

# Information on Electioneering Communications

## What is an Electioneering Communication?

An "Electioneering Communication" is defined by West Virginia Code §3-8-1a as:

" 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:

- (i) Refers to a clearly identified candidate for a statewide office or the Legislature;
- (ii) Is publicly disseminated within:
  - (a) Thirty days before a primary election at which the nomination for office sought by the candidate is to be determined; or
  - (b) Sixty days before a general or special election at which the office sought by the candidate is to be filled; and
- (iii) Is targeted to the relevant electorate."

## Excluded from this definition are:

- (i) A news story, commentary or editorial disseminated through the facilities of any broadcast, cable or satellite television or radio station, newspaper, magazine or other periodical publication not owned or controlled by a political party, political committee or candidate: *Provided*, That a news story disseminated through a medium owned or controlled by a political party, political committee, or candidate is nevertheless exempt if the news is:
  - (a) A bona fide news account communicated in a publication of general circulation or on a licensed broadcasting facility; and
  - (b) Is part of a general pattern of campaign-related news that gives reasonably equal coverage to all opposing candidates in the circulation, viewing or listening area;
- (ii) Activity by a candidate committee, party executive committee or caucus committee, or a political action committee that is required to be reported to the State Election Commission or the Secretary of State as an expenditure pursuant to section five of this article or the rules of the State Election Commission or the Secretary of State promulgated pursuant to such provision: *Provided*, That independent expenditures by a party executive committee or caucus committee or a political action committee required to be reported pursuant to subsection (b), section two of this article are not exempt from the reporting requirements of this section;
- (iii) A candidate debate or forum conducted pursuant to rules adopted by the State Election Commission or the Secretary of State or a communication promoting that debate or forum made by or on behalf of its sponsor;
- (iv) A communication paid for by any organization operating under Section 501(c)(3) of the Internal Revenue Code of 1986;
- (v) A communication made while the Legislature is in session which, incidental to promoting or opposing a specific piece of legislation pending before the Legislature, urges the audience to communicate with a member or members of the Legislature concerning that piece of legislation;
- (vi) A statement or depiction by a membership organization, in existence prior to the date on which the individual named or depicted became a candidate, made in a newsletter or other communication distributed only to bona fide members of that organization;
- (vii) A communication made solely for the purpose of attracting public attention to a product or service offered for sale by a candidate or by a business owned or operated by a candidate which does not mention an election, the office sought by the candidate or his or her status as a candidate; or
- (viii) A communication, such as a voter's guide, which refers to all of the candidates for one or more offices, which contains no appearance of endorsement for or opposition to the nomination or election of any candidate and which is intended as nonpartisan public education focused on issues and voting history.

# Reporting Requirements for Electioneering Communications

## **When must reports be filed?** (WV Code 3-8-2b)

Once a person or group spends more than \$5,000 in "purchasing, producing, or disseminating electioneering communications" in a calendar year, a report must be filed with the Secretary of State's Office. This report must be filed within 24 hours of incurring the expense that eclipses the expenditure threshold of \$5,000. A separate report must then be filed each time the person or group spends over \$5,000 since the last report filed within that calendar year of filing. If a person spends a total of \$1,000 on or after the fifteenth day but more than 12 hours before the day of any election, a report must be filed within 24 hours of the disclosure date.

**Note:** From this point, the term "person" will be defined as "an individual, partnership, committee, association, and any other organization or group of individuals." as referenced in WV Code §3-8-1a.

## **What information must be reported?** (WV Code 3-8-2b)

### **Contributors**

For all contributors who have given more than \$1,000 from the first day of the preceding calendar, the following information must be reported:

- Names and addresses of the contributors.
- The value of the contribution and description of the contribution if it is not money must be reported.
- The date that a contributor had given over \$250 in contributions to the person filing the electioneering communication report must also be included for all contributors that have given over \$1,000.

### **Expenditures**

Expenditures of more than \$1,000 must be reported and the information must include:

- The name of the person making the expenditure, the name of the person directing control over the person making the expenditure, and the name of custodian of the books and accounts.
- If the person making the expenditure is not an individual, the principal place of business of the person making the expenditure.
- The name of the candidate and the elective office referenced by the electioneering communication.
- The amount of the expenditure.

## **Where are these reports filed?** (WV Code §3-8-2b and §3-8-1a)

Electioneering Communication reports must be received in the Secretary of State's Office no later than the close of business on the next regular business day of the office after the "disclosure date." The "disclosure date" is defined in WV Code §3-8-1a as either of the following:

"(A) The first date during any calendar year on which any electioneering communication is disseminated after the person paying for the communication has spent a total of five thousand dollars or more for the direct costs of purchasing, producing or disseminating electioneering communications; or

(B) Any other date during that calendar year after any previous disclosure date on which the person has made additional expenditures totaling five thousand dollars or more for the direct costs of purchasing, producing or disseminating electioneering communications."

These reports may be filed in the Secretary of Sate's Office in person or filed electronically by the means of fax or email. The date of receipt of the form is the business day in which it is received. If a form is received after the close of business, it will be considered as received on the next business day.

### Forms may be **hand delivered** to:

Office of the Secretary of State  
State Capitol  
Building 1, Suite 157-K  
1900 Kanawha Blvd., East  
Charleston, WV 25305

**\*All electioneering communication forms must be RECEIVED by the close of business to be considered as received on that date.**

or **faxed** to 1-304-558-8386  
or **emailed** to [elections@wvsos.com](mailto:elections@wvsos.com)

For more information on electioneering communications visit [www.wvsos.com](http://www.wvsos.com).

**State of West Virginia**  
**Electioneering Communications and Last Minute**  
**Independent Expenditure Form**

(Must be filed when \$5,000 or more is spent on "electioneering communications" as detailed in WV Code §3-8-2b.  
A "Last Minute" report will be due when \$1,000 is spent on "electioneering communications" within 15 days of an election. )

Name of person making expenditure \_\_\_\_\_

Name of the individual in control of the expenditure(s) \_\_\_\_\_

Email address \_\_\_\_\_ Telephone \_\_\_\_\_

Name of the custodian of the books \_\_\_\_\_

Principal place of business and address (Only if the person making the expenditure is not an individual)

**Electioneering communication expenditures of more than \$1,000** (as required by WV Code §3-8-2b)

<p><b>Refers to:</b> (candidate name) _____</p> <p>Paid to _____</p> <p>Amount of expenditure _____ Date the expenditure was made _____</p> <p>Election year _____ Made within (check one):</p> <p><input type="checkbox"/> 30 days prior to the <b>Primary Election</b>                      <input type="checkbox"/> 60 days prior to the <b>General Election</b></p>
<p><b>Refers to:</b> (candidate name) _____</p> <p>Paid to _____</p> <p>Amount of expenditure _____ Date the expenditure was made _____</p> <p>Election year _____ Made within (check one):</p> <p><input type="checkbox"/> 30 days prior to the <b>Primary Election</b>                      <input type="checkbox"/> 60 days prior to the <b>General Election</b></p>
<p><b>Refers to:</b> (candidate name) _____</p> <p>Paid to _____</p> <p>Amount of expenditure _____ Date the expenditure was made _____</p> <p>Election year _____ Made within (check one):</p> <p><input type="checkbox"/> 30 days prior to the <b>Primary Election</b>                      <input type="checkbox"/> 60 days prior to the <b>General Election</b></p>
<p><b>Refers to:</b> (candidate name) _____</p> <p>Paid to _____</p> <p>Amount of expenditure _____ Date the expenditure was made _____</p> <p>Election year _____ Made within (check one):</p> <p><input type="checkbox"/> 30 days prior to the <b>Primary Election</b>                      <input type="checkbox"/> 60 days prior to the <b>General Election</b></p>

**Contributors totaling more than \$1,000 from the previous calendar year to date**

(as required by West Virginia Code §3-8-2b)

Name of contributor _____	Date the contributor exceeded \$250 _____
Occupation of contributor (if applicable): _____	
Value of the contribution _____	Description of contribution _____
Address: _____	
City: _____	State and Zip Code: _____

  

Name of contributor _____	Date the contributor exceeded \$250 _____
Occupation of contributor (if applicable): _____	
Value of the contribution _____	Description of contribution _____
Address: _____	
City: _____	State and Zip Code: _____

  

Name of contributor _____	Date the contributor exceeded \$250 _____
Occupation of contributor (if applicable): _____	
Value of the contribution _____	Description of contribution _____
Address: _____	
City: _____	State and Zip Code: _____

  

Name of contributor _____	Date the contributor exceeded \$250 _____
Occupation of contributor (if applicable): _____	
Value of the contribution _____	Description of contribution _____
Address: _____	
City: _____	State and Zip Code: _____

**OATH OR AFFIRMATION**

I, \_\_\_\_\_, swear or affirm that the attached statement is true and correct, to the best of my knowledge, for all financial transactions occurring within the period covered by this statement.

<b>Office Use Only</b>
------------------------

Signature \_\_\_\_\_

Date \_\_\_\_\_, 20\_\_\_\_

**This form must be received in the Secretary of State's Office prior to the close of business to be accepted on that date.**