

MINNESOTA CAMPAIGN FINANCE AND BALLOT MEASURE GUIDE

These resources are current as of 11/30/18. 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

The following changes/additions have been made since the previous version of this guide:

- Updated contribution limits
- Updates to required disclaimers for independent expenditures
- Discussion of 2018 legislation regarding coordination
- Other updates to reflect legislative amendments
- Updated contact information for the Minnesota Campaign Finance and Public Disclosure Board (the “Board”)

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

Election Segment Contribution Limits:

From	To Candidates						To Committees			To Ballot
	Governor	Attorney General	Sec. of State and Auditor	Legislative	Municipal	Judicial Office	PACs	IE-only PACs	Parties	
Individuals	\$4,000	\$2,500	\$2,000	\$1,000	\$1,000 (pop. greater than 100,000) \$600 for all others	\$2,500	No limit	No limit	No limit	No limit
PACs ¹	Same as above	Same as above	Same as above	Same as above	Same as above	Same as above	No limit	No limit	No limit	No limit
IE-only PACs	Prohibited	Prohibited	Prohibited	Prohibited	Prohibited	Prohibited	Prohibited	No limit	Prohibited	No limit
Corporations ²	Prohibited	Prohibited	Prohibited	Prohibited	Prohibited	Prohibited	Prohibited	No limit	Prohibited	No limit

Nonelection Segment Contribution Limits:

From	To Candidates						To Committees			To Ballot Measures
	Governor	Attorney General	Sec. of State and Auditor	Legislative	Municipal	Judicial Office	PACs	IE-only PACs	Parties	
Individuals	\$2,000	\$1,500	\$1,000	\$1,000	\$250	\$1,000	No limit	No limit	No limit	No limit
PACs ¹	Same as above	Same as above	Same as above	Same as above	Same as above	Same as above	No limit	No limit	No limit	No limit
IE-only PACs	Prohibited	Prohibited	Prohibited	Prohibited	Prohibited	Prohibited	Prohibited	No limit	Prohibited	No limit
Corporations ²	Prohibited	Prohibited	Prohibited	Prohibited	Prohibited	Prohibited	Prohibited	No limit	Prohibited	No limit

¹ In this Guide, the term "PAC" refers to both political committees and political funds that are not independent-expenditure-only committees of funds under Minnesota law. For additional limitations on PACs, see Limits on Contributions from PACs, Lobbyists, and Unregistered Associations to Candidates below.

² See discussion of corporate contributions below for exceptions.

The Minnesota Campaign Finance and Public Disclosure Board (the “Board”) publishes the applicable contribution limits for the “election segment” and the “nonelection segment” on the Board’s web site, <https://cfb.mn.gov/>. See also Minn. Stat. § 10A.27, subd. 1 (state campaign contribution limits); Minn. Stat. § 211A.12 (municipal campaign contribution limits).

“Election cycle” means the period from January 1 following a general election for an office to December 31 following the next general election for that office, except that “election cycle” for a special election means the period from the date the special election writ is issued to 60 days after the special election is held.

The “election segment” of an election cycle is, for a regular election, the period from January 1 of the year prior to an election year through December 31 of the election year. Each other two-year segment of an election cycle is a “non-election segment” of the election cycle. An election cycle that consists of two calendar years (e.g., for the house of representatives) has only an election segment. The election segment of a special election cycle includes the entire special election cycle. Minn. Stat. § 10A.01, subd. 16.

Elections for the Minnesota House of Representatives are held every even-numbered year. Minnesota senators are elected in years ending in 0, 2, and 6 for either a two- or four-year term. See Minn. Const. Art. IV § 4. The Minnesota governor has a four-year term. Minn. Const. Art. V § 2. The next election of the Minnesota Senate is in 2020. The next election for governor is in 2022.

Additional Contribution Restrictions

No Aggregate Limit on Individuals

- There is no limit on the total an individual may contribute for political purposes generally as long as all contributions to each individual candidate is within the limits above. As described above, for some offices the limits are different for the “election segment” and “nonelection segment.” Minn. Stat. § 10A.27, subd. 1.

Legislative Session Prohibitions

- Registered lobbyists, PACs, and political parties are prohibited from making contributions to a candidate for the legislature or a constitutional office (Governor, Lieutenant Governor, Secretary of State, Auditor or Attorney General) or a political committee or party unit established by all or a part of the party organization within a house of the legislature during a regular legislative session. This limit does not apply to a legislative special election from the time a person is actually a candidate in the special election up to the day of the special election. Minn. Stat. § 10A.273.

Unregistered Associations Contributing to PACs – Required Disclosures

- A PAC, political party or campaign committee may not accept a contribution of \$200 or more from an “unregistered association” unless the contribution is accompanied by a disclosure statement that provides the name and address of the association. Minn. Stat. § 10A.27, subd. 13.
- For these purposes, an “unregistered association” includes any group of people not registered with the Board. It includes federal PACs, federal candidate committees, local

candidate committees, PACs from other states, 527s that are not also registered in Minnesota, partnerships, and any informal association or group of individuals. See, e.g., *Findings and Order in the Matter of Greater Minnesota Votes*, May 8, 2007; *Findings Regarding Minnesotans for Better Roads and Transit*, May 8, 2007. See also, *Amended Findings and Order Regarding The 21st Century Democrats (Minnesota Committee)*, May 16, 2006 (state PAC ordered to pay \$190,000 civil penalty for receipt of 29 contributions in excess of \$100 (the threshold at the time) from a federal PAC not registered in Minnesota, without proper disclosure from the federal PAC).

- Corporations, including nonprofit corporations, are technically included within the meaning of an “unregistered association” because they do not register with the Board, but they are generally prohibited from contributing to candidates, party units, and PACs (other than independent expenditure only PACs) by other rules. Minn. Stat. § 211B.15, subd. 2; Minn. Stat. § 211B.01, subd. 3. See Corporate Contributions and Expenditures and the separate discussion below regarding Ballot Measures.
- An unregistered association may provide a contribution and the written statement discussed above to **no more than three** PACs or party units in a calendar year. Minn. Stat. § 10A.27, subd. 13(b).

Unregistered Associations Contributing to IE-Only PACs

- An independent expenditure only PAC may accept unlimited contributions from unregistered associations, including corporations and nonprofit corporations. An independent expenditure PAC is a political committee or political fund that makes only independent expenditures and disbursements. Minn. Stat. § 10A.01, subds. 18a and 18b.
- An association that has made a contribution to an independent expenditure PAC from its revenue from the operation of a business is not subject to any original-source disclosure. Minn. Stat. § 10A.27, subd. 14.
- An association that has made a contribution to an independent expenditure PAC or ballot question committee or fund from its “general treasury money” (membership dues and fees, donations to the association for its general purposes, and income from the operation of a business) of \$5,000 or more in aggregate during a calendar year must provide a written statement to the PAC’s treasurer including:
 - Name, address, amount attributable to each individual or association whose contribution, fees or dues equal an aggregate of \$5,000 or more; and
 - Total amount of contribution from individuals or associations not subject to itemization.
- To determine the amount of membership dues or fees, or donations made by a person to an association and attributable to the association’s contribution to the independent expenditure or ballot question political committee or fund, the donor association must:
 - (1) apply a pro rata calculation to all unrestricted dues, fees, and contributions received by the donor association in the calendar year; or

- (2) identify the specific individuals or associations whose dues, fees, or contributions are included in the contribution to the independent expenditure political committee or fund.

Method (2) is required if (i) the individual or association who paid the dues or made the contribution has specifically authorized the donor association to use such dues or contributions for this purpose; or (ii) the individual's or association's dues, fees, or contributions to the donor association are unrestricted and the donor association designates them as the source of the subject contribution to the independent expenditure political committee or fund. Minn. Stat. § 10A.27, subd. 15.

PACs, Lobbyists, and Unregistered Associations Contributing to Candidates

- A candidate may not accept a contribution or loans from a PAC, lobbyist, or association not registered with the Board if the contribution will cause the aggregate contributions from those types of contributors during the election cycle segment to exceed 20% of the expenditure limits (applicable to candidates who sign a public subsidy agreement) for the office sought by the candidate. Minn. Stat. § 10A.27, subd. 11. The limits apply whether or not the candidate has signed a public subsidy agreement or is a first time candidate.
- These limits adjust for inflation. Minn. Stat. 10A.255. The Board publishes the applicable contribution limits on its web site.
- Registered lobbyists, PACs, and political parties must include their registration number when making contributions to candidates. Minn. Stat. § 10A.15, subd. 5.
 - These contributors must exercise caution when making a donation through an Internet web site. If the web site does not permit submission of this information, the contributor must use a different method for making the contribution.
- Lobbyists and PACs are prohibited from making contributions that a candidate is prohibited from accepting, including those in excess of the 20% campaign expenditure limit above or without the required registration number. Minn. Stat. § 10A.27, subd. 1(c).

Affiliated PACs

- If one PAC (called the "parent") establishes, maintains or controls another political committee or political fund (called the "subsidiary"), contributions from the subsidiary are treated as made from the parent for purposes of reporting and the contribution limits. Minn. Stat. § 10A.15, subd. 3c.

Conduits

- Earmarking of contributions is prohibited. In particular, an individual, PAC, campaign committee or party may not solicit or accept a contribution from any source with the express or implied condition that the contribution or any part of it be directed to a particular candidate other than the initial recipient. Minn. Stat. § 10A.16.

- Contributions may not be bundled. That is, a single individual or association cannot collect checks for contributions from a number of contributors and deliver them all together to the candidate or campaign committee, unless the person making the delivery is a member of the candidate's principal campaign committee. A block worker and a volunteer host of a fundraising event are considered members of the campaign committee for these purposes. Minn. Stat. § 10A.27, subd.1(b).
- Corporations are permitted to maintain, administer and solicit contributions from their employees to conduit funds that are not required to register as political committees or political funds, so long as the employees direct the distribution of their own contributions and the fund meets certain other requirements. See Minn. Stat. § 211B.15, subd. 16; Adv. Op. 406 (May 5, 2009).

Anonymous Contributions

- Anonymous contributions greater than \$20 are prohibited. If a PAC, campaign committee or political party receives an anonymous contribution in excess of \$20, it must forward the contribution to the Board for deposit into the general account of the state elections campaign account. Minn. Stat. § 10A.15, subd. 1.

In-Kind Contributions

- In-kind contributions are contributions and count towards the limits described above. Minn. Stat. § 10A.01, subd. 11.
- An in-kind contribution includes anything of value that is given, other than money or negotiable instruments. Minn. Stat. § 10A.01, subd. 13.
- An expenditure of funds made on behalf of a candidate is an in-kind contribution if the candidate, her campaign, or her agent authorizes or consents to the expenditure in any way, or requests or suggests the expenditure. Minn. Stat. § 10A.01, subd. 4.
- An individual or association that pays for or provides goods or services, or makes goods or services available, with the knowledge that they will be used for the benefit of a political committee or a political fund is the contributor of those goods or services. Minn. R. 4503.0500, subp. 4.
- Using one's own car in the course of volunteering is not an in-kind contribution. Minn. Stat. § 10A.01, subd. 11(c). By contrast, allowing a candidate to use one's car without reimbursement is an in-kind donation valued at either the standard mileage rate set by the Internal Revenue Service for business miles or the actual cost of fuel, maintenance, repairs, and insurance directly related to the use of the automobile. Minn. Stat. § 10A.155(a). An automobile provided by an association must be valued at the fair market value for renting an equivalent automobile. *Id.*
- The fair market value of office space or services provided to a candidate without reimbursement is a donation in kind. Minn. R. 4503.0800, subp. 4.
- "In-kind" contributions do *not* include:

- services provided without compensation by an individual volunteering personal time on behalf of a candidate, ballot question, PAC, principal campaign committee or party unit. Minn. Stat. § 10A.01, subd. 11(c);
- unreimbursed personal use of one's car while volunteering personal time. Minn. Stat. § 10A.01, subd. 11(c)
- incidental expenditures less than \$20. Minn. Stat. § 10A.17, subd. 2; Adv. Op. 357 (May 26, 2004).

Corporate Contributions and Expenditures

- Corporations, including nonprofit corporations, are permitted to make independent expenditures to promote or defeat the candidacy of an individual for nomination, election, or appointment to a political office. Minn. Stat. § 211B.15, subd. 3. An "independent expenditure" means an expenditure that is not made with the authorization or expressed or implied consent of, or in cooperation or concert with, or at the request or suggestion of, a candidate or committee established to support or oppose a candidate. Minn. Stat. § 10A.01, subd. 18.
- A corporation or any other unregistered association wishing to make its own independent expenditures in excess of \$1,500 in a calendar year (\$5,000 to promote or defeat a ballot question) using funds from the corporation or other unregistered association must do so by registering an independent expenditure only political fund (or ballot question political fund) or by contributing to an independent expenditure (or ballot question) committee. Minn. Stat. § 10A.12, subd. 1a.
 - A political fund is not a separate entity or account but instead merely a mechanism for reporting corporate independent expenditures. The corporation reports the expenditure as an "in-kind" contribution to its political fund. The corporation or other unregistered association must provide a disclosure statement identifying the underlying source of the contribution (as described under [Contribution Restrictions](#) above) and this, plus the contribution, is reported by the political fund to the Board. Minn. Stat. 10A.27, subd. 15.
 - A political committee is separate from the corporation and has its own tax identification number. It must have its own bank account and the corporation actually transfers funds to that account (a contribution) which is then used to make independent expenditures. The amount of the funds transfer is reported as a contribution to the committee and must be accompanied by an appropriate underlying disclosure form as well.

Contributions and Expenditures Subject to Corporate Contribution Ban

- A corporation may not make a contribution to any political party, organization, committee, or individual to promote or defeat a particular candidate. Minn. Stat. § 211B.15, subd. 2.

- Contributing includes giving or offering to give, directly or indirectly, any money, property, free services of officers, employees or members, or anything of monetary value.
- The prohibition includes approved expenditures. An “approved expenditure” is an expenditure to promote or defeat the election or nomination of a candidate to a political office that is made with, or at the request or suggestion of, a candidate or a committee established to support or oppose a candidate. Minn. Stat. § 211B.15, subd. 2(c).

Exceptions to Corporate Contribution Ban

- Ballot Measures - Corporations are permitted to make contributions or expenditures to promote or defeat a ballot question. Minn. Stat. § 211B.15, subd. 4.
- Meeting Rooms - Corporations are permitted to provide meeting facilities to a committee, political party or candidate, but only on a nondiscriminatory and nonpreferential basis. Minn. Stat. § 211B.15, subd. 10.
- Independent Expenditures. Corporations may make independent expenditures and contributions to independent expenditure only PACs. Minn. Stat. § 10A.12, subd. 1a.

Affiliated PAC

- A nonprofit corporation with an associated PAC may provide certain types of administrative support to its PAC, such as accounting, clerical or legal services, bank charges, utilities, office space and supplies. This administrative assistance is limited annually to the lesser of \$5,000 or 7.5 % of the committee or fund's expenditures. The PAC's records may be stored on the premises of the nonprofit. Minn. Stat. § 211B.15, subd. 17.

Endorsements

- A mere endorsement of a candidate is permitted and is not considered an independent expenditure unless simultaneously accompanied by an expenditure that would otherwise qualify as an independent expenditure. Minn. Stat. § 10A.01, subd. 18.

COMMUNICATIONS

Member Communications

- The Minnesota campaign finance law does *not* include an exception for political communications to a corporation's members. Accordingly, any express advocacy communication which requires an expenditure of corporate funds (including staff time) must be an independent expenditure and must be reported as such.

Issue Advocacy vs. Express Advocacy

- An organization that has a primary purpose other than influencing elections and which advocates a particular issue *without* expressly advocating for or against a particular candidate is not required to register or report as a political committee or political fund with the Board; however an organization that *does* engage in a threshold amount of

express advocacy (\$1,500 per calendar year for independent expenditures) must register and report such activity through a political committee or political fund.

- An organization that engages in issue advocacy, however, should evaluate whether its advocacy may subject it to regulation as a lobbyist or lobbyist principal. (See separate guide on Lobbying in Minnesota).

Independent Expenditures

Definition

- An “independent expenditure” is an expenditure that:
 1. Expressly advocates the election or defeat of a clearly identified candidate; *and*
 2. Is made without the express or implied consent, authorization, or cooperation of, and not in concert with or at the request or suggestion of, any candidate or any candidate’s principal campaign committee or agent. Minn. Stat. § 10A.01, subd. 18; see *also* the Coordination section below.
- An independent expenditure does *not* include the act of announcing a formal public endorsement of a candidate for public office, *unless* the act is simultaneously accompanied by an expenditure that would otherwise qualify as an independent expenditure based on the above definition. Minn. Stat. § 10A.01, subd. 18.
- An independent expenditure is not a contribution to any candidate.

Entities Permitted to Make Independent Expenditures

- Independent expenditures may be made by an individual, PAC, corporation, other unregistered association or political party. See Minn. Stat. § 10A.17, subd. 4.
- A PAC must disclose independent expenditures in its regular disclosure reports filed with the Board (see detailed requirements on Reporting, below). Minn. Stat. § 10A.20, subd. 3. The report must include a sworn statement as to the independence of the expenditure.
- An association other than a political committee that makes only independent expenditures must register as an independent expenditure or ballot question political fund if it makes independent expenditures in excess of \$1,500 in a calendar year (or \$5,000 to promote or defeat a ballot question). Alternatively, it may contribute to an existing independent expenditure political committee or political fund without having to separately register. Minn. Stat. § 10A.12, subd. 1a.

Disclaimers

Candidate-Prepared and Coordinated Campaign Material

- Unless an exception applies, candidate-prepared and coordinated campaign material must include a disclaimer substantially in the form indicated below. Minn. Stat. § 211B.04. “Campaign material” is defined as “any literature, publication, or material that is disseminated for the purpose of influencing voting at a primary or other election, except for news items or editorial comments by the news media.” Minn. Stat. § 211B.01, subd. 2.

- **In written communications** prepared and paid for by a principal campaign committee or other person or committee including a PAC: *“Prepared and paid for by the committee, (address).”*
 - If the material is produced and disseminated without cost, the words *“paid for”* may be omitted. Minn. Stat. § 211B.04, subd. 1.
 - The words *“PAID ADVERTISEMENT”* must be included on paid material in ads in a newspaper, magazine, or periodical. Minn. Stat. § 211B.05.
- **For broadcast media:** *“Paid for by the committee.”*
 - The words *“PAID ADVERTISEMENT”* must be included at the beginning or end of ads on the radio, television, or cable. Minn. Stat. § 211B.05.
 - If the material is produced and broadcast without cost, the required form of the disclaimer is: *“The committee is responsible for the content of this message.”* Minn. Stat. § 211B.04, subd. 1.

Independent Expenditures

- An individual or entity that independently solicits or accepts contributions or makes independent expenditures on behalf of a state-level candidate must publicly disclose that the expenditure is an independent expenditure. Minn. Stat. § 10A.17, subd. 4; 211B.04, subd. 2.
 - All written and broadcast communications with those from whom contributions are independently solicited or accepted or to whom independent expenditures are made on behalf of a candidate must contain a disclosure statement substantially in the form described below. Minn. Stat. § 10A.17, subd. 4. The statement must be on the front page of all written communications and at the end of all broadcast communications. *Id.*
- **In written communications:** *“This is an independent expenditure prepared and paid for by ... (name of entity participating in the expenditure), ... (address). It is not coordinated with or approved by any candidate nor is any candidate responsible for it.”*
 - *“Paid for”* can be omitted if the material is produced and disseminated without cost.
 - The words *“PAID ADVERTISEMENT”* must be included if printed in a newspaper, periodical, or magazine.
- **In broadcast communications:** *“This independent expenditure is paid for by ... (name of entity participating in the expenditure). It is not coordinated with or approved by any candidate nor is any candidate responsible for it.”*
 - The words *“PAID ADVERTISEMENT”* must be included at the beginning or end of an advertisement on radio or television.

- In broadcast communications (if produced and disseminated without cost): “... (name of entity participating in the expenditure) is responsible for the contents of this independent expenditure. It is not coordinated with or approved by any candidate nor is any candidate responsible for it.”

Address and Font Size

- The disclaimer may contain the committee or fund’s website instead of its physical address if the website includes the committee or fund’s mailing address.
- The disclaimer must be prominent. Minn. Stat. § 211B.01, subd. 1(a). For written communications other than an outdoor sign, web site, or social media page, the disclaimer must be printed in 8-point font or larger. *Id.* § 211B.04, subd. 5.

Exceptions

- The disclaimer requirements do not apply to an individual or association that is not required to register or report under Minnesota Statutes Chapter 10A (relating to state elections) or Chapter 211A (relating to municipal elections).
- In addition, the disclaimer requirements do not apply to wearing apparel, or other means of advertising for which the inclusion of a disclaimer would be impracticable, or bumper stickers, pins, buttons, pens, or similar small items on which the disclaimer cannot be conveniently printed. Minn. Stat. § 211B.04, subd. 3(2)-(3).
- Online banner ads and similar electronic communications must either include a disclaimer or link directly to an online page that includes the disclaimer. Minn. Stat. § 211B.04, subd. 3(c).

COORDINATION

- An expenditure made or incurred for purpose of influencing the nomination or election of a candidate is not independent if it is made with the authorization or expressed or implied consent of, or in cooperation or in concert with, or at the request or suggestion of the candidate, the candidate’s principal campaign committee, or the candidate’s agent. Such an approved expenditure is a contribution to that candidate. Minn. Stat. § 10A.01, subd. 4.
- In 2018, the Minnesota legislature specifically designated certain activities as “coordinated.” The new law supplements the general definitions and prior guidance from the Board by providing specific examples of activities that will cause expenditures of a “spender” to be considered coordinated (and thus a prohibited contribution to a candidate campaign). These include the following:
 - **Fundraising.** A candidate who will appear on the ballot solicited funds for the spender’s political purposes during the election year. This rule does not apply to fundraising for a party unit or money that is not raised for political purposes. Minn. Stat. § 10A.176, subd. 2; see *also* AO 437 (Feb. 11, 2014)
 - **Candidate’s direction of political committee.** A candidate who will appear on the ballot served as the chair, deputy chair, treasurer, or deputy treasurer of the

spender (other than a party unit) during the election year. Minn. Stat. § 10A.176, subd. 3; see *also* Adv. Op. 410 (Sept. 7, 2010) (noting that if a candidate's campaign worker or fundraising committee member participates in the decision making process of an Independent Expenditure Political Committee (IEPC), *i.e.* sits on the IEPC's advisory committee, and the IEPC decides to make an expenditure supporting that same candidate, there is a strong presumption that the expenditure would *not* be an independent expenditure. This presumption is not present if an individual who sits on the IEPC's advisory committee hosts a fundraiser for a candidate whom the IEPC then supports.).

- **Shared consultants.** The candidate (or the candidate's opponent) and the spender obtain services from the same consultant during the same election segment. However, this rule does not apply if the consultant assigns separate personnel to the candidate and the spender implements a proper firewall pursuant to a written policy. Minn. Stat. § 10A.176, subd. 4; see *also* Adv. Op. 400 (July 22, 2008, *amended* Mar. 1, 2016), Adv. Op. 338 (Apr. 23, 2002), Adv. Op. 296 (July 24, 1998).
 - **Not publicly available information.** The spender receives nonpublic information from the candidate regarding campaign plans, strategy, or needs. Minn. Stat. § 10A.176, subd. 5.
 - **Spender-provided information.** Prior to making the communication public, the spender provides information to the candidate about the expenditure's content, intended audience, timing, location or mode, volume, or frequency. Minn. Stat. § 10A.176, subd. 6.
 - **Candidate's participation.** The candidate participates in any of the processes required for the creation and development of the expenditure or any decision regarding the content, timing, location, intended audience, volume of distribution, or frequency of the expenditure. Minn. Stat. § 10A.176, subd. 7.
- The 2018 law also provides examples of activities, which taken alone, do not cause an expenditure to be "coordinated." These include the following:
 - **Saying no.** A candidate asks a spender not to make any expenditure to support the candidate or oppose the candidate's opponent. Minn. Stat. § 10A.177(1).
 - **Donor lists.** A candidate provides to a spender names of potential donors, as long as the spender does not suggest that funds received from the donors will be used to benefit the candidate. Minn. Stat. § 10A.177(2).
 - **Public information.** An expenditure uses a photograph, video, or audio recording obtained from a publicly available source or public event. Minn. Stat. § 10A.177(3)-(4).
 - **Endorsements.** The spender endorses the candidate. Minn. Stat. § 10A.177(5). In addition, a discussion between the spender and the candidate regarding the

candidate's position on a legislative or policy matter or the sending, completion, and return of a survey conducted by the spender to determine whether to endorse the candidate is not "coordination." Minn. Stat. § 10A.177(8); see also Adv. Op. 114 (Dec. 1991) (holding that a candidate's appearance at a pre-endorsement interview is not a request or suggestion by that candidate that the endorsing association make an expenditure on behalf of that candidate).

- **Hyperlinks.** An expenditure includes a hyperlink to the candidate's website. Minn. Stat. § 10A.177(6).
- **Appearances.** The spender invites the candidate to appear before the spender's members, employees, or shareholders, including the candidate's participation in the event, unless the event promotes the election of the candidate or the defeat of the candidate's opponent, or the candidate requests or accepts campaign contributions at the event. Minn. Stat. § 10A.177(9).

REGISTRATION AND REPORTING REQUIREMENTS

Definition of "PAC"

- Minnesota has two types of organizations that are commonly referred to as "PACs." These definitions are mutually exclusive; an entity may only qualify as *one* of the following:
 - A political committee is a group of two or more people whose "major purpose" is to influence the nomination or election of one or more candidates or to promote or defeat a ballot question. In other words, a political committee is an entity separate from an organization that might support it. Minn. Stat. § 10A.01, subd. 27.
 - A political fund is an account whose purpose is to influence the nomination or election of a candidate or to promote or defeat a ballot question, and is formed by or in connection with an association of two or more people (which may be an entity like a nonprofit corporation or an unincorporated association) that has a purpose other than influencing elections. See Minn. Stat. § 10A.01, subd. 28. For example, a separate segregated fund maintained by a 501(c)(4) organization for election-related activities is a political fund. A political fund is not a separate legal entity from its sponsoring organization but instead an accounting and reporting mechanism.
 - These definitions have been interpreted by the Minnesota Supreme Court to be limited to groups that *expressly advocate* the nomination or election of a particular candidate or the promotion or defeat of a ballot question. *Minnesota Citizens Concerned for Life, Inc. v. Kelley*, 698 N.W.2d 424 (Minn. 2005); Adv. Op. 405 (June 2, 2009). "Expressly advocating" means "that a communication clearly identifies a candidate and uses words or phrases of express advocacy." Minn. Stat. § 10A.01, subd. 16a.

- An “independent expenditure political committee,” or “independent expenditure political fund” is a political committee or fund that makes only independent expenditures. Minn. Stat. § 10A.01, subd. 18a.

Registration

- A traditional political committee or political fund must register on the earliest of the following dates:
 - no later than 14 days after the committee or fund has made a contribution, received contributions, or made expenditures in excess of \$750;
 - no later than the next report of receipts and expenditures filing date applicable to the committee or fund if the committee or fund reached the \$750 threshold before the end of the reporting period covered by that report; or
 - by the end of the next business day after it has received a loan or contribution that is subject to the 24-hour report. Minn. Stat. § 10A.14, subd. 1; *see also id.* 10A.20, subd. 5.
- An independent expenditure political committee or fund must register on the earliest of the following dates:
 - no later than 14 calendar days after the committee or the association registering the political fund has received aggregate contributions for independent expenditures or made independent expenditures of more than \$1,500 in a calendar year;
 - no later than the next report of receipts and expenditures filing date applicable to the committee or fund if the committee or fund reached the \$1,500 threshold before the end of the reporting period covered by that report;
 - by the end of the next business day after it has received a loan or contribution that is subject to the 24-hour report. Minn. Stat. § 10A.12, subd. 1a.
- A ballot question political committee or fund must register on the earliest of the following dates:
 - no later than 14 calendar days after the committee or the association registering the political fund has received aggregate contributions or made expenditures to promote or defeat a ballot question of more than \$5,000 in a calendar year;
 - no later than the next report of receipts and expenditures filing date applicable to the committee or fund if the committee or fund reached the \$5,000 threshold before the end of the reporting period covered by that report;
 - by the end of the next business day after it has received a loan or contribution that is subject to the 24-hour report. Minn. Stat. § 10A.12, subd. 1a.
- Receipt of a contribution not expressly for use in influencing elections in Minnesota would not, by itself, trigger registration. However, before the funds may be spent for election activities in Minnesota (if greater than the thresholds stated above), the

organization must register as a political committee, or political fund, depending on whether the organization has a primary purpose of influencing elections. The transfer of the contribution(s) from the entity or account that received the non-designated funds is permitted if the committee or fund is an independent expenditure only political committee or fund but must be accompanied by an underlying source disclosure statement discussed above under Contributions.

- Federal and out-of-state PACs are considered “unregistered associations” and their ability to make contributions to candidates or to Minnesota PACs or to make independent expenditures is subject to the rules regarding unregistered associations, discussed throughout this guide.

Recordkeeping and Administration of PACs

- A political committee must establish a separate bank account, and commingling of funds with other accounts is not permitted. Minn. Stat. § 10A.12, subd. 2; Minn. Campaign Fin. & Pub. Disclosures Bd., *Handbook for Independent Expenditure Political Committees and Funds* (Aug. 29, 2018). A political fund that must register with the Board also must have its own bank account. *Id.* at 12.
- A nonprofit corporation with an affiliated PAC may provide certain types of administrative support to its PAC, such as accounting, clerical or legal services, bank charges, utilities, office space and supplies. This administrative assistance is limited annually to the lesser of \$5,000 or 7½% of the committee or fund’s expenditures. The PAC’s records may be stored on the premises of the nonprofit. Minn. Stat. § 211B.15, subd. 17.
- In addition to making independent expenditures, an independent expenditure political committee or an independent expenditure political fund may:
 - pay costs associated with its fund-raising and general operations;
 - pay for communications that do not constitute contributions or approved expenditures; and
 - make contributions to other independent expenditure political committees or independent expenditure political funds. Minn. Stat. § 10A.121.

Reporting

- All reports must be filed electronically with the Board using its Campaign Finance Reporter Software.
- PACs must report the following information (Minn. Stat. § 10A.20, subd. 3):
 - The amount of liquid assets on hand at the beginning of the reporting period;
- Information about contributions received:
 - For each individual and association (group, organization, other committee, etc.) that has made one or more contributions, including the purchase of fundraising tickets, that in the aggregate in the year exceed \$200 (\$500 for ballot questions):

- Name, address, employer or occupation
- Amount and date of each contribution
- Aggregate amount of contributions within the year from each source disclosed
- The sum of all contributions during the reporting period
- Information about loans:
 - Each loan made or received with an aggregate of more than \$200, together with the name, address, occupation and principal place of business, if any, of the lender, and the amount and date of the loan
 - The amount and nature of an advance of credit, in any amount
- Information about receipts:
 - Each receipt over \$200 during the reporting period, that has not otherwise been reported
 - The sum of all receipts received during the reporting period
- Information about expenditures:
 - For expenditures in excess of \$200 in the aggregate:
 - Name and address of each individual or association (i.e., business, organization, group, committee, campaign) to whom such expenditures (whether independent, approved, or ballot question expenditures) have been made by or behalf of
 - Amount, date and purpose of each expenditure
 - Name and address of, and office sought by, each candidate on whose behalf the expenditure was made
 - Identification of the ballot question that the expenditure was intended to promote or defeat and an identification of whether the expenditure was to promote or defeat the ballot question.
 - In the case of an independent expenditure in opposition to a candidate, the candidate's name, address, and office sought
 - If a single expenditure relates to multiple candidates, the reporting entity must make a reasonable cost allocation among all the candidates and report the allocation for each candidate
 - The sum of all expenditures made by or on behalf of the reporting entity during the reporting period

- Entities making independent expenditures must include a sworn statement that the activities were truly independent of any candidate. Minn. Stat. § 10A.20, subd. 6a.
- Information about contributions made:
 - For contributions to another political committee, political fund, principal campaign committee or party unit in excess of \$200 in the aggregate:
 - The name and address of the recipient
 - Amount and date of each contribution
 - The sum of all contributions made by the reporting entity in the reporting period
- If a nonprofit corporation provides administrative assistance to the political committee or political fund:
 - The type of administrative assistance provided
 - The aggregate fair market value of each type of assistance provided during the reporting period
- A PAC receiving an underlying source disclosure statement from an unregistered association must submit a copy of such statements to the Board before the deadline for the PAC's next regular report. Minn. Stat. § 10A.27, subd. 16.

Reporting Schedule

- Reports must be filed with the Board each year on or before January 31.
- In general election years, political committee and political fund reports must be filed according to the following schedule:
 - a first-quarter report covering the calendar year through March 31, which is due April 14;
 - a report covering the calendar year through May 31, which is due June 14;
 - a pre-primary-election report due 15 days before a primary election;
 - a pre-general-election report due 42 days before the general election; and
 - a pre-general-election report due ten days before a general election.
- A report must cover the period from January 1 of the reporting year to seven days before the filing date, except that the report due on January 31 must cover the period from January 1 to December 31 of the reporting year. Minn. Stat. § 10A.20, subd. 4.
- Pre-Election Reports: During the period beginning the day following the last day covered by a pre-election report and ending on election day, certain large donations must be reported either electronically within 24 hours of receipt or in person by the end of the business day following receipt. These include:

- A loan or contribution from one source to a candidate for constitutional office (governor, attorney general, secretary of state, and state auditor) or the legislature totaling more than 50% of the election cycle contribution limit for the office.
- A loan or contribution from one source totaling more than \$1,000 (more than \$2,000 for appellate court judicial candidates, and more than \$400 for judicial district candidates).
- These loans and contributions must also be covered in the next report due, and are not required in primaries in which a statewide or legislative candidate is unopposed. Minn. Stat. § 10A.20, subd. 5.

Statement of Inactivity

- If a political committee or political fund has no receipts or expenditures during a reporting period, the treasurer must file a statement to that effect. Minn. Stat. § 10A.20, subd. 7.

Public Disclosure

- Reports are posted on the internet. As discussed above, certain donor names are included in the reports and the reports are searchable by donor name. The internet version of the reports is simply a .pdf copy of the report that was actually filed.

Termination

- To terminate a PAC, the treasurer must file a termination report and final report of receipts and expenditures with the Board.
- The treasurer *may* terminate a PAC when there are no loans, notes or unpaid bills outstanding and physical assets have been disposed of so that the combined fair market value of the remaining assets (including cash) does not exceed \$100. Minn. Stat. § 10A.243.
- The Board may terminate the registration of a political committee or fund found to be inactive 60 days after sending written notice of inactivity by certified mail to the affected association at the last address on record with the Board for that association. A committee or fund will generally be considered inactive if it has not made an expenditure or disbursement requiring itemization to the Board within four years. Minn. Stat. § 10A.245.

BALLOT MEASURES

- As discussed through this guide, PACs working to support or defeat a state ballot question must abide by largely the same registration, reporting and contribution requirements as apply to candidate elections. See, e.g., Minn. Stat. § 10A.01, subd. 27 & 28; see *also id.* § 10A.01, subd. 7c & 7d (defining “ballot question political committee” and “ballot question political fund”).
- Corporations and other unregistered associations may make contributions or expenditures to promote or defeat a ballot question. Minn. Stat. § 211B.15, subd. 4. (They must register as the appropriate type of PAC if they meet the requisite threshold (currently \$5,000), see [Registration](#) above).

- “Promoting or defeating a ballot question” includes activities, *other than lobbying activities*, related to qualifying the question for placement on the ballot. Minn. Stat. § 10A.01, subd. 7.

ENFORCEMENT AND PENALTIES

- *PAC registration and reporting violations.* Violations of the campaign finance and PAC registration and reporting rules are enforced by the Board.
- Some violations are punishable by a civil penalty of up to \$1,000. See, e.g., Minn. Stat. § 10A.20, subd. 12 (regarding failure to timely file reports).
- Failure to file as an independent expenditure political committee or political fund may result in a civil penalty of up to four times the amount of the independent expenditure made without registering, but shall not exceed \$25,000, except when the violation was intentional. Minn. Stat. § 10A.12, subd. 1b.
- Accepting a contribution from an unregistered association that does not provide the proper disclosure results in a penalty of up to four times the amount of the contribution in excess of \$200. Minn. Stat. § 10A.27, subd. 13(c). Likewise, a contribution from a PAC in excess of the contribution limits is subject to a civil penalty of up to four times the amount by which the contribution exceeds the limits. Minn. Stat. § 10A.28, subd. 2.
- Knowingly filing false reports may result in a civil penalty of up to \$3,000 and is a gross misdemeanor. Minn. Stat. § 10A.025, subd. 2. Other willful violations are also deemed gross misdemeanors. See, e.g., Minn. Stat. § 10A.16 (earmarking); *id.* § 10A.17, subd. 5 (disclaimers); *id.* § 10A.29 (circumvention of contribution limits).
- *Corporate Contributions.* An individual acting on behalf of the corporation who violates the prohibition on corporate contributions is subject to a civil penalty of up to ten times the amount of the violation, but in no case more than \$10,000, imposed by the Board or the Office of Administrative Hearings. Minn. Stat. § 211B.15, subd. 6(a).
- An individual acting on behalf of a corporation who is convicted of *knowingly* violating the prohibition may be fined not more than \$20,000 or be imprisoned for not more than five years, or both. Minn. Stat. § 211B.15, subd. 6(b).
- A corporation that violates the prohibition may be subject to a civil penalty of up to ten times the amount of the violation, but in no case more than \$10,000.
- A corporation convicted of *knowingly* violating the prohibition is subject to a fine not greater than \$40,000. A convicted domestic corporation may be dissolved as well as fined. If a foreign or nonresident corporation is convicted, in addition to being fined, its right to do business in Minnesota may be declared forfeited. Minn. Stat. § 211B.15, subd. 7(b).

CONTACT INFORMATION FOR STATE AND LOCAL AGENCIES

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By telephone at (651) 539-1180 or toll free (800) 657-3889
By TTY by calling (800) 627-3529 and asking for (651) 539-1180
By fax to (651) 539-1196 or fax toll free (800) 357-4114
Email to board: cf.board@state.mn.us
Website: <https://cfb.mn.gov/>

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FOR FURTHER ASSISTANCE

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

Email: advocacy@afj.org
Telephone: 1-866-NPLOBBY (675-6229)

For assistance regarding state law in Minnesota, please contact:

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