

2018

RUNNING FOR OFFICE IN WEST VIRGINIA



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RUNNING FOR OFFICE IN WEST VIRGINIA – 2018

Primary Election – May 8, 2018
(Second Tuesday in May)

General Election – November 6, 2018
(Tuesday following first Monday in November)

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References to state and federal laws and regulations are current as of the time of publication. All other information represents the interpretation of the Office of the Secretary of State and should not be regarded as settled law or legal advice. It is a candidate’s responsibility to know and comply with the law. Please consult an attorney for legal advice.

SECTION I

DECIDING TO RUN FOR OFFICE



THE DECISION TO BECOME A CANDIDATE FOR PUBLIC OFFICE

Serving the State of West Virginia in an elected office is a major commitment of public service to the citizens of West Virginia, and an honor that should be given significant forethought. Deciding to become a candidate for public office should be well-thought and intentional. Public office holders have the wonderful opportunity and responsibility of representing not only their constituents, but also our society's best interests. Before deciding to run for office, consider all your current and future professional and personal responsibilities and choose an office that fits your goals, aspirations and abilities best. Running for all public offices have benefits and risks, so make an informed decision to run.

RECOGNIZED POLITICAL PARTIES IN WV

Pursuant to the provisions of W. Va. Code § 3-1-8, there are four (4) recognized political parties in West Virginia:

Democratic Party
Libertarian Party
Mountain Party
Republican Party

These recognized parties nominate candidates for offices on the General Election ballot in the Primary Election by convention or other means of selection as determined by party rules. Party rules also dictate the eligibility of a citizen to run for office as a candidate for one of these parties.

Generally, for partisan elections, citizens wishing to run as a candidate affiliated with one of the recognized political parties must be registered with that political party. If, however, a candidate wishes to run for office as a candidate for a party *other* than the party the candidate is affiliated with, the candidate must update her or his voter registration at least sixty (60) days prior to filing a Certificate of Announcement. (W. Va. Code § 3-5-7.)

Parties may also elect Delegates to the National Convention during the Primary Election. Please contact the party's Chairperson for more information on their nomination process.

MINOR/UNAFFILIATED POLITICAL PARTIES IN WV

Candidates affiliated with all other non-recognized political parties, or who are not affiliated with any political party, are considered "minor" or "unaffiliated" party candidates. These candidates must follow the filing requirements listed in W. Va. Code §§ 3-1-13, 3-5-23 and 3-5-24. Such candidates must obtain and submit to the appropriate election official the requisite number of signatures with a Nomination Certificate and the candidate's Certificate of Announcement by August 1 preceding the November General Election. (See Opinion of the Attorney General regarding applicable filing deadline for minor party and unaffiliated candidates to appear on the General Election ballot (July 7, 2017); link to WV Attorney General public resources page: <http://ago.wv.gov/publicresources/Pages/default.aspx>.)

THE "SORE LOSER" or "SOUR GRAPES" LAW (W. Va. Code §§ 3-5-7(d)(6) and 3-5-23)

Candidates affiliated with a recognized political party who run for election in a primary election and who lose the nomination **cannot** change her or his voter registration to a minor party organization/unaffiliated candidate to take advantage of the later filing deadlines and have their name on the subsequent general election ballot.

ELECTIONS IN 2018

Primary Election: An election held for the purpose of nominating candidates by political parties for offices on the General Election ballot. Nonpartisan elections will be held simultaneously with the primary nomination process.

General Election: An election to choose from candidates that have officially been certified as candidates on the ballot or as a certified write-in candidate.

Candidates for the following offices will be nominated and elected in the 2018 election cycle:

- U.S. Senate
- U.S. House of Representatives
- State Senator
- House of Delegates
- County Commission
- Board of Education
- Conservation District Supervisor
- Greater Huntington Park & Recreation District
- State Executive Committee
- District Executive Committee (Congressional, Senatorial & Delegate)
- County Executive Committee
- Any vacancy that must be filled by either the Primary Election or General Election

ARE YOU ELIGIBLE TO RUN FOR OFFICE?

It is every West Virginian's fundamental Constitutional right to run for office, but that right has some limitation depending on the office you seek and other factors. Please review the requirements for the office you seek to ensure you meet the prerequisites for minimum age, residency and others that may exist. Some offices, such as House of Delegates and State Senate, require candidates to be a resident for a length of time before the election, by the time of filing for office or by the time of taking office.

Generally, only West Virginia residents (who also meet the age and other requirements) are eligible to run for office. "Residence" has been defined by the WV Supreme Court as the place where you actually live and intend to live indefinitely. (See *White v. Manchin*, 318 S.E.2d 470, 173 W.Va. 526 (W. Va. 1984).) A business location is not a residence. Simply owning property in this State does not establish residency. A Post Office Box does not establish residency.

Also, some WV residents are otherwise prohibited from holding office due to convictions under certain civil or criminal laws under the U.S. Constitution, WV Constitution, or W. Va. Code. Eligibility determinations are made by a court of competent jurisdiction; not the Secretary of State, county clerks or municipal recorders.

RUNNING FOR OFFICE AND YOUR CURRENT EMPLOYEMNT

State Employment:

Many factors can affect your ability to run for office. Below are the most common examples of employment positions affected by running for and/or holding public office:

- Board of Education members
- Judicial officers
- Members of other state or county boards or commissions

Persons employed in the above positions usually must resign upon filing for any other partisan office. Additionally, employees in those positions may be restricted from participating in political activity.

Federal Employment/State Employment Paid with Federal Funds:

The Hatch Act covers federal civil service employees and some state employees working for programs funded or administered under federal loans or grants. The Hatch Act was amended in 2012. The most current specifics of the Hatch Act can be reviewed on this website: <https://osc.gov/Pages/HatchAct.aspx>.

General Questions Regarding Employment:

As a good rule of thumb, you should avoid the appearance of potential impropriety between running for office and your obligations to your current employment. If you think a conflict might exist for you, consult your employer's human resources division, personnel director, or otherwise consult an attorney to advise you of your rights and obligations under the law.

SECTION II

BECOMING A CANDIDATE



FILING AS A PRE-CANDIDATE

Filing for pre-candidacy is not declaring your candidacy for that office. Rather, it is a procedural tool that provides prospective candidates the ability to raise money in support of their candidacy prior to filing their Certificate of Announcement. (W. Va. Code § 3-8-5e.)

You must file a Pre-Candidacy Registration Form **before** raising money for possible candidacy. Candidates may expend personal finances without filing a Pre-candidacy Registration Form. However, all campaign-related financial activities are subject to disclosure requirements. The candidate must designate a Treasurer who is responsible for their committee's financial transactions. It is the Treasurer's responsibility to receive, keep and disburse all sums of money, and file the required campaign finance reports on time and according to the law. Candidates may act as their own Treasurer of their committee, with the exception of judicial candidates, who are prohibited from being her or his own Treasurer.

WHEN TO FILE AS A PRE-CANDIDATE

A candidate may file for pre-candidacy no more than four (4) years before the term of a position that is up for election. If the term of the position you are seeking begins in less than four (4) years, then a candidate may only file for pre-candidacy during the election cycle prior to the next election, but no later than the candidate filing period scheduled for that election cycle.

For the 2018 election cycle, the filing period for candidates affiliated with a recognized political party (see *supra* p.3) runs from January 8, 2018, until midnight on January 27, 2018. For minor/unaffiliated party candidates, the filing period begins January 8, 2018, and continues until August 1, 2018. However, if a minor/unaffiliated party candidate wishes to raise money prior to filing a Certificate of Announcement, Nomination Certificate and requisite petition signatures (see *supra* p.3), such candidate **must** file for pre-candidacy before raising money.

REPORTING REQUIREMENTS OF A PRE-CANDIDATE

Every sum of money, service, or thing of value received, as well as all expenditures made, and liabilities incurred, **must** be reported during the appropriate campaign finance reporting period. Pre-candidates are required to file an Annual Report in accordance with the reporting schedule for campaign finances. The Annual Report must identify all contributions and expenditures received and made subsequent to the previous report filed, if applicable.

Because it is a Treasurer's responsibility to manage all candidate committee funds, it is highly recommended that candidates designate a Treasurer early in the campaign.

Remember that failing to file required campaign finance reports may result in criminal charges being filed against the responsible person.

CREATING A COMMITTEE NAME*

The name of a candidate's committee can be anything relevant to the candidacy. Some common committee names include:

- Committee to Elect (candidate's name)
- (Candidate's name) for Delegate 2018
- Friends of (candidate name)

**Remember that a committee name may be needed for campaign materials and advertisements, indicating who funded the expenditure(s). So choose a name that fits your campaign best.*

COMMITTEE BANK ACCOUNT

It is strongly recommended that your committee's bank account be separate and distinct from your personal bank account. It is against the law to use campaign money for personal benefit. Mixing personal and campaign funds may lead to criminal charges.

Some banks require certain official documentation of a candidate's committee before issuing a bank account for the campaign. Please have your Treasurer consult with a banking professional to help guide you through the requirements of setting up a bank account for your campaign.

THE CERTIFICATE OF ANNOUNCEMENT

Candidates must submit the Certificate of Announcement Form to declare candidacy for public office. All required information on the form must be provided, and the form must be signed and notarized. Forms missing any information or signatures will be rejected. Importantly, candidates cannot re-file a corrected Certificate of Announcement after the filing deadline. Also, you should know that the information provided in the Certificate of Announcement must be accurate and correct. Providing false information may result in a criminal prosecution.

For the 2018 election cycle, candidates must file a Certificate of Announcement during the following period:

Monday, January 8, 2018, through midnight on Saturday, January 27, 2018.

At the time of filing your Certificate of Announcement, you must also pay the filing fee or submit equivalent documentation to meet the fee requirements. Many of the filing fees are based on the salary of the position you are seeking. If the salary of the position you seek changes, the filing fee will change accordingly.

The Certificate of Announcement cannot be accepted prior to January 8, 2018. If the form is received or postmarked before January 8, 2018, it will be rejected and returned. Filings that are mailed must be postmarked by the U.S. Postal Service before midnight on January 27, 2018.

If you use an express shipping service (UPS, FedEx, DHL, etc.) your filing must be **received** by midnight on January 27, 2018, at the correct filing office. The dates provided by these services are not equivalent to postmarks. Check with the appropriate filing office for hours of operation on the last day of filing.

WHERE TO FILE

The filing office for a candidate's Certificate of Announcement depends on which public office the candidate seeks. Filing your Certificate of Announcement on time is critical, and failure to file a completed application with the correct office by the filing deadline **will** result in rejection and your inability to run for office during that election cycle. **Late filings will not be accepted.**

Please review the following options to identify your appropriate filing office:

Secretary of State's Office:

Candidates for Federal office, Statewide office, State Senate, House of Delegates, judicial offices (excluding magistrates) and those running for an office in more than one county.

County Clerk's Office:

Candidates for an office that is entirely within one county, which are not listed above as filing with the Secretary of State's Office, which includes magistrates.

Municipal Recorder/Town Clerk:

Candidates for a local municipal office. (Please note that some cities/towns/villages designate a Town Clerk, rather than a Recorder, by Charter or Ordinance as the local election official. Contact your local municipal officials for more information.)

CHANGING POLITICAL PARTIES PRIOR TO AN ELECTION

Candidates registered as a voter in a party other than the one named in the Certificate of Announcement during the sixty (60) days immediately preceding the filing of the Certificate may be refused certification of candidacy by the Secretary of State or board of ballot commissioners, as the case may be.

EXCEPTION:

Candidates who are not registered with a political party (*e.g.* unaffiliated or no party) may change their registration to become affiliated with a political party at any time prior to filing the Certificate of Announcement.

PAYMENT OF FILING FEES

If you are filing with the Secretary of State, you may pay by check, credit card, cash or money order. If payment is by check and it is returned for insufficient funds, you will not be certified as a candidate until the filing is resubmitted with sufficient payment. Checks should be made payable to the West Virginia Secretary of State's Office.

Please contact your county clerk or municipal recorder/town clerk for specific fees for county or municipal offices and the type of payment they can accept.

ALLOWABLE NICKNAMES ON THE BALLOT

A nickname may be used on the ballot by using quotation marks, parenthesis, or in lieu of the candidate's first name. (WV Code of State Rules § 153-14-1 *et seq.*) A candidate **may not** use a title or position, such as "Dr.," "Rev.," "Sen." or "Sheriff," or a common meaning of status, such as "Sarge," "Coach" or "Doc." A nickname shall also be limited to one word, and the length of the name on the ballot cannot be more than 25 characters.

BALLOT POSITIONING (W. Va. Code §§ 3-5-13a and 3-6-2)

Ballot positions shall be selected for any office or division for which more than one candidate is to be nominated. A candidate's name position on a ballot will be determined by a drawing by lot conducted in the county clerk's office (or municipal recorder's office for municipal elections) in each county. The drawing for Primary Election ballot position will be held at 9:00 a.m. on February 20, 2018 (fourth Tuesday following the close of candidate filing) and for the General Election at 9:00 a.m. on August 28, 2018 (seventieth day preceding the election).

LAST DAY TO WITHDRAW (W. Va. Code § 3-5-11)

A candidate's last day to withdraw her or his name from the ballot and decline to run as a candidate for public office is February 13, 2018 (third Tuesday following close of candidate filing), and in the General Election is August 14, 2018 (eighty (84) days before the election). Such candidates must file a Certificate of Withdrawal in the same filing office as required for the Certificate of Announcement. This filing must be **received** in the correct filing office by the deadline; postmark date does not apply. Withdrawals after those dates may occur only with approval of the SEC.

FILING WITH THE ETHICS COMMISSION (W. Va. Code §§ 6B-2-6, 7)

In addition to campaign finance filings, within ten (10) days of filing the Certificate of Announcement candidates **must** also file a Candidate Financial Disclosure Statement with the WV Ethics Commission. If this Statement is not returned to the Ethics Commission, the candidate's name may not be placed on the ballot or the candidate may not be allowed to take the oath of office. The Ethics forms are available where you file your Certificate of Announcement, or you may print the form off the Ethics Commission's website at www.ethics.wv.gov. **Please note that political party executive committee candidates are not required to file this form.**

All questions regarding the Candidate Financial Disclosure Statement must be answered on the form prior to submission to the Ethics Commission. These financial statements are a matter of public record and can be inspected at the Ethics Commission Office. If there are any questions regarding this form, please contact the Ethics Commission at (304) 558-0664 or (toll free) 1-866-558-0664. These forms are to be returned to the following address:

**WV Ethics Commission
210 Brooks St., Suite 300
Charleston, WV 25301-1804**

FEDERAL OFFICES

Candidates for federal office **must** file a Certificate of Announcement with the Secretary of State's Office to be on the ballot in West Virginia. Additionally, federal candidates **must also** follow the filing and reporting regulations of the Federal Election Commission (FEC). Information on federal candidate filing and reporting requirements can be found at www.fec.gov or call the FEC at 1-800-424-9530 or 1-202-694-1000.

U.S. SENATE

Term:	6 years	Minimum Age:	30 years
Salary:	\$174,000*	Residence:	9-year citizen of the U.S.
Filing Fee:	\$ 1,740*		WV inhabitant when elected

One (1) person will be elected to the U.S. Senate in 2018. The term begins in January 2019.

U.S. HOUSE OF REPRESENTATIVES

Term:	2 years	Minimum Age:	25 years
Salary:	\$174,000*	Residence:	7-year citizen of the U.S.
Filing Fee:	\$ 1,740*		WV inhabitant when elected

One (1) person will be elected from each of the three (3) Congressional Districts. The term begins in January 2019.

CONGRESSIONAL DISTRICTS

First District

Barbour
Brooke
Doddridge
Gilmer
Grant
Hancock
Harrison
Marion
Marshall
Mineral
Monongalia
Ohio
Pleasants
Preston
Ritchie
Taylor
Tucker
Tyler
Wetzel
Wood

Second District

Berkeley
Braxton
Calhoun
Clay
Hampshire
Hardy
Jackson
Jefferson
Kanawha
Lewis
Morgan
Pendleton
Putnam
Randolph
Roane
Upshur
Wirt

Third District

Boone
Cabell
Fayette
Greenbrier
Lincoln
Logan
Mason
McDowell
Mercer
Mingo
Monroe
Nicholas
Pocahontas
Raleigh
Summers
Wayne
Webster
Wyoming

**Salaries and filing fees are based on figures available at publication.*

STATE OFFICES

Candidates for state office must file a Certificate of Announcement with the Secretary of State's Office to be on the ballot in West Virginia.

STATE SENATE

Term:	4 years	Minimum Age:	25 years
Salary:	\$20,000*	Residence:	WV 5 years prior to election.
Filing Fee:	\$200		District & county one year prior to election.

Seventeen (17) of the Thirty-Four (34) seats in the State Senate will be up for election to full terms in 2018. No candidate may file from a county already represented by a seated senator within the same district.

SENATORIAL DISTRICTS*

***Bold** indicates counties that are entirely within the district.

<u>District</u>	<u>Counties in District</u>
1	Brooke, Hancock, Marshall, Ohio
2	Calhoun, Doddridge, Gilmer, Marion, Marshall, Monongalia, Ritchie, Tyler, Wetzel
3	Pleasants, Roane, Wirt, Wood
4	Jackson, Mason, Putnam, Roane
5	Cabell, Wayne
6	McDowell, Mercer , Mingo, Wayne
7	Boone, Lincoln, Logan, Mingo, Wayne
8	Kanawha, Putnam
9	McDowell, Raleigh, Wyoming
10	Fayette, Greenbrier, Monroe, Summers
11	Grant, Nicholas, Pendleton, Pocahontas, Randolph, Upshur, Webster
12	Braxton, Clay, Gilmer, Harrison, Lewis
13	Marion, Monongalia
14	Barbour, Grant, Hardy, Mineral, Monongalia, Preston, Taylor, Tucker
15	Berkeley, Hampshire, Mineral, Morgan,
16	Berkeley, Jefferson
17	Kanawha

HOUSE OF DELEGATES

Term:	2 years	Minimum Age:	18 years
Salary:	\$20,000*	Residence:	Resident of district (and county, if limited) for 1 year prior to Election.
Filing Fee:	\$100		

All one-hundred (100) seats in the House of Delegates will be on the ballot in 2018. The candidate must know the correct district number before filing. The Secretary of State's Office or your County Clerk can help you identify your district.

HOUSE OF DELEGATES DISTRICTS**

***Bold indicates a county entirely within one (1) district.**

****District 28 – the two (2) members cannot be from the same county.**

<u>DISTRICT #</u>	<u># ELECTED</u>	<u>COUNTIES IN DISTRICT</u>
1	2	Brooke, Hancock
2	1	Brooke, Ohio
3	2	Ohio
4	2	Marshall , Ohio
5	1	Monongalia, Wetzel
6	1	Doddridge , Pleasants, Tyler
7	1	Pleasants, Ritchie
8	1	Wood
9	1	Wirt , Wood
10	3	Wood
11	1	Jackson, Roane
12	1	Jackson
13	2	Jackson, Mason, Putnam
14	1	Mason, Putnam
15	1	Putnam
16	3	Cabell, Lincoln
17	2	Cabell, Wayne
18	1	Cabell
19	2	Wayne
20	1	Logan, Mingo
21	1	McDowell, Mingo, Wyoming
22	2	Boone, Lincoln, Logan, Putnam
23	1	Boone
24	2	Boone, Logan, Wyoming
25	1	McDowell, Mercer, Wyoming
26	1	McDowell, Mercer
27	3	Mercer, Raleigh
28**	2	<i>Monroe, Raleigh, Summers</i>
29	1	Raleigh
30	1	Raleigh
31	1	Raleigh, Wyoming
32	3	Clay, Fayette , Kanawha, Nicholas, Raleigh

<u>DISTRICT #</u>	<u># ELECTED</u>	<u>COUNTIES IN DISTRICT</u>
33	1	Calhoun , Clay, Gilmer
34	1	Braxton , Gilmer
35	4	Kanawha
36	3	Kanawha
37	1	Kanawha
38	1	Kanawha, Putnam
39	1	Kanawha
40	1	Kanawha
41	1	Greenbrier, Nicholas
42	2	Greenbrier, Monroe, Summers
43	2	Pocahontas , Randolph
44	1	Nicholas, Randolph, Upshur, Webster
45	1	Upshur
46	1	Lewis , Upshur
47	1	Barbour , Tucker
48	4	Harrison , Taylor
49	1	Marion, Monongalia, Taylor
50	3	Marion
51	5	Monongalia
52	1	Preston
53	1	Preston, Tucker
54	1	Grant , Mineral, Pendleton
55	1	Hardy , Pendleton
56	1	Mineral
57	1	Hampshire, Mineral
58	1	Hampshire, Morgan
59	1	Berkeley, Morgan
60	1	Berkeley
61	1	Berkeley
62	1	Berkeley
63	1	Berkeley
64	1	Berkeley
65	1	Jefferson
66	1	Jefferson
67	1	Jefferson

COUNTY OFFICES

All candidates for county office must file with their respective county clerk. The filing fee for county offices is one percent of the annual salary, except for the Board of Education (filing fee is fixed at \$25). Because county classification is used to determine salary, please contact your county clerk for the filing fee.

All candidates for county office must be qualified voters and some offices have additional qualifications. For more information, you may contact the West Virginia Association of Counties at (304) 346-0591.

COUNTY COMMISSION

Term:	6 years	Minimum Age:	18 years
Filing Fee:	Contact County Clerk	Residence:	Open magisterial district

BOARD OF EDUCATION

Term:	4 years	Minimum Age:	18 years
Filing Fee:	\$25	Residence:	Open magisterial district
		Other:	High School diploma or GED; training required prior to taking office.

Each of the fifty-five (55) county school systems is governed by a five (5) member nonpartisan board of education. No more than two (2) members may be elected or serve from the same magisterial district. The residence of incumbent board members continuing in office after July 1, 2018 will govern which magisterial districts have openings. New terms begin July 1, 2018.

CONSERVATION DISTRICT SUPERVISOR

Term:	4 years	Minimum Age:	n/a
Filing Fee:	\$10	Salary:	n/a

Requirements: Landowner in district; education or experience in conservation.

At least one supervisor will be elected in each county within the fourteen (14) conservation districts in West Virginia. Because of population, Berkeley and Kanawha Counties will elect two (2). Candidates for supervisor may only run for the office in the county in which they reside.

For any questions regarding this position, contact the West Virginia Conservation Agency at (304) 558-2204 or www.wvca.us.

GREATER HUNTINGTON PARK & RECREATION DISTRICT SUPERVISORS

Term:	6 years	Minimum Age:	18 years
Salary:	N/A	Residence:	Must reside in district in which they are elected
Filing Fee:	\$10		

One (1) commissioner will be elected to full terms from Districts 1, 2, and 4. (Note: GHPR candidates file with the Secretary of State's Office.)

COUNTY CLERK PHONE NUMBERS					
BARBOUR	304-457-2232	KANAWHA	304-357-0130	POCAHONTAS	304-799-4549
BERKELEY	304-264-1989	LEWIS	304-269-8215	PRESTON	304-329-0070
BOONE	304-369-7330	LINCOLN	304-824-3336	PUTNAM	304-586-0202
BRAXTON	304-765-2833	LOGAN	304-792-8620	RALEIGH	304-252-8681
BROOKE	304-737-3668	MARION	304-367-5447	RANDOLPH	304-636-0543
CABELL	304-526-8633	MARSHALL	304-845-1220	RITCHIE	304-643-2164
CALHOUN	304-354-6725	MASON	304-675-1997	ROANE	304-927-2860
CLAY	304-587-4259	MCDOWELL	304-436-8544	SUMMERS	304-466-7104
DODDRIDGE	304-873-2631	MERCER	304-487-8338	TAYLOR	304-265-1401
FAYETTE	304-574-4225	MINERAL	304-788-3924	TUCKER	304-478-2414
GILMER	304-462-7641	MINGO	304-235-0339	TYLER	304-758-2102
GRANT	304-257-4550	MONONGALIA	304-291-7230	UPSHUR	304-472-1068
GREENBRIER	304-647-6604	MONROE	304-772-3096	WAYNE	304-272-6370
HAMPSHIRE	304-822-5112	MORGAN	304-258-8547	WEBSTER	304-847-2508
HANCOCK	304-564-3311	NICHOLAS	304-872-7820	WETZEL	304-455-8224
HARDY	304-530-0250	OHIO	304-234-3750	WIRT	304-275-4271
HARRISON	304-624-8675	PENDLETON	304-358-2505	WOOD	304-424-1860
JACKSON	304-373-2232	PLEASANTS	304-684-3542	WYOMING	304-732-8000
JEFFERSON	304-728-3246				

UNEXPIRED TERMS

If a vacancy occurs due to retirement, resignation, death, disqualification or removal, an election may be required to complete the term. The candidate wishing to run for an unexpired term must file a Certificate of Announcement and specify it is for the unexpired term with the correct filing office. The Certificate of Announcement must be filed during the filing period for full terms and the candidate must pay the required fee for that office, unless a special filing period has been proclaimed. Please check with the appropriate filing office for possible unexpired terms that may be on the ballot in 2018.

PARTY EXECUTIVE COMMITTEES

Executive committee members are elected in the Primary Election to four (4) year terms. Candidates for State executive committees will file with the Secretary of State, *except* for candidates in Senate District 17. Candidates for District and county executive committee positions will file with the County Clerk.

When electing executive committee members, the two (2) candidates with the highest votes shall be elected first, and the other candidates shall be qualified based on vote tallies, gender and county of residence.

A current listing of all executive committee members shall be filed with the Secretary of State by the end of July each year. Any appointments to fill vacancies on an executive committee do not take effect if the updated list of committee members has not been submitted to the Secretary of State within ten (10) days of the appointment.

STATE EXECUTIVE COMMITTEE*

Districts: Members will be elected from Senate Districts

District Members: Two (2) men and two (2) women are selected from each Senate District.

Filing Fee: \$20.00

**No more than two (2) committee members can be elected from the same county.*

DISTRICT EXECUTIVE COMMITTEES** (Congressional, Senate and Delegate)

Districts: Members will be elected from each county in a multi-county District

District Members One (1) man and one (1) woman from each county in the district

Filing Fee: \$5.00

***Does not apply to single-county senate or delegate districts.*

COUNTY EXECUTIVE COMMITTEE

Districts: Members will be elected from Magisterial or Executive Committee Districts.

District Members: If there are three (3) districts in the county then two (2) men and (2) women will be elected from each district. If there are more than three (3) districts, then one (1) man and (1) woman will be elected from each district.

Filing Fee: \$10.00

NO PARTY ORGANIZATION/MINOR PARTY/UNAFFILIATED CANDIDATES (W. Va. Code §§ 3-5-23 and 3-5-24)

An individual may run for public office without belonging to a recognized political party in West Virginia (Democratic, Libertarian, Mountain, and Republican; see page 3).

Candidates who are not affiliated with any political party or who are affiliated with a non-recognized political party are commonly referred to as either “minor,” “independent,” “no party” or “unaffiliated” party candidates. These candidates must follow the filing requirements listed in W. Va. Code §§ 3-1-13, 3-5-23 and 3-5-24. A candidate running with no party organization **will not** appear on the Primary Election ballot.

MINOR PARTY/UNAFFILIATED CANDIDATE CREDENTIALS, NOMINATION CERTIFICATE AND CERTIFICATE OF ANNOUNCEMENT

The process for individuals seeking to run as minor party/unaffiliated candidates in the General Election is slightly different than the process for candidates affiliated with a recognized political party in WV. (See pages 3-4.) There are a few basic requirements to be such a candidate, which include obtaining an Official Credentials form, gathering the requisite number of signatures, and submitting a Nomination Certificate with a Certificate of Announcement. These forms are available at your local County Clerk’s office, the Secretary of State’s Office and website at www.sos.wv.gov. These forms and associated procedures are discussed in more detail below.

Official Credentials Form*:

The first step to becoming a no party organization/minor party candidate is to be officially authorized by your County Clerk to collect signatures in support of your candidacy. Candidates apply for authorization to each County Clerk in every county the candidate wishes to run (*e.g.* in multi-county districts, a candidate must apply to each County Clerk in that multi-county district.) Upon approval, the County Clerk(s) will issue an Official Credentials form to the candidate. This Credentials form is proof that the candidate has the authority to gather signatures in that county.

Important Note: this form **must be displayed to each voter canvassed or solicited.*

Nomination Certificate/Petition**:

After a minor party/unaffiliated candidate receives her or his Official Credentials form, the candidate must then utilize the Nomination Certificate (also referred to as the “Minor Party or Independent Candidate Nomination Petition”) for gathering signatures. This Certificate may be acquired at the time an individual obtains her or his Official Credentials.

***Important Note: Individuals seeking an office on the ballot in more than one (1) county **must** use a separate Nomination Certificate/Petition form for each county.*

MINOR PARTY/UNAFFILIATED CANDIDATE CREDENTIALS, NOMINATION CERTIFICATE AND CERTIFICATE OF ANNOUNCEMENT (cont.)

Signatures:

After a minor party/unaffiliated candidate receives her or his Official Credentials form and obtains the Nomination Certificate from the County Clerk, such candidates are required to obtain **not less than one (1) percent of the entire vote cast at the last preceding general election for the office being sought, but which shall never be less than twenty-five (25) total signatures.**

- Any signature gathered must be signed by the voter in his or her own handwriting or by his or her marks duly witnessed
- In order for a voter's signature to count, he or she must be a duly registered resident within the county, district, or other political division represented by the office sought

Certificate of Announcement:

A recent West Virginia Attorney General (WVAG) Opinion clarified the law regarding minor party/unaffiliated candidate deadlines to file a Certificate of Announcement. Specifically, the Opinion directed the filing requirements for major recognized political party candidate would not withstand a Constitutional challenge in a court of competent jurisdiction. (See Opinion of the Attorney General regarding applicable filing deadline for minor party and unaffiliated candidates to appear on the General Election ballot (July 7, 2017); link to WV Attorney General public resources page: <http://ago.wv.gov/publicresources/Pages/default.aspx>.)

Therefore, the deadline for a minor party/unaffiliated candidate to file her or his Certificate of Announcement, Nomination Certificates and filing fee with the appropriate office is no later than August 1, 2018. Such candidates may file at any time prior to the filing deadline, but **no late submissions will be accepted**.

Pre-Candidacy Requirements for Raising Money

Even though minor party/unaffiliated candidates do not have to file a Certificate of Announcement until August 1 preceding the General Election, such candidates **must** file a Pre-Candidacy Form prior to raising money for a political campaign. However, candidates may spend *personal* funds for a campaign that has yet to be announced without filing a Pre-Candidacy Form; such candidates are only prohibited from raising funds without filing a Pre-Candidacy Form.

WRITE-IN CANDIDATES* (W. Va. Code § 3-6-4a)

Official write-in candidates are not listed on any ballot. Rather, a list of official write-in candidates will be posted at each polling place during early voting and on Election Day. Only votes for *official* write-in candidates are counted. Write-in candidates are not required to pay a filing fee or collect signatures.

An individual meeting the requisite eligibility requirements for a specific office may file as an official write-in candidate for offices to be *elected* in the primary, general, or special election by filing the Write-In Candidate's Certificate of Announcement with the appropriate filing office.

Those offices elected in the Primary Election are:

- Judges (Justice of the Supreme Court, Circuit Court Judge, Family Court Judge, and Magistrate; in 2018, only unexpired terms to fill judicial vacancies are on the ballot);
- Board of Education; and
- Conservation District Supervisors
- Executive Committees

**Important Note: a write-in candidate may not run for Delegate to National Convention. Additionally, an exception to the filing deadline exists when a vacancy occurs in the nomination of candidates for an office on the ballot resulting from the death, disqualification or removal of a nominee from the ballot by a court of competent jurisdiction. Such vacancy must occur not earlier than the forty-eight (48) days nor later than the five (5) days before the General Election. In such case, a Write-In Candidate's Certificate of Announcement shall be received no later than the close of business five (5) days before the election or the close of business on the day following the occurrence of the vacancy, whichever is later.*

Deadlines to File:

The deadline to file a Write-In Candidate's Certificate of Announcement by any eligible person who seeks to be elected by write-in votes for any office at any election shall be received no later than the forty-ninth (49th) day before the election at which the office is to be filled. (W. Va. Code § 3-6-4a(c).)

Primary Election: a Write-In Candidate's Certificate of Announcement shall be received no later than the close of business March 20, 2018.

General Election: a Write-In Candidate's Certificate of Announcement shall be received no later than the close of business September 18, 2018.

MUNICIPAL ELECTIONS (W. Va. Code § 8-1-1 *et seq.*)

Any part of a county or counties may be incorporated as a city, depending upon the population, either as a Class I, Class II or Class III city, or a Class IV town or village. Municipalities generally elect a mayor, municipal recorder or clerk, and a council. Together they form the governing body of the municipality.

Many West Virginia municipalities have framed and adopted a Charter, which include specific provisions setting forth the method and time for filing of Certificates of Announcement, nominating candidates, conducting primary and regular municipal elections, and determining and certifying the results of elections. If a Charter does not provide procedures for the administration of elections, municipalities must follow West Virginia State Code provisions as they apply to counties.

Furthermore, because each municipality may have different filing dates and procedures for candidacy and campaign finance reporting other than those for county and statewide offices, a municipal candidate should contact their municipal recorder or clerk for information regarding specific requirements for the municipality.

FILING PRE-CANDIDACY REGISTRATION FORM

Any candidate who wishes to raise money for a campaign before the official candidate filing period **must** file a Pre-Candidacy Registration Form with the municipal recorder/clerk *before* raising any funds for the candidate's campaign. This Form can be obtained from the municipal recorder/clerk or online at www.sos.wv.gov. However, nothing precludes a candidate from spending personal funds during a campaign without filing a Pre-Candidacy Registration Form, so long as such candidate is not raising money.

FILING THE MUNICIPAL CERTIFICATE OF ANNOUNCEMENT

The Municipal Candidate's Certificate of Announcement and Municipal Write-In Candidate's Certificate of Announcement **must** be filed with the municipal recorder/clerk during the appropriate filing periods set forth by the municipality's Charter. If no Charter has been passed by the municipality, then the filing periods shall be the same as those set forth for county and statewide candidates. (See page 8; see also Section III - Managing Campaign Finances, beginning on page 24.)

CANDIDATE REQUIREMENTS

Unless otherwise provided by Charter provision or Ordinance, the mayor, recorder and council members **must** be residents of the municipality and **must** be qualified voters entitled to vote for members of its governing body. (W. Va. Code § 8-5-7; see also page 4, "Are You Eligible to Run?")

CAMPAIGN FINANCE*

Any person who files a Candidate's Certificate of Announcement is required to file Campaign Finance Reports *except* for political party executive committees and those that file with the Federal Election Commission (FEC). All funds received **must** be reported by name of contributor and the amount received, no matter how small the amount. There are typically four (4) reports due at different times during each municipal election cycle. Contact your municipal recorder/clerk for specific reporting dates.

Remember that failing to file required campaign finance reports may result in criminal charges being filed against the responsible person.

**For more detailed campaign finance guidance, please see Section III, below.*

SECTION III

MANAGING CAMPAIGN FINANCES



NEW LAW IN EFFECT: MANDATORY ONLINE ELECTRONIC CAMPAIGN FINANCE REPORT FILING

Beginning January 1, 2018, all financial statements that are required to be filed with the Secretary of State, by or on behalf of a candidate for any elective office, shall be filed electronically through the website that has been established by the Secretary of State. (W. Va. Code § 3-8-5b.)

MANDATORY ONLINE ELECTRONIC CAMPAIGN FINANCE REPORT FILING

If a candidate is unable to electronically file the campaign financial statement through or by no fault of the candidate, the candidate shall file the statement in person, via facsimile or other electronic means of transmission, or by certified mail at the first reasonable opportunity.

EXEMPTIONS:

Committees required to report electronically may apply to the State Election Commission for an exemption from mandatory electronic filing in the case of hardship. An exemption may be granted at the discretion of the State Election Commission.

In the case of mailing, the filing date of a financial statement shall be the date of the postmark of the United States Postal Service. In the case of hand delivery or delivery by facsimile or other electronic means of transmission, the date delivered to the office of the Secretary of State or to the office of the clerk of the county commission.

All filings (electronic and exempt by mail/hand/other delivery) must be delivered to the Secretary of State's Office or, when appropriate, to the office of the clerk of the county commission "during regular business hours of that office." (W. Va. Code § 3-8-5b(e).) If any filing is submitted after business hours, it will be accepted the next business day.

THE CODE OF FAIR CAMPAIGN PRACTICES (W. Va. Code § 3-1B-5)

At the time of filing for office, candidates will have an opportunity to voluntarily subscribe to the Code of Fair Campaign Practices. The Code is a voluntary pledge to adhere to guidelines and is intended to promote ethical, constructive and equitable campaigning. Pledging to adhere to the Code of Fair Campaign Practices requires subscriber to do the following:

- Adhere to the campaign spending limitations (see table below);
- Conduct your campaign openly and publicly;
- Condemn false advertising or communications which are not fact-based;
- Refrain from coercing or unduly influencing individuals under your authority to give contributions or election help; and
- Defend and uphold the right of every qualified voter to full and equal participation in the electoral process.

VOLUNTARY SPENDING LIMITATIONS

OFFICE	PRIMARY	GENERAL
Governor	\$1,000,000	\$1,000,000
Constitutional Officers	\$150,000	\$150,000
Supreme Court	\$150,000	\$150,000
Circuit Judge	\$50,000	\$50,000
State Senate	\$50,000	\$50,000
House of Delegates	\$25,000	\$25,000

THE CODE OF FAIR CAMPAIGN PRACTICES (cont.)

If a candidate who has endorsed and subscribed to the Code of Fair Campaign Practices exceeds the campaign spending limitations, such candidate's opponent(s) who have also subscribed to the Code (and who have not exceeded the spending limitations) are automatically released from the aforementioned voluntary campaign spending limitations. Expenditures that do not exceed the limits designated for the Primary Election are not added to the limits for the general election.

WHO MUST KEEP AND DISCLOSE FINANCIAL RECORDS?

Every candidate, treasurer, person and association of persons, and organization of any kind including every corporation, who or which directly or by independent expenditure supports a political committee or engages in permitted campaign activities wherein such person or entity expressly advocates the election or defeat of a clearly identified candidate for any office (municipal, county, district or state) "*shall keep detailed accounts of every sum of money or other thing of value received by him or her, including all loans of money or things of value and of all expenditures and disbursements made, liabilities incurred, by the candidate, financial agent, person, association or organization or committee, for political purposes, or by any of the officers or members of the committee, or any person acting under its authority or on its behalf.*" (W. Va. Code § 3-8-5 (emphasis added).)

Remember that failing to file required campaign finance reports may result in criminal charges being filed against the responsible person.

WHICH FINANCIAL RECORDS MUST BE KEPT?

Candidates "*and all persons supporting, aiding or opposing the nomination, election or defeat of any candidate shall keep for a period of six months records of receipts and expenditures which are made for political purposes.*" (W. Va. Code § 3-8-2 (emphasis added).)

The committee should keep the receipts of all financial transactions for accounting purposes. However, the Secretary of State or County Clerk may conduct an audit, and the receipts **must** be presented for review. (W. Va. Code § 3-8-7.) If any violations are found, the committee may be held accountable for transactions for up to five (5) years. (W. Va. Code § 3-8-5d.) Therefore, it is highly recommended that receipts be kept for the entire five (5) year period.

FINANCIAL RESPONSIBILITY

The Treasurer of the committee is responsible for all of the committee's finances, and he or she **must** handle or be involved with all financial transactions and reporting requirements. Agents of the committee may make transactions and accept contributions on behalf of the committee, and be reimbursed for lawful expenses incurred by the agent. However, the contributions **must** be approved by the treasurer to ensure the contributions meet the legally permitted criteria.

AMENDING REPORTS

A report submitted by the committee may be altered to reflect the accurate financial activity if a mistake is discovered. An amended report may be submitted at any time and with no penalty. If an amended report is submitted, it must include the same information as the previously submitted report with the errors corrected. **All financial transactions for the reporting period must be included in the amended report, not just the portion that has been changed by the amendment.**

POLITICAL CONTRIBUTIONS

"Contribution" means a gift, subscription, loan, assessment, payment for services, dues, advance, donation, pledge, contract, agreement, forbearance or promise of money or other tangible thing of value, whether conditional or legally enforceable, or a transfer of money or other tangible thing of value to a person, made for the purpose of influencing the nomination, election or defeat of a candidate. An offer or tender of a contribution is not a contribution if expressly and unconditionally rejected or returned. A contribution does not include volunteer personal services provided without compensation: *Provided*, That a nonmonetary contribution is to be considered at fair market value for reporting requirements and contribution limitations. (W. Va. Code § 3-8-1a(7).)

Best Practice Tip: Get all of the information required for your campaign finance report from your contributors **at the time they make their donation**. This best practice will save substantial—and precious—time in the future tracking down this information later.

CONTRIBUTION LIMITATIONS (W. Va. Code § 3-8-12)

An individual **may** give to any political committee a total of \$1,000 per primary election, and \$1,000 per general election. An individual may also give a committee up to \$1,000 during a general election period to pay for debts incurred during the preceding primary election period so long as that individual *did not* contribute the maximum \$1,000 contribution during the primary election period and the total amount contributed during the primary election period added to the amount contributed towards the primary election period debt does not exceed \$1,000 in the aggregate.

Example:

Smith for House Committee receives \$500 from Jane Doe during primary election period. Later, during the general election period, Jane Doe contributes \$1,000 to Smith for House Committee, and contributes an additional \$500 towards debts incurred by the Committee during the primary election period. All such contributions are permitted.

(Continued on next page)

CONTRIBUTION LIMITATIONS (cont.)

Active political committees are restricted to the types of contributions they may give and receive. The capacity to give or receive a contribution depends on the type of committee established. Below is a list of possible contribution types indicating whether the contributions to the specific committee are acceptable:

As a State Candidate you may give up to \$1,000 to:

- Executive Committee
- Legislative Caucus Committee

As a State Candidate you may NOT give a contribution to the following:

- Another State Candidate
- PAC
- Federal Committee

As a State Candidate you may receive up to \$1,000 from:

- Individuals
- State Political Action Committee (PAC)
- Executive Committee
- Federal Committee
- Corporate PAC

As a State Candidate you may NOT receive money from an Independent Expenditure PAC.

CASH CONTRIBUTIONS

A cash contribution can be accepted up to \$50. The name of the contributor must be recorded and reported or it must be donated to the General Revenue Fund of the State. All contribution amounts above \$50 must be by means other than cash. (See W. Va. Code § 3-8-5d(a), which provides, “*Any person who makes or receives a contribution of currency of the United States or currency of any foreign country of more than fifty dollars in value is guilty of a misdemeanor, and, upon conviction, shall be fined a sum equal to three times the amount of the contribution.*”)

UNLAWFUL FINANCIAL ACTIVITIES

It is unlawful for the committee to spend *any* contributed funds that exceed the contribution limit. When a contribution exceeds the limit, the excess must be returned to the contributor. All items of value (cash and in-kind contributions) given to a committee count towards this \$1,000 limit. Candidates may contribute as much as they desire to their own campaign; however, a campaign borrowing financial resources from anyone cannot be reimbursed unless it is treated as a loan instead of reporting as contribution to the campaign.

ANONYMOUS CONTRIBUTIONS PROHIBITED

All contributions must be identified with the full name of the person or group of persons that gave the contribution. Anonymous direct and indirect contributions, including contributions made in a fictitious name used to conceal the identity of the source of the contribution, are illegal to accept. Activities such as “passing the hat” are not permitted. If, however, an anonymous contribution is accepted or the identification of the donor of a contribution cannot be determined, the contribution **must** be (1) recorded as such on the candidate's financial statement, and (2) donated in-full to the General Revenue Fund of the State. Thereafter, at the time of filing, the financial statement shall include a statement of distribution of anonymous contributions, which total amount shall equal the total of all anonymous contributions received during the period. (W. Va. Code § 3-8-5a(h), (j).)

EXCEPTION: POLITICAL PARTY COMMITTEES:

Notwithstanding the above, a political party committee may report gross receipts for fund raising events for the sale of food, beverages, services, novelty items, raffle tickets or memorabilia, *except* that any receipt of more than fifty (50) dollars from an individual or organization shall be reported as a contribution. Such alternative reporting procedure may be followed by a political party committee in filing financial reports **if the total profit does not exceed five thousand dollars per year.**

A political party committee using this alternative method of reporting shall report all of the following:

- The name of the committee;
- The type of fund-raising activity undertaken;
- The location where the activity occurred;
- The date of the fundraiser;
- The name of any individual who contributed more than fifty dollars worth of items to be sold;
- The name and amount received from any person or organization purchasing more than fifty dollars' worth of food, beverages, services, novelty items, raffle tickets or memorabilia;
- The gross receipts of the fundraiser; **and**
- The date, amount, purpose and name and address of each person or organization from whom items with a fair market value of more than fifty dollars were purchased for resale.

CANDIDATE COMMITTEE ELECTION CYCLES

There are two possible contribution periods for a candidate committee within the election year. A contribution to a candidate committee is considered in connection with the primary election if it is received on or before the Primary Election Day. A contribution is considered in connection with the general election if it is received after the day of the primary election and if the committee has paid all of its financial obligations after the general election.

A contribution given after the primary election period can be considered in connection with the primary election if, with the consent of the contributor, it is clearly marked on the financial statement as a contribution for the previous contribution period, provided that the funds are used to repay unpaid bills, loans or debts incurred during that contribution period.

FUND-RAISING EVENTS

"Fund-raising event" means *an event such as a dinner, reception, testimonial, cocktail party, auction or similar affair through which contributions are solicited or received by such means as the purchase of a ticket, payment of an attendance fee or by the purchase of goods or services.* (W. Va. Code § 3-8-1a(15) (emphasis added).)

A committee may pay for food, drink and entertainment costs that are incurred in holding a fund-raising event. The committee must be careful determining the methodology of the fund-raising event and be certain that personal gifts are **not** given to attendees from committee funds. Fund-raising transactions are reported separately from other transactions. The total amount raised, after expenses, is reported as the net receipt of funds for each event. (W. Va. Code § 3-8-5a)

EXPENDITURE OF FUNDS (*i.e.* SPENDING MONEY)

The committee has now raised money (via contributions, money transfers from previous campaign accounts, loans, out of pocket expenses, etc.) and is ready to spend the funds for electioneering purposes. No money may be spent from committee funds *unless* it is expressly permitted by W. Va. Code § 3-8-9 or WV Code of State Rules § 146-3-6. Such prohibitions are intended to ensure that the funds are spent on electioneering purposes only, without exception.

ALLOWABLE EXPENTURES UNDER W. Va. Code § 3-8-9

A candidate or political committee may make expenditures only for the following purposes:

- Office expenses, overhead costs for headquarters, and for costs related to postage
- Candidates who do not have headquarters may purchase or rent filing cabinets, other office equipment and furnishings, computers, computer hardware and software, scanners, typewriters, calculators, audio visual equipment
- Paid legitimate advertisements for the promotion of the candidate on the ballot
- Costs from public meetings and political conventions (*e.g.* food, drink, entertainment, etc.)
- Necessary travel and hotel expenses
- Costs incurred with petitions for nomination of candidates
- Lists of registered voters, investigating an individual's right to vote and conducting proceedings to prevent unlawful registration or voting
- Taking voters to the polls
- Publishing information relevant to an election in newspapers, radio, and TV broadcasting
- Conducting a public opinion poll or polls
- Legitimate advertising agency services
- The purchase of memorials, flowers or citations by political party executive committees or political action committees representing a political party
- The purchase of nominal, noncash expressions of appreciation following the close of the polls of an election or within thirty days thereafter
- Paying dues of any political party's national, state, local, or legislative caucus committee
- To employ persons to perform functions enumerated in WV Code §3-8-9, either on a full-time, part-time, or temporary basis

POLITICAL ACTION COMMITTEE CONTRIBUTIONS

A political action committee may not contribute to another political action committee or receive contributions from another political action committee: *Provided*, a political action committee may receive contributions from its national affiliate, if any. (W. Va. Code § 3-8-9(b).)

CONTRIBUTIONS FROM BUSINESS ENTITIES

A candidate or political committee **may not** accept contributions from a corporation. However, a corporate Political Action Committee (PAC) *may* make contributions to the candidate or political committee within lawful financial limits.

Sole proprietors, partners in a partnership, or members in a limited liability company, may make contributions from their business funds within lawful financial limits if they are not incorporated. Contributions given from business funds are to be attributed on a pro rata basis to the ownership of the business and must be with the permission from all contributors.

RECORD KEEPING AND THINGS TO REMEMBER

Records of all transactions are to be kept for six (6) months after date of the transaction. The information to be kept for reporting purposes are:

- The name of the person or business to which the expenditure was given;
- The date of the transaction;
- The purpose of the transaction; and
- Amount of the expenditure.

Things to Remember About Spending Money:

- All expenditures **must** be reported, including detailed accounts of all expenditures and disbursements made, and liabilities incurred.
- Money spent out-of-pocket on the election **must** be reported as an expenditure. If money is spent on behalf of a candidate, and is not reimbursed by the committee, it must be reported as an in-kind contribution, and is subject to contribution limitations.
- All loans **must** be listed in the loan section on the campaign finance report.
- An active candidate's committee (before the election date of the candidate) **cannot** give donations to other candidate's committees, political action committees, or charitable organizations.
- An active committee (candidate, PAC or executive committee) **cannot** give a donation to a charitable organization, however can purchase tickets to events if it has a political purpose.
- All expenditures **must** be made at a rate and an amount which is "proper and reasonable" to the services purchased citation.
- Expenditures are reported on the date the check is written *or* the date the transfer of funds takes place.
- Contributions are reported on the date that the check, cash or other thing of value is received by the treasurer or agent of the political committee.

CAMPAIGN FINANCE REPORTING (W. Va. Code § 3-8-5)

Every candidate, pre-candidate and elected official is required to file campaign finance reports until the committee is closed. Candidates running for or elected to executive committee positions are not required to file campaign finance statements.

As provided on pages 23 and 24, **beginning January 1, 2018, all financial statements that are required to be filed with the Secretary of State, by or on behalf of a candidate for any elective office, shall be filed electronically by means of the internet program that has been established by the Secretary of State. (W. Va. Code § 3-8-5b.)**

There are two important time periods for campaign finance reports:

- The **transaction period** is the specific time period committees must track all contributions and expenditures for their campaign finance reports.
- Financial activity tracked during each transaction period must be recorded on the campaign financial statement and submitted during the appropriate **time period in which the report is due**.

2018 Election Year Campaign Finance Reporting Schedule

<u>REPORT</u>	<u>TRANSACTION PERIOD</u>	<u>REPORT DUE</u>
Primary- First/ 2018 Annual	March 25, 2017 – March 30, 2018	March 31, 2018 – April 6, 2018
Pre-Primary	March 31, 2018 – April 22, 2018	April 23, 2018 – April 27, 2018
Post-Primary	April 23, 2018 – May 20, 2018	May 21, 2018 – June 18, 2018
General-First	May 21, 2018 – September 23, 2018	September 24, 2018 – September 28, 2018
Pre-General	September 24, 2018 – October 21, 2018	October 22, 2018 – October 26, 2018
Post-General	October 22, 2018 – November 18, 2018	November 19, 2018 – December 17, 2018
2019 Annual*	November 19, 2018 – March 29, 2019	March 30, 2019 – April 5, 2019
*2019 Annual for candidates in past elections with open campaign accounts and pre-candidates for future elections:		
	<u>TRANSACTION PERIOD</u>	<u>REPORT DUE</u>
	March 31, 2018 – March 29, 2019	March 30, 2019 – April 5, 2019

CONSEQUENCES FOR EARLY AND LATE REPORTS

Any report that is filed prior to the filing period will be returned to the committee and will not be considered as received. The committee must then resubmit the report and it must be received by the deadline or it will be considered late and could incur a fine.

In the case of mailing, the filing date of a financial statement shall be the date of the U.S. Postal Service postmark. In the case of hand delivery or delivery by facsimile or other electronic means of transmission, the date delivered to the office of the Secretary of State or to the office of the clerk of the county commission.

If the postmarked date is *prior* to the opening of the filing period, the report will be returned. If a report arrives in the office *after* the close of the filing period, but is postmarked within the filing period, it will be considered timely filed.

For hand delivery, the filing date is the date of delivery to the proper filing officer during their regular business hours.

If your committee submits a late report, you may be subject to a fine issued by the Secretary of State of **\$25 per day**. Furthermore, if a candidate nominated by primary election or appointed by the executive committee or executive committee chair fails to file their campaign finance report by the eighty-fourth (84th) day before the general election, he or she will be disqualified and will not appear on the general election ballot. (W. Va. Code §3-8-7.)

If a committee files late or grossly inaccurate campaign finance reports, the committee will be contacted by a member of the Elections Division with instructions for proper resolution. (W. Va. Code §3-8-7.)

Remember that failing to file required campaign finance reports may result in criminal charges being filed against the responsible person.

THE CAMPAIGN FINANCE REPORTING SYSTEM

The Campaign Finance Reporting System (CFRS) is designed to allow candidates and committees to file their financial reports in an efficient and accessible online method.

Beginning January 1, 2018, all financial statements that are required to be filed with the Secretary of State, by or on behalf of a candidate for any elective office, shall be filed electronically in the CFRS.

Candidates and committees must request access to use the system by completing the CFRS Online Authorization form and submit it to the Secretary of State's Office. Once the Authorization form is received and processed, the candidate/committee will receive electronic confirmation that access to the CFRS has been granted, along with initial login credentials needed to access the CFRS. The CFRS will prompt users to enter certain information, and required information **must** be input before the CFRS will allow users to continue onto the next screen.

THE CAMPAIGN FINANCE REPORTING SYSTEM (cont.)

The CFRS system allows committees to keep a record of contributions and expenditures in one convenient location which can be reviewed and corrected before submitting the report. This system performs the calculations and informs the user of errors which need to be corrected. Reports cannot be submitted unless the reporting period is open, therefore, the CFRS is an efficient way to track your activities throughout the election cycle.

If a candidate or committee has difficulty accessing or using the CFRS, please contact the Elections Division at the Secretary of State's Office at 1-304-558-6000 or 1-866-SOS-VOTE and ask to speak with a campaign finance specialist.

THE WAIVER

A "waiver" may be filed in place of the Annual, First Primary and/or the First General Report *if* the committee meets certain criteria. Any activity that is not reported by submitting a waiver must be shown in the next reporting period. (W. Va. Code § 3-8-5.)

The Annual or First Primary Report may be waived if the total amount of all financial activity equals less than \$500 since the last report filed.

The First General Report may be waived if the total amount of all financial activity equals less than \$500 since the last report filed and if there are no outstanding loans to report.

POLITICAL COMMUNICATIONS: INDEPENDENT EXPENDITURES, ELECTIONEERING, AND SOLICITING FUNDS

ELECTIONEERING COMMUNICATIONS

"Electioneering communication" means any paid communication made by broadcast, cable or satellite signal, mass mailing, telephone bank, billboard advertisement or published in any newspaper, magazine or other periodical that:

1. Refers to a clearly identified candidate for Governor, Secretary of State, Attorney General, Treasurer, Auditor, Commissioner of Agriculture, Supreme Court of Appeals or the Legislature;
2. Is publicly disseminated within either (1) thirty (30) days before a primary election at which the nomination for office sought by the candidate is to be determined; or (2) sixty (60) days before a general or special election at which the office sought by the candidate is to be filled; **and**
3. Is targeted to the relevant electorate.

Any electioneering communication **must** have a disclaimer clearly stating the name of the person or organization authorizing the communication. If the communication is made for broadcast, cable or satellite transmission, it **must** be both spoken clearly and appear in a written format at the end of the communication.

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POLITICAL COMMUNICATIONS: INDEPENDENT EXPENDITURES, ELECTIONEERING, AND SOLICITING FUNDS (cont.)

SOLICITATION OF FUNDS OR SUPPORT FROM STATE, COUNTY OR MUNICIPAL EMPLOYEES

Soliciting funds from a state employee or an employee of a political subdivision of the state is not allowable. However, if a mass solicitation is done, it should include a disclaimer such as “Please disregard if you are a public employee” to prevent you from violating this provision. (WV Code of State Rules § 146-3-10.7.)

Written communications, asking for money or other support or votes, delivered to the workplace of state, county or municipal employees are illegal. The “please disregard” disclaimer does not legally excuse knowingly delivering communications to a workplace or government email account. (W. Va. Code §3-8-12(c).)

INDEPENDENT EXPENDITURES

Any expenditure that is done by a person or organization without the consultation or coordination of a candidate or a candidate’s committee is considered an independent expenditure. A disclaimer must be present on any communication paid for by an independent expenditure, which clearly states that the communication is not authorized by the candidate or representative of the candidate and clearly identifies the person making the expenditure. If the communication is made for broadcast, cable or satellite transmission, it must be both spoken clearly and appear in a written format at the end of the communication.

REPORTING REQUIREMENTS

In addition to reporting contributions received and expenditures made, all liabilities incurred by a committee must be reported. The following descriptions detail those requirements.

LOANS

A candidate, spouse of a candidate or a lending institution may give a loan to the committee. When a loan is taken, the treasurer must include a copy of the loan agreement for each loan with the next campaign finance report. The loan agreement must state the date, amount, interest amount (if any), a description of collateral and full names and addresses of all persons involved in the loan.

If a loan is to be forgiven, the loan should then be considered as a contribution from the candidate or spouse to the candidate’s committee. To report the forgiving of a loan, report the remaining amount of the loan as a contribution to the committee from the candidate or spouse. In the loans section of the finance report, show such loan as paid; this will show the committee no longer carries the liability.

UNPAID BILLS

All liabilities incurred by a committee must be reported. This includes all bills or promises of payment that have been left unpaid at the end of the reporting period. Listing unpaid bills will prevent the committee from having a negative ending cash balance and show all transactions that

have taken place. The transaction date of an unpaid bill will be the date that the vendor provides a bill for payment.

OTHER INCOME

Receipts of income that are not considered contributions must also be reported. These include refunds on bills paid, interest on investments, checking accounts or saving accounts, sale of equipment, or any income not reported as a contribution or an in-kind contribution.

ADVERTISING AGENCIES

When lump sum payments are made to an advertising firm or campaign management firm that will disburse the money on behalf of a committee, the advertising agency must also file a campaign finance report under the same expenditure guidelines as your own committee. All disbursements of funds must be disclosed and tracked to its final recipient and are subject to West Virginia campaign finance laws.

DETERMINING WHICH FORM TO USE

Beginning January 1, 2018, the filings for all statewide offices responsible for filing with the Secretary of State's Office must file via the Campaign Finance Reporting System (CFRS) provided by the Secretary of State. (See pages 23 and 24.) Each election cycle reporting period covers a certain time span during the election cycle for which candidates and committees must report financial transactions. These reports are to be filed in succession of one another.

The online CFRS will remind users which reports are due, whether reports include insufficient information, and when deadlines are coming up.

PAPER FORMS

If a committee applies for and is granted an exemption by the State Election Commission from mandatory electronic filing in the case of hardship, such committee must fill out and submit either the Long Form or Short Form during each reporting period (unless a waiver applies). These forms require both the candidate or committee name and the Treasurer's contact information. The candidate, agent, or Treasurer must also sign the oath or affirmation at the end of the form.

The Long Form Campaign Financial Statement

Includes all activities that are required by WV Code §3-8-5a. If a candidate's committee answers YES to any of the following questions, he or she **must** file the *Long Form*:

- Has your committee received any loans?
- Has your committee held any fundraisers?
- Has your committee received any miscellaneous receipts, such as refunds or checking account interest?
- Does your committee have any unpaid bills or loans?
- Have you or anyone else given an in-kind contribution to your campaign?
- Has your committee given or received a transfer of excess campaign funds?

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PAPER FORMS (cont.)

Short Form Campaign Financial Statement

Designed to accommodate committees that do not have transactions beyond simple contributions and expenditures. It does not cover any other reporting requirements, such as loans and in-kind contributions, which are required by W. Va. Code § 3-8-5a.

ADDITIONAL REPORT TYPES

Annual Report

Due annually during off-election years. Candidates and committees open during a non-election cycle **must** report during the correct calendar year as indicated on the form.

Amended Report

An amended report may be filed to replace a previously submitted report to correct information. The CFRS will automatically recalculate amount totals in all affected reports when an amendment is filed, and the amended report will have on it the word, “AMENDMENT” or “AMENDED REPORT.”

Final Report

To close your account, you **must** file a final report. If the final report is submitted during a required reporting period, the reporting period must be indicated on the form. The committee’s ending balance must be zero dollars (\$0.00) if filing a final report.

REPORTING CONTRIBUTIONS

REPORTING CONTRIBUTIONS \$250 OR LESS

For each contribution of \$250 or less, the committee must include (1) the full name of the individual, association, or committee donating; (2) the amount of the contribution; and (3) the date the contribution was made.

REPORTING CONTRIBUTIONS OVER \$250

Once contributions from an individual, association or committee reach an accumulated total of more than two-hundred fifty dollars (\$250) during an election cycle, the committee **must** collect and record additional information on the campaign finance report.

Additionally, the following information is required from contributors of more than \$250:

- Full name;
- Amount of contribution;
- Date the contribution was made; and
- Residential and mailing addresses

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REPORTING CONTRIBUTIONS (cont.)

For individual contributors, only the following information is required:

- Occupation (*e.g.* teacher, nurse, attorney, doctor, homemaker, retired, unemployed); and
- Employer (this is the contributor's primary employer; if self-employed it should be noted; if a homemaker or retired, write "not applicable").

For political committees only the following information is required:

- Political affiliation of the committee (or if the donation comes from a business-affiliated PAC, the business that the PAC is sponsored by).

REPORTING A FUND-RAISING EVENT

If a committee hosts a fund-raising event, such as a dinner or reception for the purpose of raising money for the campaign, the Long Form Campaign Financial Statement must be used to report committee finances.

Fund-Raising Event: All contributions received at a fund-raising event must only be reported on the fund-raising events page of the campaign financial statement. Committees must report contributor information under the same requirements for reporting contributions as outlined above.

Total Monetary Contributions: Total of money received (cash or check) in connection with this particular fund-raising event.

Total Expenditures: All committee funds spent in relation to the fund-raising event. These expenditures are to be listed on the itemized expenditures page of the campaign financial statement.

Net Receipts: The total amount of funds accumulated in relation to the fund-raising event minus all committee expenses.

In-Kind Contribution: A donation of goods or services used toward the fund-raising event that can be assigned a monetary value. In-kind contributions must be itemized in the in-kind contributions section of the campaign financial statement.

Fund-Raising Events by Legislative Candidates During Session: A candidate for legislative office, including those currently in office, as well as those seeking office, who hold a fund-raising event during any Session of the Legislature, must report to the Secretary of State on specific forms, the existence of the event and certain financial disclosures within five (5) days of the event. This is in addition to all other applicable reporting requirements.

REPORTING OTHER INCOME AND IN-KIND CONTRIBUTIONS

If the committee receives "other income" or an in-kind contribution, the Long Form Campaign Financial Statement must be used to report the committee finances.

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REPORTING OTHER INCOME AND IN-KIND CONTRIBUTIONS (cont.)

Other Income: Income that does not fit the definition of a contribution, such as interest on a bank account, refunds, or the sale of equipment. Information required for the other income category includes the date of the receipt, source of the income, the type of receipt (brief description), and the amount of the transaction.

In-Kind Contributions: a donation of goods or services used toward the campaign. The amount of an in-kind contribution should be reported at the fair market value of the goods received or services rendered. The committee should include the full name of the contributor, date of the transaction, description of the contribution, and the value. If the value of the contribution is over \$250, additional contributor information is required: address; occupation and employer if it is an individual; and affiliation if it is a PAC.

REPORTING LOANS

If a loan is taken for a candidate's committee, the information required on the loans page of the Long Form Campaign Financial Statement must be completed, and a copy of the loan agreement must be included with the same financial statement.

The following information must be reported on outstanding loans:

- The name and address of the bank, candidate, or candidate's spouse making the loan
- The balance of the loan carried from the previous report
- The amount of all new loans received during this period
- Repayments made during the reporting period
- The outstanding balance at the end of the reporting period for each loan listed

AFTER THE ELECTION (WV Code of State Rules § 146-3-7)

Amounts of funds received by a candidate as contributions that are in excess of the amount of expenditures for the election are considered "Excess Campaign Funds". No person may receive or utilize excess campaign funds for personal economic gain.

ALLOWABLE USES OF EXCESS CAMPAIGN FUNDS

The **only** allowable expenditures of excess campaign funds are outlined below (if it's not on the list, then it's not allowed):

- Transfer of funds from a candidate's committee to the same candidate's committee for a subsequent election year.
 - The candidate must form a new committee by filing a Pre-Candidacy Statement for the subsequent election year prior to making the transfer of funds. There is no limitation of the amount of funds that may be transferred.
- Contribution to another candidate's committee, political action committee, or a local executive committee.
 - The limit on these contributions is \$1,000 per cycle.

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AFTER THE ELECTION (cont.)

- Contribution to any state political party executive committee or a legislative caucus committee.
 - The limit on this contribution is \$15,000 in a calendar year.
- Return of contributions on a pro-rata basis to each donor.
- Transfer to any national committee of any political party.
 - The limit on these contributions is in accordance with federal requirements.
- Offsetting any usual and customary expense incurred in connection with the duties as a holder of public office.
- Any items purchased will become the property of the State, or the district, county, or municipality of the office that is held.
- Making a charitable contribution.
 - There is no monetary limitation for charitable contributions.

HOW TO CLOSE A COMMITTEE

When a committee no longer has outstanding debts or liabilities and has a zero balance in their campaign account, the committee may close. To close a committee, one must file a **Final Report** itemizing all transactions made since the last report was filed. The report must reflect the zero (\$0.00) balance. Filing a proper Final Report ends all reporting requirements for that particular committee.

2018 PRIMARY ELECTION DATES

- | | |
|-------------------------|---|
| Jan. 8 - 27 | Candidate filing period. Certificates of Announcement & filing fees must be received in appropriate office or postmarked by U. S. Postal Service before midnight, January 27 |
| Jan. 18 - Feb. 6 | Candidates file personal financial disclosure with Ethics Commission within 10 days after filing certificate of announcement |
| Feb. 13 | Deadline for candidates to withdraw. Filing officer must receive written notice signed by candidate and notarized by close of business or name may not be removed from ballot |
| Feb. 13 | Secretary of State certifies and posts list of candidates filed with the Secretary of State's Office and begins to prepare a certification for each county |
| Feb. 20 | Uniform drawing date for ballot position begins at 9 a.m. in all counties for all offices |
| Feb. 27 | Secretary of State's certification of candidates must be received at county clerk's Office by this date |

Mar. 20	Write-in candidate filing deadline for the election of Board of Education, Soil Conservation District Supervisor and Executive Committees
Mar. 31 - Apr. 6	First Primary campaign finance report due
Apr. 10	Last day for candidate or political committee to file statement of organization and designation of treasurer or financial agent for Primary Election.
Apr. 17	Voter Registration deadline for Primary Election
Apr. 23 – Apr. 27	Pre-Primary campaign finance report due
Apr. 25 - May 5	Early Voting in person
May 8	PRIMARY ELECTION DAY (§3-5-1)
May 14	Primary election canvass begins. If no candidate requests recount, canvass board certifies election results 48 hours after the last county publicly declares results <ul style="list-style-type: none">• Election contest must be filed within 10 days after certification of election
May 21 - June 18	Post-Primary campaign finance report due

2018 GENERAL ELECTION DATES

July 1	Board of Education and Conservation District Supervisors terms begin
July 7	Secretary of State and Clerk of County Commission give notice to Prosecuting Attorney for the candidates, agents or treasurers who failed to file required financial reports
Aug. 1	Deadline to file Nomination Certificates/Petitions, Certificates of Announcement and Pay Fee for no political party organizations
Aug. 22 - 27	Secretary of State certifies names of candidates for the ballot
Aug. 28	Drawing for order of candidate names on the ballot
Sept. 18	Write-in candidate filing deadline for General Election
Sept. 24 - 28	First General campaign finance report due

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Oct. 9	Last day for candidate or political committee to file statement of organization and designation of treasurer or financial agent
Oct. 16	Voter registration deadline for General Election
Oct. 22 - 26	Pre-General campaign finance report due
Oct. 24 – Nov. 3	Early Voting in person
Nov. 6	GENERAL ELECTION DAY (WV Const. §4-7)
Nov. 12	General election canvass begins <ul style="list-style-type: none">• If no candidate requests recount, canvass board certifies election results 48 hours after the last county publicly declares results• Election contest must be filed within 10 days after certification of election
Nov. 19 – Dec. 17	Post-General campaign finance report due

2019 IMPORTANT DATES

Jan. 7	Secretary of State and Clerk of County Commission give notice to Prosecuting Attorney for the candidates, agents or treasurers who failed to file required financial reports
Mar. 30 – April 5	2019 Annual campaign finance report due

ADDITIONAL RESOURCES

<p>Federal Election Commission 999 E Street, NW Washington, DC 20463 (800) 424-9530 www.fec.gov or info@fec.gov</p>	<p>Information on federal campaign laws, financial reporting requirements, and forms for federal candidates.</p>
<p>U.S. Election Assistance Commission 1335 East West Highway, Suite 4300 Silver Spring MD 20910 (866) 747-1471 www.eac.gov</p>	<p>Serves as a national clearinghouse for information and reviews procedures for federal elections.</p>
<p>Election Division WV Secretary of State, Building 1, Suite 157-K 1900 Kanawha Blvd., East Charleston, WV 25305 (304) 558-6000 www.wvsos.com or elections@wvsos.com</p>	<p>Information on state election laws and regulations, candidate filing, campaign finance reporting requirements, forms, official election returns for statewide offices, legislative offices and voter registration information.</p>
<p>State Election Commission c/o WV Secretary of State Building 1, Suite 157-K 1900 Kanawha Blvd., East Charleston, WV 25305 www.wvsos.com or elections@wvsos.com</p>	<p>Voter information and voting system approval, filling vacancy on general election ballot when candidate with draws for extenuating circumstances, campaign finance issues.</p>
<p>WV Ethics Commission 210 Books Street, Suite 300 Charleston, WV 25301 (304) 558-0664 www.ethics.wv.gov</p>	<p>Forms and information on filing personal financial disclosures, questions regarding conflicts of interest between outside employment and public office.</p>
<p>State Democratic Executive Committee 717 Lee Street, Suite 214 Charleston, WV 25301 (304) 342-8121 www.wvdemocrats.com</p>	<p>Information on Democratic Party political activities, functions of executive committees, delegates and party rules.</p>
<p>State Republican Executive Committee PO Box 2711 Charleston, WV 25330 (304) 768-0493 www.wvgop.org</p>	<p>Information on Republican Party political activities, functions of executive committees, delegates and party rules.</p>
<p>State Mountain Party Executive Committee RR 1, Box 108 Ripley, WV 25271 (304) 989-1629 www.mtparty.org</p>	<p>Information on Mountain Party political activities, functions of executive committees and party rules.</p>
<p>State Libertarian Party Executive Committee PO Box 135 Jane Lew, WV 26378 (855) 687-5798 www.lpww.org</p>	<p>Information on Libertarian Party political activities, functions of executive committees and party rules.</p>