE FOR POLITICAL COMMITTEES, FORM STA and the FORM STA Instruction Guide. The group should read the filing guide to determine whether it is a specific-purpose or general-purpose political committee. If the group plans to support a judge of a statutory county court, a judge of a statutory probate court, or a candidate for one of those positions, you should also give the group a copy of the Ethics Commission's CAMPAIGN FINANCE GUIDE FOR JUDICIAL CANDIDATES AND OFFICEHOLDERS.

**Q. What should I give to someone who files a campaign treasurer appointment for a specific-purpose political committee?**

- A. The treasurer of the political committee will need FORM SPAC and the FORM SPAC Instruction Guide. You are required to give the committee a copy of the Fair Campaign Practices Act (Chapter 258 of the Election Code), and a copy of FORM CFCP. The treasurer should also have a copy of the Ethics Commission's CAMPAIGN FINANCE GUIDE FOR POLITICAL COMMITTEES. If the committee's treasurer appointment states that the group supports a judge of a statutory county court, a judge of a statutory probate court, or a candidate for one of those positions, you should give the group FORM JSPAC (rather the FORM SPAC) and a copy of the FORM JSPAC Instruction Guide. You should also give the group a copy of the Ethics Commission's CAMPAIGN FINANCE GUIDE FOR JUDICIAL CANDIDATES AND OFFICEHOLDERS.

**Q. What should I tell a write-in candidate who asks about title 15?**

- A. A person who declares himself or herself to be a write-in candidate must file a campaign treasurer appointment and reports of contributions and expenditures.

**Q. Does a candidate need to file a campaign treasurer appointment if the candidate is not going to accept campaign contributions?**

- A. All candidates must file a campaign treasurer appointment even if a candidate does not intend to accept campaign contributions or make campaign expenditures. Also, the fact that a candidate doesn't accept campaign contributions does not mean that the candidate will have nothing to report. The candidate must report campaign expenditures from personal funds.

A candidate who does not plan to *spend* over \$500 or *accept* more than \$500 in *total contributions* in connection with an election is eligible for modified filing.

**Q. May a candidate refuse to list the office or seat sought on a campaign treasurer appointment?**

- A. Yes. A person may decide to start raising money to run for office before the person decides which office to run for.

**Q. What do I do if someone files a report after the filing deadline?**

A. You should accept the filing.

**Q. What do I do if someone files a corrected or amended filing?**

A. You should accept the filing. A filer may also wish to file an Ethics Commission Affidavit of Good Faith with the amendment or correction. Filers should call the Ethics Commission if they have questions about corrected reports.

**Q. What should I tell a candidate who asks about disclosures on political advertising?**

A. Give the filer a copy of the Ethics Commission's GUIDE TO POLITICAL ADVERTISING: WHAT YOU NEED TO KNOW, and A GUIDE TO THE PROHIBITION AGAINST USING POLITICAL SUBDIVISION RESOURCES FOR POLITICAL ADVERTISING.

**Q. May I enter into a contract to perform the title 15 functions of another entity?**

A. No. An elections services contract may not change the authority with whom title 15 documents are filed.

**Q. If a candidate forms a specific-purpose political committee, must the candidate continue to file reports on FORM C/OH or FORM JC/OH?**

A. Yes. The candidate and the committee are subject to separate reporting requirements.