

Responsibilities of Local Filing Authorities

Texas Ethics Commission – October 2021

Guides on Website

Website: www.ethics.state.tx.us

The screenshot shows the Texas Ethics Commission website. At the top left is the commission's logo and the text "Texas Ethics Commission" with the tagline "Promoting Public Confidence in Government". To the right, it says "ENHANCED BY Google". Below this is a navigation bar with links: "Resources", "Opinions/Statutes/Rules", "Filing Reports", "Training", "Forms/Instructions", "Search", and "Home". The "Resources" link is circled in red. A dropdown menu is open under "Resources", listing various categories: Advertising, Campaign Finance, Court Rulings, Deadlines, Frequently Asked Questions (FAQs), Judicial, Laws & Regulations, Legislative Reports, Lobbying, Local Filing Authorities, Meeting Minutes, Personal Financial Statement (PFS), and Reference Guides. The "Reference Guides" option is also circled in red. Below the navigation bar is a banner image with the text: "TEC is operating by: Phone: 512-463-5800 Email: reception@ethics.state.tx.us". Below the banner is a "Home" button. At the bottom right, there is a section titled "I want to ..." with three icons representing different services.

Contents of Presentation

- What is your primary job?
- Who files with you?
- What should you include in your candidate packets?
- How long do you have to keep treasurer appointments and reports?
- Can the public see these reports?
- What is NOT your job?

What's My Job???

Your primary responsibility
under Title 15 of the Election Code



is to **accept documents** filed by candidates, officeholders,
and political committees. Always **date-stamp** all filings and
save postmarks and receipt marks on envelopes.

Who Files with Me?

- ◎ Candidates for and officeholders of elective offices of the political subdivision, including statutory county court and probate county court judges;
- ◎ Specific-purpose political action committees (SPACs) supporting or opposing candidates for and officeholders of elective offices of the political subdivision; and
- ◎ SPACs supporting or opposing a measure to be submitted at an election ordered by an authority of the political subdivision.

Who Does NOT File with Me?

- District judges
- Multi-county district attorneys;
- SPACs that would be required to file with more than one local filing authority *may* instead file with the Ethics Commission.
- SPACs supporting or opposing a School Bond file their initial STA with their local ISD, then file a copy with the TEC and file all future reports with the TEC

Tex. Elec. Code § 254.130

What's My Job?

- ⦿ You must copy and make available all forms that your filers may be required to file. You should also make available the appropriate instruction guide for each required form.
- ⦿ You may not charge a filing fee.

Tex. Elec. Code § 251.003; 1 Tex. Admin. Code § 18.3

Forms on Website

Website: www.ethics.state.tx.us

The screenshot displays the Texas Ethics Commission website. At the top left is the state seal and the text "Texas Ethics Commission Promoting Public Confidence in Government". To the right is a "ENHANCED BY Google" badge. A dark navigation bar contains the following items: Resources, Opinions/Statutes/Rules, Filing Reports, Training, Forms/Instructions, Search, and Home. The "Forms/Instructions" menu is open, showing a list of categories: Candidate/Officeholder, Political Committee, Political Party, Individuals/Entities Direct Campaign Expenditure, Legislative Caucus, Speaker, Personal Financial Statement, Lobbyist, Treasurer Appointment, Security, Affidavit, Conflict Of Interest, Sworn Complaint, and Other. The "Candidate/Officeholder" and "Political Committee" items are circled in red. Below the navigation bar is a video player with "Annual PFS" and "Semiannual" text. At the bottom left, there is a "Quick Help" button and a "LOGIN to Electronic Filing Application" link.

What Forms/Guides Should I Make Available: Candidate

Initially:

- ◎ Campaign Finance Guide for Candidates Who File with a Local Filing Authority (Home Page → Resources → Reference Guides)
- ◎ Form CTA and Instructions
- ◎ Application for place on the ballot (TEC does not have jurisdiction over this form; call SOS)

What Forms/Guides Should I Make Available: Candidate

After they file CTA:

- ◎ Form C/OH and Instructions
- ◎ Form CFCP (optional)
- ◎ If they plan to have an SPAC:
 - Form STA and Instructions
 - Form SPAC and Instructions
- ◎ Form PFS and Instructions, if applicable (see later slides)

Code of Fair Campaign Practices

- Upon receipt of a campaign treasurer appointment, provide the candidate or political committee a blank form of the Code of Fair Campaign Practices and a copy of Chapter 258 of the Election Code.
- Inform each candidate or political committee that they may subscribe to the code, but subscription is voluntary.

Tex. Elec. Code § 258.003

Other Resources to Make Available

- **Filing Schedules:** Home Page → Filing Schedules (under picture, on the left) → Uniform (Local) Filing Schedule
- **Political Advertising:** What You Need to Know (Home Page → Resources → Advertising)
- **Political Fundraising:** What You Need to Know (Home Page → Resources → Reference Guides)
- **Guide To The Prohibition Against Using Political Subdivision Resources for Political Advertising:** Home Page → Resources → Reference Guides)

Basic Campaign Finance Info

- All candidates for public office must file a campaign treasurer appointment, even if they do not plan to raise or spend any money
- Anyone with an active treasurer appointment on file must file at least two reports a year, in January and July; there are NO exceptions to this requirement; these reports must be filed even if they have not raised or spent any money
- If a candidate does not plan to raise or spend over a certain amount, they can sign up for modified reporting on the back of their CTA form and be exempted from the pre-election reports
- Generally, write-in candidates follow the same rules on campaign finance reports as any other type of candidate

Basic Campaign Finance Info

- The only way to terminate a treasurer appointment, which is the only way to stop a filer's continuing filing obligations, is to file a final report
- Final reports are filed on the same forms as other campaign finance reports (COH for candidates and officeholders, and SPAC for specific purpose political action committees); the filer just checks a different box under Report Type
- Final reports can be filed at any time

Record Retention

- ◎ Campaign Treasurer Appointment: two years after the date it is terminated
- ◎ Code of Fair Campaign Practices: same as respective campaign treasurer appointment
- ◎ Campaign Finance Reports: *at least* two years after the report is filed

Tex. Elec. Code §§ 252.014, 254.001; 1 Tex. Admin. Code § 20.18

Record Retention, cont'd

NOTE: If a criminal investigation or proceeding is pending in regard to the election to which Title 15 records pertain, you must keep those records until the investigation or proceeding is over.

Tex. Penal Code § 37.09(a)

Public Access

- ◎ Campaign finance reports and campaign treasurer appointments are **public records** and **must be made available** for public inspection during regular business hours.
- ◎ Filing authorities may not require a person examining campaign finance reports to provide *any information or identification*.

Tex. Elec. Code § 254.0402

Online Public Access to Campaign Finance Reports (CFRs)

- ◎ Certain local filing authorities must post campaign finance reports filed with them on their website:
 - Counties with a population of 800,000+ must post CFRs filed by a C/OH or SPAC supporting a county officer or county commissioner within five days of receipt
 - Municipalities with a population of 500,000+ must post CFRs filed by a C/OH or SPAC supporting a mayor or governing body within five days of receipt
 - ISDs located wholly or partly in a municipality of 500,000+ and a student population of 15,000+ must post CFRs filed by a C/OH or SPAC supporting a trustee within five days of receipt

Tex. Elec. Code §§ 254.0401, 254.04011

Public Access

- ⦿ When providing campaign finance reports in response to public information requests, TEC **shall** redact the residence address of a candidate or officeholder for federal or state judge, or their spouse
- ⦿ TEC **shall** and School Districts **may** redact contributor information other than city, state and zip code before posting CFRs on their website
- ⦿ Questions about what can and cannot be redacted before the public sees any document should be directed to the Attorney General's Open Government Hotline, at 512-478-6736 or 877-673-6839. TEC cannot answer those questions.

Texas Att'y Gen. Op. KP-0151 (2017); Tex. Elec. Code §§ 254.0313, 254.0401, 254.04011

Personal Financial Statements

- ⦿ Counties with a population of 100,000+: Candidates and officeholders for county judge, county commissioner, and county attorney
- ⦿ Counties with a population of 125,000+: Candidates and officeholders for justice of the peace
- ⦿ Municipalities with population of 100,000+: Candidates and officeholders for mayor, members of governing body, city attorney and city manager
- ⦿ School Districts may require trustees to file PFSs

Tex. Elec. Code § 11.064; Tex. Local Gov't Code Chapters 145 and 159; Tex. Gov't Code § 311.005(3)

Personal Financial Statements

- ⦿ Maintain the statements in separate alphabetical files and in a manner that is accessible to the public during regular office hours.
- ⦿ During the year after it is filed, each time a person requests to see the financial statement, place in the file:
 - a statement of the person's name and address,
 - whom the person represents, and
 - the date of the request.
- ⦿ Retain that statement in the file until the first anniversary of the date the requested financial statement is filed.
- ⦿ Two years after the filer ceases to be an officeholder or candidate, you *may* destroy the financial statement, and on request of the filer, *shall* destroy the financial statement.

Tex. Local Gov't Code §§ 145.007, 159.007

Redaction of Judge's Address

- ◎ Municipal court judicial candidates and officeholders: On written request from the filer, you shall redact their residence address before a Personal Financial Statement is made available to the public
- ◎ County attorney and state judge candidates, officeholders and spouses: on receipt of notice from OCA of their qualifications for office or on written request from the filer, you shall redact their residence address before a Personal Financial Statement is made available to the public

Tex. Local Gov't Code §§ 145.007, 159.071

Personal Financial Statements

- ⦿ Maintain a list of persons required to file a financial statement with you
- ⦿ Within 10 days of each filing deadline, provide to the municipal/county/district attorney (as applicable) a copy of the list showing:
 - whether the officer or candidate timely filed a financial statement;
 - whether the officer or candidate timely requested and was granted an extension of time to file and their new due date; or
 - whether the officer or candidate did not timely file a financial statement or receive an extension of time.

Tex. Local Gov't Code §§ 145.008, 159.0071

What is NOT my Job?

- ⦿ Do not fill out forms for filers; filers cannot use public resources, including your time, for campaign purposes
- ⦿ Do not edit, amend or revise forms; that could be tampering with a governmental record
- ⦿ Do not misrepresent the date of filing of a document

Tex. Penal Code 37.10, 39.02(a)(2)

What is NOT My Job?

- ◎ You are not required to send notices of upcoming filing deadlines; you can, but it is not required
- ◎ You have no responsibility to ensure that the required documents are filed, nor can you penalize a filer for missing a report or filing it late

What is NOT My Job?

- ① You cannot be held responsible for giving incorrect information to a filer. Obviously you should always strive to give the best and correct information, but if you make a mistake, don't worry. It is the filer's responsibility to know the law and to follow it.
- ① You are not expected to be an expert on all of this – call us (512-463-5800)! If you receive a question and do not know the answer, direct the requestor to the Ethics Commission's website (www.ethics.state.tx.us), or have them call us directly.

Thanks for watching!

QUESTIONS?



Call 512-463-5800 or send an email to
reception@ethics.state.tx.us