State Law Resources

Arizona: Campaign Finance Guide

Disclosure

These resources are current as of June 2020. We do our best to periodically update these resources and welcome any comments or questions regarding new developments in the law. Please email us at advocacy@afj.org.

WHAT'S NEW IN THIS GUIDE

Since the previous version of this guide, Arizona has completely overhauled its campaign law. This guide is completely overhauled as a result.

This guide summarizes key aspects of state campaign finance law and regulations. It is not intended to provide legal advice or to serve as a substitute for legal advice.

In some jurisdictions, city and/or county regulations may also apply to certain political activities. Check with the appropriate local jurisdiction before undertaking any activity.



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Contribution Limits And Source Restrictions

Contribution Limits

The Secretary of State publishes contribution limits for each election cycle on her website. The contribution limits for the 2019-2020 Election Cycle are available at https://azsos.gov/sites/default/files/2019-2020_contribution_limit_chart.pdf and are summarized below. The contribution limits are set by Arizona Revised Statutes.

These contribution limits do not apply to activities that are done independently from candidates. There are no limits on these independent activities, often referred to as independent expenditures. Entities that make independent expenditures in excess of \$500 in any statewide or state legislative race are required to file additional campaign finance reports detailing those expenditures with the Arizona Secretary of State.²

Aggregate Limits

	To Candidates			To Committees		To Ballot Measures
From	Statewide Office	Legislative	County/ Municipal	PACs	Parties	Medadies
Individuals	\$5,200	\$5,200	\$6,450	Unlimited	Unlimited	Unlimited
PACs	\$5,200	\$5,200	\$6,450	Unlimited	Unlimited	Unlimited
Mega PACs	\$10,400	\$10,400	\$12,900	Unlimited	Unlimited	Unlimited
Corporations and Unions	Not permitted	Not permitted	Not permitted	Unlimited	Unlimited	Unlimited

Clean Elections Requirements

Arizona provides optional public financing for candidates seeking election to statewide office and to the Legislature. Complete information on the Clean Elections process is available from the Citizens Clean Elections Commission at www.azcleanelections.gov.

Eligible candidates may opt to become "Participating Candidates," which enables them to receive public funding from the Citizens Clean Elections Fund. In order for a candidate to

^{1 (}A.R.S.) §§ 16-912 to -917 and increased by \$100 every two years pursuant to A.R.S. § 16-931.

² A.R.S. §§ 16-941(D), 16-958. See below under "Communications" for an additional discussion of these rules.

receive funding, he or she must collect a specific number of \$5 "Qualifying Contributions" from registered voters in his or her district and may collect limited private contributions of up to \$170 per individual contributor before qualifying for Clean Elections funding.³

Contribution Restrictions

- Corporate contributions:
 - o Corporations, LLCs and unions may not make contributions to candidate committees, but may make unlimited contributions to persons other than candidate committees, including political action committees ("PACs") and political parties.4
 - o There is no exception for non-profit corporations.⁵
 - o Corporations may make independent expenditures expressly advocating the election or defeat of candidates, provided they do so without coordinating with any candidate or agent of a candidate.6
- Identification of Contributions:
 - o Contributions must be made only in the name of the actual contributor.⁷ Violations carry criminal penalties.
- Earmarking:
 - o Earmarked contributions are prohibited.8
- Legislative Session:
 - o Registered lobbyists and their clients may not make, promise to make, solicit, or promise to solicit campaign contributions for a member of the legislature while the legislature is in session, or for the governor while the legislature is in regular session or when regular session legislation is pending executive approval or veto.9

In-Kind Contributions

Any item or service given or loaned to a campaign is treated as a contribution. The value of the in-kind contribution is its fair market value.10

¹⁰ A.R.S. § 16-901(11), (32); A.R.S. § 16-926.



See A.R.S. §§ 16-941, 16-945, 16-946, 16-959.

A.R.S. § 16-916(A), (B).

A.R.S. § 16-916.

A.R.S. § 16-922

⁷ A.R.S. § 16-1022(B).

A.R.S. § 16-918. A.R.S. § 41-1234.01. 9

Separate Segregated Funds

- Corporations, limited liability companies and labor organizations can sponsor a separate, segregated fund that their employees, members, executives, stockholders, and retirees and their families can contribute to.¹¹
- A separate, segregated fund must be registered as a political action committee, but the sponsor may pay its administrative, personnel and fund-raising expenses.¹²
- The sponsor or the separate segregated fund may solicit contributions from the sponsor's, its affiliates' or its' subsidiaries' employees, members, executives, stockholders, and retirees and their families.¹³
- Certain types of sponsors are subject to additional rules. Insurers and their separate segregated funds may also solicit contributions from an insurance producer's employees, members, executives, stockholders, and retirees and their families. Trade associations and membership organizations and their separate segregated funds may solicit from their members' employees, executives, stockholders, subsidiaries, and retirees and their families.¹⁴
- Sponsors may facilitate contributions through a payroll deduction system.¹⁵

¹¹ A.R.S. § 16-916(C).

¹² A.R.S. § 16-916(C)(1), (2).

¹³ A.R.S. § 16-916(C)(3).

¹⁴ A.R.S. § 16-916(C)(3)

¹⁵ A.R.S. § 16-916(C)(4).

Expenditures

Independent Expenditures

An **independent expenditure** is an expenditure for a communication that:

- Is made by a person or a political action committee;
- Expressly advocates the election or defeat of a clearly identified candidate; and
- Is not made in coordination or consultation with or at the request or suggestions of the candidate or the candidate's agent.¹

A communication **expressly advocates** if it includes the so-called "magic words," such as "vote for," "elect," "re-elect," "support," "endorse," "cast your ballot for," "(name of candidate) in (year)," "(name of candidate) for (office)," "vote against," "defeat," or "reject" or any other words that in context can have no reasonable meaning other than to advocate the election or defeat of a one or more clearly-identified candidates. It also includes general public communications (such as in a newspaper, billboard, direct mailer, or broadcast medium) that clearly identify one or more candidates and in context can have no reasonable meaning other than to advocate the election or defeat of the candidate.²

- A general public communication is not considered express advocacy merely because it presents information about the voting record or positions of three or more candidates, so long as it is not made in coordination with a candidate or a political party.³
- "Issue ads" that mention candidates may be reviewed to determine whether they are actually express advocacy that requires disclosure as an independent expenditure. That analysis depends on whether the ad could be fairly read, in context, to have no reasonable meaning other than to encourage a vote for or against the candidate mentioned in the ad.
- Direct mail pieces or advertisements urging recipients or viewers to contact an
 elected official about certain issues have been found to be express advocacy by the
 Court of Appeals and the Citizens Clean Elections Commission, when the mail or
 advertisement was targeted to the elected officials' voters, sent during an election
 period and in context had no reasonable meaning other than to advocate against
 the official's election.⁴

⁴ See, e.g., Comm. for Justice & Fairness v. Arizona Sec'y of State's Office, 235 Ariz. 347 (App. 2014).



¹ A.R.S. § § 16-901(31).

² A.R.S. §§ 16-901.01(A)(1), (2).

³ A.R.S. § 16-901.01(B).

Coordination exists if the candidate (or the candidate's agent) and the speaker actually coordinate the message, or if (1) the expenditure is based on nonpublic information about the candidate's plans or needs provided by the candidate or an agent and (2) the nonpublic information was provided with the intent toward having the expenditure made.⁵ There is rebuttable evidence of coordination if the candidate and the person making the expenditure share an agent, the person making the expenditure has been authorized to raise or spend money on the candidate's behalf in the same election cycle. or if the candidate has been authorized to raise or spend money on behalf of the person making the expenditure in the same election cycle.⁶ Firewalls can be used to eliminate the presumption of coordination.⁷

A coordinated expenditure is deemed an in-kind contribution, and therefore subject to contribution limits as well as disclosure requirements.8

REPORTING REQUIREMENTS FOR ENTITIES

An entity such as a corporation or union that makes independent expenditures must file an expenditure report if it spends more than \$1,000 during a reporting period.9

- Reporting periods are based on calendar quarters, and are differentiated based on whether an election is held or not.10
 - o If there is no election in the calendar quarter, a single report is due on the 15th day after the quarter, complete through the last day of the calendar quarter.
 - o If there is an election, two reports must be filed. A preelection report must be filed at least ten days before the election, covering the period up to seventeen days before the election. The postelection report is filed at the regular time of the 15th day after the guarter, covering from sixteen days before the election to the end of the calendar.
- The expenditure report must identify the candidate or ballot measure supported, the office sought by the candidate, the election date, the mode of advertising, and the first date of publication, display, delivery, or broadcast. The filing officer is the Secretary of State for statewide and legislative elections. Reporting may be done online through the Secretary's BEACON- Campaign Finance Reporting System. A user guide for Beacon is available.

ARIZONA CLEAN ELECTIONS COMMISSION REPORTS

There are separate reporting requirements under the Clean Elections Act, at A.R.S. § 16-

- 5 A.R.S. § 16-922(A), (B).
- A.R.S. § 16-922(C).
- 7 A.R.S. § 16-922(D).
- 8 A.R.S. § 16-922(E).
- 9 A.R.S. § 16-926(H); see also A.R.S. § 16-901(22) (defining "Entity"). 10 A.R.S. § 16-927(A).
- 11 A.R.S. § 16-926(H).



941(D), if a person cumulatively makes independent expenditures of at least \$500 in an election cycle related to a particular office. Each time the person expends an additional \$1000, he or she must file a supplemental report. A.R.S. § 16-958(A). Clean Elections reports are due on the first of each month before the primary election period, and thereafter every Tuesday after the expenditure requirement is met, except in the two weeks before an election, when reports must be filed within one business day of meeting the expenditure requirement.¹² Clean Elections reports are separate from the other expenditure reports discussed above, but are still filed with the Secretary of State.¹³ Each report must identify the candidate being supported or opposed, the office sought, the election date, the mode of advertising, and the first day of publication, display, distribution, or broadcast.¹⁴

DISCLOSURES ON ADVERTISEMENTS AND SOLICITATIONS

- A person, other than an individual, who makes an expenditure for an advertisement or solicitation must include (1) the words "paid for by" followed by the name of the person and (2) whether any candidate authorized the expenditure, and if so, who.¹⁵
- PACs must also include the names of the three PACs that made the largest aggregate contributions that exceed twenty thousand dollars during the election cycle.¹⁶
- The form of the disclosure depends on the medium of the advertisement or solicitation. Some examples are set out in the following table:¹⁷

Medium	Form			
Radio	Disclosure must be clearly spoken at the beginning or end			
Hand, mail, or electronic delivery	Disclosure must be clearly readable			
Billboard or sign	Disclosure must be displayed in a height at least 4% of the vertical height of the sign or billboard			
Broadcast on television, or video	The disclosure must be both (1) clearly spoken at the beginning or end of the advertisement and (2) written in a height at least 4% of the vertical picture height, except a spoken disclaimer is not required if the written disclaimer is displayed for the greater of four seconds or 1/6th of the broadcast duration			



¹² A.R.S. § 16-958(B).

¹³ A.R.S. § 16-958(D), (E).

¹⁴ A.R.S. § 16-958(A).

¹⁵ A.R.S. § 16-925(A).

¹⁶ A.R.S. § 16-925(B).

¹⁷ A.R.S. § 16-925(D).

• Disclosures are not required for certain advertisements or solicitations, including those (1) sent via social media or text messages, (2) placed as a paid link on a website of less than 200 characters (if the link directs to another website that includes the disclosure), (3) placed as graphics or picture links, if the disclosure cannot be conveniently printed due to the size of the graphic or picture and if the link directs to another website that includes the disclosure, (4) bumper stickers, pins, buttons, pens, or other similar small items, or (5) published books or documentary films or video.¹⁸

Political Action Committees

Who Needs to Register?

An entity needs to register as a political action committee if it is organized for the primary purpose of influencing an election and receives contributions or makes expenditures (in any combination) in excess of the statutory threshold for registration.¹

An entity's **primary purpose** is its predominant purpose.² There is an exemption written into the statute for certain entities which are tax-exempt under Section 501(a) of the Internal Revenue Code.3

Provided that a 501(c)(4), 501(c)(5), or 501(c)(6) is properly organized and up-to-date on filing their 990 annual information returns, they need not register as a PAC. These organizations may then make contributions to state and local candidates up to the statutory contribution limits. However, they may need to file independent expenditure reports if they surpass the reporting the threshold, as described above.

The threshold for registration was initially set at \$1,000 and increases by \$100 in each oddnumbered year.⁴ The threshold for the 2019-2020 Election Cycle is \$1200; the threshold for the 2021-2022 Election Cycle will be \$1300.

If an entity becomes required to register by meeting both the primary purpose and threshold conditions, it must register within 10 days.⁵ However, even if the entity has not met the threshold conditions, it must register before it makes any candidate contributions.6 A separate segregated funds set up by a corporation, LLC, or unions must register as a PAC before receiving any contributions.⁷

- A.R.S. § 16-905(C), (I); see also A.R.S. § 16-901(22) (definition of entity).
- A.R.S. § 16-901(43).
- See A.R.S. § 16-901(43)
- A.R.S. §§ 16-905(C), -931(A)(1).
- A.R.S. § 16-906(A).

 Campaign Finance PAC Guide § 1.1.
- A.R.S. § 16-916(C)(1).



Where to Register

 Registration for statewide and legislative elections may be done through the Secretary of State's BEACON- Campaign Finance Reporting System. A user guide for Beacon is available.

Statement of Organization

An entity registers by filing a statement of organization. The statement of organization must identify the committee information, any PAC sponsorship, and the chairperson and treasurer information.

The required committee information is:

- The PAC's Name. If the PAC is sponsored, its name must include either the sponsor's name or the sponsor's commonly known nickname.
- The PAC's mailing address. If the PAC has a separate mailing address from its chairperson and treasurer, this should be used. Otherwise, they may use the address of the chairperson, treasurer, political consultant, or other person authorized to speak for the PAC. A post office box is acceptable.
- The PAC's email address. Like with the mailing address, if the PAC has a separate email address, this should be used. Otherwise, the email of the chairperson, treasurer, political consultant, or other authorized speaker is sufficient.
- The PAC's telephone number. Like with the mailing address, if the PAC has a separate telephone number, this should be used. Otherwise, the telephone number of the chairperson, treasurer, political consultant, or other authorized speaker is sufficient.
- The PAC's website, if it has one.
- The name of any banks or other financial institutions used by the committee. The PAC must establish at least one bank account, in its own name, and may not comingle other moneys. It is permissible for the PAC to forecast its future financial institution when registering, but it should ensure that it has actually opened the account within thirty days of filing the statement of organization to avoid any campaign finance violations.⁸

The **PAC sponsorship** requirements applies to PACs that are the separate segregated fund of a corporation, LLC, or labor organization. Sponsored PACs must disclose the sponsor's name, mailing address, email address, website, and telephone number.

⁸ Campaign Finance PAC Guide § 1.3.2.1.

The chairperson and treasurer are the two officers all PACs are required to have. They must be separate persons. The PAC may set the chairperson's duties as it sees fit, but the treasurer's duties must include responsibility for keeping the PAC's books and records, signing off on financial transactions, and being legally and personally responsible for the filing of complete and accurate campaign financial reports. The statement of organization must include these two officers' names, email addresses, telephone numbers, occupations (e.g., "attorney", "accountant", "doctor", "management consultant", "political consultant", "retired", "student", "unemployed"), and their primary or principal employers.

To finalize the statement of organization, both the chairperson and treasurer will need to swear under penalty of perjury that they have read the Secretary of State's Campaign Finance PAC Guide, that they each agree to comply with Arizona campaign finance law, and that they agree to accept all notifications, statements, service of process, or other important documents through the PAC's email address.

SPECIAL PAC TYPES

MEGA-PACS

A mega-PAC is a special type of PAC that is allowed to make larger contributions to individual candidates, namely up to twice the normal PAC limit.9 To qualify, a PAC must have received at least 500 contributions from individuals in an amount of \$10 or greater over the four year period immediately preceding an application for mega-PAC status.¹⁰ Mega-PAC status lasts for four years. The Mega-PAC will receive written certification from the Secretary of State, which it must provide to candidates when it exceeds the normal contribution limit.12

As part of the certification as a mega-PAC, the PAC will need to provide the dates and amounts of qualifying contributions and the names, addresses, occupations, and primary employers of the qualifying contributors.¹³

STANDING COMMITTEES

PACs that wish to operate in multiple Arizona jurisdictions (e.g., in county and local elections) may simplify their reporting by becoming standing committees. Standing Committees need to file campaign finance reports only with the Secretary of State and are subject to enforcement actions only from the Secretary of State.¹⁴

To obtain standing committee status, the PAC must identify the local jurisdictions it intends to register with in its statement of organization. The Secretary of State will issue the Standing Committee a committee ID number. The PAC must fail a copy of the

- 9 A.R.S. § 16-914(B).
- 10 A.R.S. § 16-908(B).
- 11 A.R.S. § 16-908(C).
- 12 A.R.S. § 16-908(C), -914(B).
 13 Campaign Finance PAC Guide § 1.5.
- 14 A.R.S. §§ 16-901(48), -906(E), -928(B), -938(A).
- 15 Campaign Finance PAC Guide § 1.4.



statement of organization in each local jurisdiction in which it is active.¹⁶

Standing committees are subject to the same reporting rules as other PACs, but must treat every quarter as if it is an election quarter. Thus they must file pre-election and post-election campaign finance reports each calendar quarter. See PAC Reporting: Reporting Schedule Below.

Standing committees may cease participation in specific jurisdictions, and remain active in other jurisdiction, by filing a statement of intent with each applicable jurisdiction.¹⁷

PAC Recordkeeping and Administration

PACs are required to maintain accurate financial records; legal responsibility for compliance falls on the treasurer.¹⁸ This includes recording required information about contributors as well maintaining control over financial activity and related record keeping.

From contributors, the PAC needs to obtain information based on the nature of the contributors. ¹⁹ The following chart sets out the required information based on contributor type.

Contributor Types									
Information	Individual over \$50	Other individuals	Committees	Partnerships					
Required									
Name	Required	Optional	Required	Required	Required				
Residential or Physical Location or Street Address	Required	Optional	Required	Required	Required				
Occupation	Required	Optional	Not Applicable	Not Applicable	Required				
Employer	Required	Optional	Not Applicable	Not Applicable	Required				
Date and amount of contribution	Required	Required	Required	Required	Required				

¹⁶ A.R.S. § 16-906(E).

¹⁹ A.R.S. §§ 16-901(2), -907, -926.



¹⁷ A.R.S. 16-934(E).

¹⁸ A.R.S. § 16-907(A).

The PAC must not only seek the required information, but must inform contributors that it is legally required to do so.²⁰ The Secretary of State provides a sample disclaimer: "The committee is legally required to request identifying information from each contributor." The PAC is further obligated to make its "best effort" to obtain any missing information, which must include at least one written communication that clearly identifies the missing information sought.²¹

A PAC's treasurer is the custodian of its books and accounts. A PAC may not make a contribution, expenditure, or disbursement without the authorization of the treasurer or the treasurer's designated agent.²²

PAC Reporting

COMPREHENSIVE CAMPAIGN FINANCE REPORTS

A PAC must make a comprehensive campaign finance report.²³ The report must include the total cash on hand, total receipts during the reporting period (including an itemized list of all contributions that must be identified by the PACs), the aggregate amount of contributions from individuals whose contributions do not exceed \$50 for the election cycle, the total disbursements for the reporting period by category (including an itemized list of expenses of more than \$250), the total sum of the receipts and disbursements, and a certification by the committee treasurer, under penalty of perjury.

REPORTING SCHEDULE

- Reports are generally filed on a quarterly basis, and must be filed by the fifteenth day following each calendar quarter.²⁴ The quarters of the calendar year end on March 31, June 30, September 30, and December 31.25 Reporting deadlines that fall on a weekend or holiday are extended to the next business day.²⁶
- Additionally, for a quarters with an election, the PAC must file a pre-election report by the tenth day before the election. The report must cover the first day of the quarter through 17 days before the election. These must be filed within seven days of when the period they cover ends.²⁷ The PAC must also file a post-election report, which covers the period not covered by the pre-election report through the last day of the quarter.
- Standing Committees must treat every quarter as an election quarter.²⁸
- 20 A.R.S. § 16-907(C).
- 21 A.R.S. §§ 16-901(5), -907(C).
- 22 A.R.S. § 16-907(A).
- 23 A.R.S. § 16-926.
- 24 A.R.S. § 16-927(A)(1), (A)(2)(b).
- 25 A.R.S. § 16-901(6). 26 Campaign Finance PAC Guide § 4.5; A.R.S. 1-243; 1-303. 27 A.R.S. § 16-927(A)(2)(a).
- 28 Campaign Finance PAC Guide §§ 1.4, 6.5.



The reporting requirement is independent of whether the PAC has engaged in any reportable financial activity, and continues until the PAC is formally terminated.²⁹

FILING METHODS:

Electronic filing is available for all campaign finance reports filed with the Secretary of State.³⁰ For statewide and legislative elections, this may be done through the Secretary of State's BEACON- Campaign Finance Reporting System. A user guide for Beacon is available.

FILING OFFICIALS:

• The Secretary of State is the filing officer for statewide and legislative races and statewide ballot measures.31

ACCESS TO REPORT INFORMATION:

- All campaign finance reports are public records open to public inspection.³²
- Campaign finance reports filed electronically with the Secretary of State are available on the Secretary of State's website and are searchable by contributor.

Termination

- To close its operations, a PAC must file a termination statement.³³ The termination statement must certify that the PAC has no outstanding debts or obligations (or that they are more than five years old and creditors have agreed to discharge the debts and allow termination), surplus monies have been disposed, all contributions and expenditures have been reported, and the PAC will no longer receive contributions or make any disbursements.
- A PAC must dispose of all its surplus monies in one of three ways: return surplus monies to the contributor, contribute surplus monies in accordance with the contribution limits, or donate surplus monies to a tax-exempt nonprofit organization.



²⁹ A.R.S. §§ 16-927(C), -934(D)(1).

³⁰ A.R.S. § 16-928.

³¹ A.R.S. § 16-928.

³² A.R.S. § 16-928(C). 33 A.R.S. § 16-934.

³⁴ A.R.S. § 16-933(A).

Enforcement and Penalties

- The Secretary of State has jurisdiction to review allegations of violations of the campaign finance laws in races for which the Secretary of State is the filing officer. After reviewing allegations for probable cause, the Secretary of State refers those matters for which she finds probable cause to believe that a violation has occurred to the Attorney General for enforcement and the imposition of penalties. The presumptive penalty is the amount of money at issue in the infraction. The penalty may be increased by up to three times if there are special circumstances.³⁵
- The Citizens Clean Elections Commission has jurisdiction to enforce the Clean Elections Act.³⁶

Contact Information for State and Local Agencies

Arizona Secretary of State

Elections Services Division State Capitol, Executive Tower 1700 West Washington Street Seventh Floor Phoenix, Arizona 85007-2888

(602) 542-8683 or 1-877-THE VOTE <u>www.azsos.gov/election</u>

Listing of County Elections Officials:

www.azsos.gov/election/county.htm

Citizens Clean Elections Commission

1616 W. Adams Suite 110 Phoenix, Arizona 85007

(602) 364-3477 (877) 631-8891 (toll-free) www.azcleanelections.gov ccec@azcleanelections.gov

The second edition of the Arizona Campaign Finance State Law Resource was written by Josh Bendor and Emma Cone-Roddy and published by Alliance for Justice in 2020. Osborn Maledon P.A., 2929 N. Central Ave, 21st Floor, Phoenix, Arizona 85012.



For Further Assistance

For assistance regarding these resources or for more information about federal law, please contact our attorney one-on-one counseling service:

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