

New York State Public Campaign Finance Handbook

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How Do I Use This Handbook?

This Handbook provides an overview of the New York State Public Campaign Finance Program (“the Program”). It explains what the Program is and how campaigns can participate in it. It is a resource for candidates, treasurers, and other campaign staff.

While this Handbook outlines the requirements of this Program, it is not a substitute for knowing the law and rules. This information can be found on the Public Campaign Finance Board (PCFB) website at <https://pcfb.ny.gov>. Candidates and campaign staff can also reach out to PCFB staff if they have a question regarding the Program.

Candidates participating in the Program must abide by New York State campaign finance law. Candidates and treasurers should review and

familiarize themselves with Article 14 of the Election Law, Rules and Regulations and the New York State Board of Elections Campaign Finance Handbook.

Candidates and treasurers must use NYSBOE’s Electronic Filing System (EFS) Web Application to participate in the Program. This Handbook highlights the portions of EFS that are new and unique to this Program. Campaign staff should familiarize themselves with EFS by reading the Electronic Filing System Web Application User Guide, which can be found at <https://elections.ny.gov>.

Throughout this Handbook, breakout boxes and graphics will provide you with important information and tips to navigating the Public Campaign Finance Program.



Compliance Alert

Continue to check the PCFB website at <https://pcfb.ny.gov> for any changes that occur beyond the publication date of December 1, 2023.

Chapter 1

What Is New York State Public Campaign Finance?

Chapter 58 of the Laws of 2020 (Part ZZZ) created a new Title II in Article 14 of the New York State Election Law, laying out the framework for a statewide public campaign finance system and establishing a **Public Campaign Finance Board (PCFB)** of seven appointed commissioners to oversee the Program.

The **Public Campaign Finance Program**, referred to throughout this Handbook as “the Program,” provides matching funds on small contributions from eligible New York State residents made to candidates who opt to participate in the Program. These matching funds will allow candidates the opportunity to raise competitive monetary amounts based on eligible contributions from constituents. For all legislative races, only in-district contributions between \$5 and \$250 will be eligible to be matched. For statewide races, certain contributions between \$5 and \$250 will be eligible to be matched.

Which Candidates Can Participate in the Program?

Any candidate for statewide office (*i.e.*, Governor, Lieutenant Governor, Comptroller, and Attorney General) or state legislative office (*i.e.*, State Senate and State Assembly) can participate in the Program, provided they meet the eligibility requirements. These offices are referred to as **covered offices** under Program rules.

The Program does not cover local offices. Those interested in running for a local office should check with their local government to see if it administers a local public campaign finance program (for example, if you are running for a position in New York City government, the New York City Campaign Finance Board has a public matching program for the offices of city council, borough president, comptroller, public advocate, and mayor).

When Is the Program Launch?

The New York State Public Campaign Finance Program began accepting committee registrations and applications/certifications on **November 9, 2022**. The first elections for which the Program will apply, and public matching funds will be provided, are the 2024 state legislative primary and general elections.

Program Steps

Participation in the New York State Public Campaign Finance Program is voluntary. To receive public matching funds, candidates must:

- Be eligible for the Program;
- Apply and become certified by the New York State Public Campaign Finance Board (PCFB) as a participant; and,
- Comply with all Program requirements.

Below is a general outline of the basic steps a candidate must take to become a participant in the Program and qualify for public matching funds.

Run for an Eligible Office

The Public Campaign Finance Program is only available to candidates running for one of the following offices in New York State:

- Governor
- Lieutenant Governor
- Attorney General
- Comptroller
- State Senate
- State Assembly

Register a New Authorized Committee

Candidates and treasurers must register a new authorized committee (Type 1P) by submitting a *PCF-21 Committee Registration Form* to the New York State Board of Elections (NYSBOE).

Candidates can only register and use one authorized committee per elective office sought.

Candidates must terminate all authorized committees and committee bank accounts that were previously established for the purpose of seeking or holding the same office for which they will be running in this covered election. Legacy funds may be transferred from the previous authorized committee into the new authorized committee.

Contributions raised prior to registering this new committee will not count toward a candidate's eligibility thresholds for the Program, nor will any such contribution be matched.

Apply to the Public Campaign Finance Program

The candidate and treasurer must complete a *PCF-22 Application/Certification Form* for the Public Campaign Finance Program. Applications/Certifications should be submitted as early as possible and can be submitted with the Committee Registration Form (PCF-21).

The PCFB must receive your PCF-22 form no later than four months before the date of the primary election; however, candidates should file the form as soon as possible.

Complete Compliance Trainings

Candidates and treasurers must complete a mandatory program of compliance trainings. Available trainings will be posted on our website.

Raise Threshold Contributions

Candidates must raise a threshold amount of money and receive a minimum number of matchable contributions to qualify for receipt of public matching funds.

Appear on the Ballot in a Competitive Election

Candidates must meet all general requirements to have their name appear on the ballot. They must participate in a competitive election opposed by another candidate.

Candidates running as write-ins will not be eligible to receive public matching funds.

If a candidate is unopposed in the primary election, they may receive a limited amount of public funds for expenses incurred on or before the date of the primary election if there is a competitive primary in the other major party.

Adhere to All Program Requirements

Candidates and treasurers must adhere to all program requirements set forth by PCFB. These include:

- Submitting all required financial disclosure reports on time;
- Maintaining complete internal records of all financial activity;
- Adhering to program restrictions regarding the use of the candidate's personal funds; and,
- Complying with all repayment requirements and audit procedures.



Compliance Alert: Don't Forget – We Are Here to Help!

PCFB staff is available to assist you with any questions you may have. The PCFB Call Center can be reached at (518) 473-2784, or you may email PCFB@elections.ny.gov for assistance.

Chapter 2

Becoming a Participating Candidate

To participate in the Public Campaign Finance Program, you must:

1. Register an authorized committee with the New York State Board of Elections (NYSBOE).
2. File an Application/Certification form with the New York State Public Campaign Finance Board (PCFB).

Before Registering an Authorized Committee

Before filling out any paperwork, candidates must:

Decide on the Public Office You Will Seek

The Public Campaign Finance Program is only available to candidates running for one of the following covered offices in New York State:

- Governor
- Lieutenant Governor
- Attorney General
- Comptroller
- State Senate
- State Assembly

Select a Treasurer for Your Campaign

Your authorized committee must have a treasurer. It is strongly recommended to use a treasurer with prior campaign finance experience or an accounting background. Choose your treasurer carefully; along with the candidate, the treasurer is the key person responsible for compliance with the Program. Both the candidate and treasurer are responsible for the following:

- Ensuring Program requirements are met;
- Accurately reporting transactions;
- Properly maintaining your campaign's documentation;
- Submitting disclosure statements to the Program; and,
- Responding to inquiries from the PCFB staff in a timely manner before, during, and after the election.

The treasurer you choose to oversee your campaign must be able to perform these functions.

Create and Register Your Authorized Committee

To participate in the Public Campaign Finance Program, you must create a new authorized committee to fulfill all the campaign finance disclosure and reporting requirements under the Election Law.

You cannot use a committee from a previous election cycle to participate in the Program. However, candidates may transfer any remaining funds from previous election cycles into the new committee.

The PCFB requires candidates to register a new committee for each election cycle. The Election Law requires that there be only one authorized committee per elective office sought. This means all prior authorized committees for the same covered office must be closed (or on administrative hold pending closure). A candidate may not use their pre-existing committee to participate in the Program; they must close their prior committee and register a new committee.

Example 1. Assemblymember Gary is an incumbent who plans to participate in the New York State Public Campaign Finance Program in a bid for reelection for their Assembly seat in 2024.

Prior to raising or spending any funds on the campaign, Assemblymember Gary must close their previous authorized committee, Gary for Assembly 2022, and open a new authorized committee for the 2024 election cycle, Gary for Assembly 2024.

Before raising or spending any money for your campaign, you must register a new authorized committee with the State Board of Elections. Any funds raised with an existing or non-Program committee cannot be matched and will not count towards eligibility thresholds.

When registering your committee, you must take the following steps:

Step 1: Get an Employer Identification Number (EIN)

Get an Employer Identification Number (EIN) from the Internal Revenue Service (IRS). You will need this to create a vendor account with the NYS Statewide Financial System (SFS) to receive matching public funds. Many banks also require an EIN in order to open an account. You can apply for an EIN online at <https://www.irs.gov> or call the Business and Specialty Tax Line at (800) 829-4933.

Step 2: Register a New Authorized Committee with the NYSBOE

You must register a new authorized committee (Type 1P) with the New York State Board of Elections (NYSBOE). You may not use an existing committee for a past election cycle. Use the *PCF-21 Committee Registration Form* to register your committee. This indicates you are interested in participating in the Public Campaign Finance Program.

Please Note: Committee registration alone is not sufficient to become a program participant.

Once you submit your registration form to NYSBOE, you will receive a Filer ID by mail. This information is specific to your committee.



Compliance Alert: Do Not Fundraise or Spend Before Registering Your Committee

You should not start raising or spending any money until a new committee is registered with the NYSBOE. Any money raised with a non-Program committee will not be eligible for match and will not count towards eligibility thresholds. Any funds raised prior to registering your committee will not be eligible for public matching funds.

Step 3: Open a Checking Account

You must open a new checking account in the name of your committee. You cannot use a checking account from a past election cycle.

Tips for Opening a Checking Account

Bring copies of the form(s) you filed with the NYSBOE to the bank.

Make sure the bank will give you the front and back of canceled checks. Either a physical canceled check or a scanned image of the front and back of the canceled check is acceptable. You will need this documentation later to comply with program requirements.

Get a debit card for the account. This is the most convenient way to pay for and track your committee's expenses.

Make sure your checks have your committee's full name pre-printed on them.

Ask about online banking, which provides instant access to your account's financial activity. It also lets you print scanned copies of the front and back of canceled checks and view/print bank statements as needed.

Keep your username and password to your online banking account and your PIN number for your debit card in a safe and secure location. Limit the number of individuals with access to this information; the candidate and/or treasurer are liable for actions taken by anyone who has access to this information.

Ask if the bank provides itemized deposit slips. An itemized deposit slip can be a printed receipt from the bank teller or ATM separating cash deposits from check and money order deposits. It can also be a copy of the handwritten deposit slip with the total cash amount written separately from check and money order deposits. If the printed receipt is not itemized, attach the copy of the handwritten deposit slip to the printed bank receipt.

If you become eligible for public matching funds, you will receive those funds by means of an electronic payment. Make sure your bank offers direct deposit of funds or Electronic Funds Transfer (EFT).

Step 4: Terminate Any Existing Committees

The PCFB requires candidates to register a new committee for each election cycle. The Election Law requires that there be only one authorized committee per elective office sought. All prior authorized committees for the same office must be closed or placed on administrative hold pending closure. For example, a candidate may not use their pre-existing committee to participate in the Program; they must close their prior committee and register a new committee.

To terminate an existing committee, a filer must submit a *CF-18 Termination or Resignation Request Form*. You must use a paper form that contains an original signature. Forms submitted by fax or as an electronic file attached to an email will be rejected.

Filers must also submit a campaign financial disclosure termination report. The final disclosure report is to be submitted via the EFS Web Application or a No-Activity Report can also be submitted on a paper CF-18 form.

PCFB staff is available to assist you in the termination process.



Compliance Alert: Find a Bank That Keeps Electronic Records for Five Years

Failing to maintain or provide expenditure records is a common compliance pitfall. Ensure your bank maintains electronic records of your transactions for at least 5 years from the date of the final disclosure statement.



Compliance Alert: Contribution Cards

Certain documents, like contribution cards or contracts, will not be stored by your bank electronically. Your treasurer should have dedicated space to maintain these important documents.

Apply to the Public Campaign Finance Program

In addition to registering an authorized committee with the NYSBOE, a participating candidate and treasurer must apply to PCFB using the *PCF-22 Application/Certification Form*.

Candidates and committees should file their Application/Certification as soon as practicable to ensure eligibility and timely payments. The deadline for the submission is four months before the primary election for the office sought (even for independent candidates). Filing an Application/Certification after this deadline will make you ineligible for the Program.

Once you file an Application/Certification for the Program and are accepted into it, you are required to continue in the Program until the end of the election cycle.

After You Apply

Receive an Email from the Public Campaign Finance Board (PCFB)

After reviewing the Application/Certification form, the PCFB will email you to indicate whether it was accepted or if there are any issues to correct.

Once your Application/Certification form is accepted, the PCFB will email you the information you will need to comply with the Program, such as a filing calendar.

Register as a Vendor with the Statewide Financial System (SFS)

Public fund payments will be made electronically to your bank account using the Statewide Financial System (SFS). To receive these payments, a committee must open a vendor account directly with SFS.

If you did not already create an Employer Identification Number (EIN) with the Internal Revenue Service (IRS) when you registered your authorized committee, you must do so now. You can apply for an EIN online at <https://www.irs.gov/> or call the Business and Specialty Tax Line at (800) 829-4933.

The PCFB is creating a tutorial that provides the steps needed to open a vendor account with SFS. This will be posted to the website.



Compliance Alert: Report Banking Changes within Two Business Days

Any banking information changes must be reported to the PCFB within two business days. You must also update your SFS vendor file to ensure that public fund payments can be made to your account.

Attend Trainings

Both candidates and treasurers must attend PCFB trainings to familiarize themselves with the requirements of the Program. Trainings are not limited to candidates or treasurers; you can send additional campaign staff to trainings, especially if they are helping you with recordkeeping and reporting, and we recommend that you do.

The trainings will cover the PCFB's rules and requirements and will also cover the process of making claims, entering transactions, and submitting disclosure statements.

A schedule of training sessions, online and/or in person, will be posted on the PCFB website.

Checklist

Here is a checklist to ensure all the steps in registering and applying to be a participant of the Public Campaign Finance Program are followed:

Before Registering an Authorized Committee

- Decide on the covered office you will seek
- Select a treasurer for your campaign

Create and Register Your Authorized Committee

- Get an EIN number from the IRS
- Register a new authorized committee with the NYSBOE using the *PCF-21 (Type 1P) Committee Registration Form*
- Open a checking account in the name of your committee
- Terminate any existing committees for that office (if applicable) using the *CF-18 Termination or Resignation Request Form*

Apply to the Program

- Complete the *PCF-22 Application/Certification Form*
- Return the form to the PCFB as soon as practicable and no later than four months before the primary
- Register as a vendor with the NYS Statewide Financial System (SFS)

Attend Trainings

- Register for and attend mandatory treasurer training
- Register for and attend mandatory candidate training

Chapter 3

Eligibility to Receive Public Matching Funds

Candidates must meet certain eligibility requirements to receive public matching funds. The PCFB will provide treasurers with an eligibility update after treasurers submit each financial disclosure report. Candidates and treasurers should meet regularly to ensure eligibility requirements are to be met.

Requirements to Receive Public Matching Funds

To be eligible to receive public matching funds, a candidate must:

- Run for a covered office (Governor, Lieutenant Governor, Attorney General, Comptroller, State Senate, or State Assembly).
- Meet all legal requirements to have their name on the ballot.
- If running in a covered general or special election, be opposed by another candidate on the ballot who is not a write-in candidate.
- Certify that you and your treasurer will abide by the terms and rules of the Program.
- Not spend or contribute your own money or funds jointly held with your spouse or unemancipated children more than a combined three times the contribution limit for that office to your authorized committee.
- Meet the matchable contribution threshold for your office, described in the next section.
- Continue to abide by all requirements during the post-election period.

Matchable Contributions Thresholds

Participating candidates must also raise a certain amount and number of matchable contributions to receive public matching funds.

Matchable contributions are contributions between \$5 and \$250 made in the aggregate during an election cycle by natural persons who are residents of New York State and, for those running for state legislative office, residents of the district in which you are running. Contributions from minors, lobbyists, and campaign vendors cannot be claimed for a public match.

For the purposes of meeting these thresholds, a matchable contribution includes the first \$250 of a greater-than-\$250 contribution that would otherwise be matchable if not for being greater than \$250. These contributions over \$250 are

counted as “matchable contributions” only for the purpose of meeting the eligibility threshold of minimum monetary amount raised and cannot be matched with public funds.

A **threshold** is the cumulative minimum dollar value of matchable contributions that candidates must raise before they become eligible to receive public matching funds.

Eligibility Thresholds

Office	Min. \$ of Matchable Contributions	Min. # of Matchable Contributions
Governor	\$500,000	5,000
Lieutenant Governor	\$100,000	1,000
Attorney General	\$100,000	1,000
Comptroller	\$100,000	1,000
State Senator	\$12,000	150
Assembly Member	\$6,000	75

District’s Average Median Income

For State Senate and Assembly districts where the Average Median Income is below the state AMI, the minimum dollar threshold for eligibility will be reduced by one-third.

Compliance Alert

For the 2024 Election Cycle: The PCFB is required to make public which Senate and Assembly districts are subject to this reduction two years before the first primary election for which funding is sought. The NYS Assembly district lines are not yet drawn for the 2024 election cycle. Furthermore, the United States Census Bureau information necessary to determine the AMI is not yet available. Once the Assembly lines are drawn and the census data becomes available, the PCFB will publish Senate and Assembly districts that are subject to the AMI reduction.



Compliance Alert

The Election Law provides that for legislative races, only in-district contributions are matchable. Pursuant to court order, the Assembly districts are to be redrawn for the 2024 election cycle, a process that is scheduled to be completed by the end of April 2023. Accordingly, any matchable contributions claimed for Assembly races prior to the finalization of the maps are subject to the finalization of the new Assembly district maps. If a contribution is within an Assembly district prior to the new maps, but outside the district after the new maps are finalized, such contributions will not be matchable.

Reduced Thresholds for Districts with an AMI Below the State Average

Office	Min. \$ of Matchable Contributions	Min. # of Matchable Contributions
State Senator	\$8,000	150
Assembly Member	\$4,000	75

The PCFB will publish a list of Senate and Assembly districts for which reductions in minimum dollar threshold for eligibility are applicable no later than two years before the primary election for which funding is sought.¹

These thresholds apply to one election cycle. If you meet these thresholds for the primary, you will automatically qualify for public matching funds for the general election should you have an opponent on the ballot. You will need to meet these thresholds again to qualify in subsequent election cycles.

Participating candidates who win their primary must participate in the Program for the general election.

Small Party Primary: If you are on the primary ballot for a party line, and there are fewer than 1,000 party members eligible to vote in that primary election, the

¹ Currently, a list of districts with AMI below the state median is not available due to a delay in the release of 2020 Census data and the ongoing NYS redistricting process. This list will be posted as soon as that information becomes available.

maximum amount of public funds you may receive is \$5,000. This limitation would most likely impact the Conservative and Working Families parties.

Disqualification from Receiving Public Matching Funds

Certain circumstances and conduct may disqualify you from receiving some or all public matching funds. You may also be required to pay back any funds you have already received.

You may be disqualified if you:

- Fail to submit a campaign finance disclosure statement.
- Fail to submit records to the PCFB in a timely manner upon request (e.g., bank records, contribution cards, etc.).
- Fail to accurately document contributions and expenditures.
- Fail to provide complete and accurate documentation of matching funds claims.
- Fail to report contributor's employer information of contributions greater than \$99.
- Fail to complete mandatory compliance training.
- Owe funds to the PCFB for any reason in this or other election cycles. These include the payment of civil penalties and the repayment of public funds previously received.
- Commit fraud or material misrepresentation while participating in the Public Campaign Finance Program.
- Fundamentally breach your certification of participation in the Program.



Compliance Alert: Fundamental Breach of Certification of Participation

Examples of conduct from a candidate or treasurer that may constitute a "fundamental breach" of the certification of participation:

- Submitting any documentation or information that the candidate knew or reasonably should have known was false in whole or in part.
- Misrepresenting a material fact in any submission of documentation or information.
- Falsifying or concealing any documentation or information.
- Using public funds to make or reimburse campaign expenditures that the candidate knew or reasonably should have known were fraudulent.
- Coordinating alleged independent expenditures.
- Using a political committee or other entity over which the candidate exercises authority to conceal expenditures from the PCFB.

Statewide Office Debate Requirement

Governor/Lieutenant Governor/Attorney General/State Comptroller

Participating candidates for statewide office are required to take part in at least one debate before each election for which the candidate receives public funds (unless no other candidate qualifies for such a debate).

The PCFB will select the host of the debate, and the host of the debate will set the date, time, location, and rules for conducting the debate. Failure to participate in a mandatory PCFB debate may be grounds for denial of matching funds, as well as further sanctions.

Debate Qualification

To qualify for participation in a debate, a candidate must have raised and spent \$175,000 or more during the applicable election cycle. (For a general or special election, Governor and Lieutenant Governor candidates from the same party will each be deemed to satisfy this threshold if one of them does or both of them together do).

Chapter 4

Raising Money

What Is a Contribution?

A **contribution** is any gift, subscription, advance, or deposit of money or anything of value made in support of the candidate.

Treasurers must be aware of both the campaign’s election cycle contribution limit, as well as the contribution limits of certain kinds of contributors (like corporations, LLCs, partnerships, etc.). Some of the contribution types that campaigns are allowed to accept are not eligible for public matching funds through the PCFB.

Contribution Types and Eligibility for Matching Funds

Contribution Type	Is the Campaign Allowed to Accept It?	Is It Eligible for Matching Funds?
Contribution from Candidate	Yes	Yes
Individual	Yes	Yes
Political Committee of a Candidate	Yes	No
Political Action Committee (PAC)	Yes	No
Corporation	Yes	No
Limited Liability Companies (LLCs)	Yes	No
Partnerships	Yes	No
Sole Proprietorship Businesses	Yes	No
Lobbyists	Yes	No
Foreign Nationals	No	No
Independent Expenditure Committees	No	No
Anonymous Contributors	No	No

Who Can I Take Contributions From?

You, as a Candidate

You, as a candidate, may contribute up to three times the individual contribution limit to your authorized committee. This amount includes any in-kind contributions and/or loans you make to your committee. You are not permitted to spend any other funds on your campaign.

Example 1. The individual campaign contribution limit for an Assembly primary is \$3,000. Tom, a candidate for Assembly, spent \$3,000 to purchase lawn signs to promote his candidacy for the Assembly primary election. This must be reported as an in-kind contribution to the committee.

Tom also provided a \$1,500 monetary contribution to the committee. This means Tom has given a total of \$4,500 in contributions to his campaign, which is within the 3x individual contribution limit afforded to candidates and would be permissible.

Example 2. The individual campaign contribution limit for an Assembly primary is \$3,000. Tina, a candidate for Assembly, loaned her committee \$50,000 so the committee could purchase radio advertisements to promote her candidacy for the Assembly primary election.

Loans from a candidate are limited to three times the individual contribution limit (\$9,000). Tina is ineligible to receive matching funds until her committee pays her back \$41,000 of the initial loan.

Example 3. The individual campaign contribution limit for an Assembly primary is \$3,000. Cameron, a candidate for Assembly, made a one-time contribution of \$9,000 to their authorized committee so the committee can purchase the printing of brochures to promote their candidacy for the Assembly primary election.

A candidate may contribute no more than three times the individual contribution limit (\$9,000). Cameron's contribution is permissible because it is within three times the individual contribution limit.



Compliance Alert – Differences between In-Kind Contributions vs. Reimbursements vs. Committee Expenditures

If a candidate purchases lunch for their staff/volunteers who are working hard on the campaign, there are three possible scenarios for reporting:

- If the candidate uses personal funds to purchase the lunch and will not be reimbursed by the committee, this is an in-kind contribution from the candidate to the committee (and counts towards the candidate's contribution limit).
- If the candidate uses personal funds to purchase the lunch and wishes to be reimbursed by the committee, this is a reimbursement from the committee to the candidate (and would not count towards the candidate's contribution limit).
- If the candidate uses committee funds to purchase the lunch, this is an expenditure of the committee and is reported as such.

Individuals

Committees may accept contributions from any **individual**, which is defined as a natural person. Contributions from individuals are the only contributions that may be matched with public funds and the only contributions that can satisfy eligibility requirements for the Program.

The only contributions that are eligible to be matched with public funds are contributions from eligible individuals who are residents of the district in which you are running for election. For statewide candidates, these individuals must be residents of New York State.

Another Candidate's Authorized Political Committee

Another candidate's authorized political committee may contribute to your campaign subject to the individual contribution limit.

Any contribution made by another committee will not be matched with public funds.

Political Action Committee

A **political action committee** (PAC) may contribute to your campaign, subject to the individual contribution limit.

Any contribution made by a PAC will not be matched with public funds.

Corporations

Corporations can contribute up to a total of \$5,000 in a calendar year in the aggregate. Corporations must adhere to a candidate's election cycle limit.

Any contribution made by a corporation will not be matched with public funds.

While a corporation may contribute a total of \$5,000 to candidates or their committees in a calendar year, a campaign must not accept a contribution over the election cycle limit.

Example 4. On January 3, 2023, Cherry Cola, Inc. contributed \$3,000 to the Dale for State Comptroller committee. On December 4, 2023, Cherry Cola, Inc. contributed another \$3,000 to Dale for State Comptroller.

Cherry Cola's aggregate contribution for the calendar year is more than \$5,000. In order to be eligible to receive public funds, Dale for State Comptroller, will have to refund the overage (\$1,000) to Cherry Cola, Inc.

Example 5. On December 4, 2023, Vanilla Cola, Inc. contributed \$4,000 to the Dale for State Comptroller committee.

On February 4, 2024, Vanilla Cola, Inc. contributes another \$4,000 to Dale for State Comptroller. Dale for State Comptroller is permitted to keep both contributions because they were made in different calendar years.

Limited Liability Companies

As with corporations, **limited liability companies** (LLCs) and professional limited liability companies (PLLCs) may contribute up to a total of \$5,000 in the aggregate in a calendar year. The same restrictions for corporations apply to LLCs/PLLCs.

A committee must attribute the LLC's/PLLC's contribution to an individual or non-LLC/PLLC owner. If an individual (personally and/or as an owner of an LLC/PLLC) contributes more than a total of \$250 in an election cycle, none of that individual's contributions are matchable. The \$250 matchable contribution limit for individual contributions includes contributions from LLCs/PLLCs individual owners.

Any contribution made by an LLC/PLLC will not be matched with public funds.

Example 6. Jane Doe, a New York State resident, contributes \$250 to the Marcus for Governor committee. This contribution is matched with public funds at a 6:1 ratio (\$1,500).

Jane Doe is also the sole owner of an LLC (Fast Truck, LLC). Later, within the election cycle, Fast Truck, LLC contributes \$2,000 to "Marcus for Governor."

Since the \$2,000 contribution is attributed to Jane Doe, she exceeds the \$250 threshold. Marcus for Governor must either return the \$2,000 contribution to Fast Truck, LLC, or reimburse the PCFB the \$1,500 in matching funds.

Partnerships

You may accept contributions from **partnerships**. The partners themselves do not have to be listed as individuals unless the contribution exceeds \$2,500. For contributions over \$2,500, the filer must also attribute the contribution to the individual partner(s). If an individual contributes more than \$250 in an election cycle, none of that individual's contributions are matchable. The \$250 matchable contribution limit for individual contributions includes contributions from partners where the partnership is required to attribute the contribution to the individual partner.

Any contribution made by a partnership will not be matched with public funds.

Sole Proprietorship Businesses

A **sole proprietorship** is a business that is wholly owned by a single person and where there is no legal distinction between the owner and the business. You may accept contributions from sole proprietorships, but these contributions are subject to individual contribution limits.

These contributions cannot be matched with public funds because only contributions from individuals (defined as natural persons) may be matched with public funds.

Any contribution made by a sole proprietorship will not be matched with public funds.

Lobbyists

You may accept contributions from a registered **lobbyist**, subject to the individual contribution limit.

Any contribution made by a lobbyist will not be matched with public funds.

Who Can I Not Take Contributions From?

Foreign Nationals

Federal law prohibits campaigns from receiving contributions from foreign nationals in connection with any federal, state, or local election. A **foreign national** is:

- An individual who is (1) not a citizen of the United States and (2) not lawfully admitted for permanent residence; or
- A foreign principal, such as a foreign government or political party; or
- A partnership, association, corporation, organization, or other combination of persons organized under the laws of a foreign country or whose principal place of business is in a foreign country.

Independent Expenditure Committees

Election Law dictates that **independent expenditure committees** cannot contribute to any candidate or political committee. You cannot accept contributions from an independent expenditure committee.

Coordinating with an independent expenditure committee is considered a contribution and may result in severe penalties and possible criminal referral.

Example 7. Charles for Assembly is running out of money. Charles's friend, Bob, runs an independent expenditure committee named New York State Forever." Charles asks Bob to have New York State Forever run a television ad, helps draft the script for the ad, and shares polling information with the committee for purposes of reaching the right demographic.

This conduct is coordination with an independent expenditure committee. It may lead to disqualification from the Program, the imposition of a penalty, and a possible criminal referral.

Violators of the True Name of the Contributor Statute

If someone gives money to your campaign under their name, but the money came from or is reimbursed by another person or entity, it is a violation of the "true name of the contributor" statute (N.Y. Elec. Law § 14-120).

Any contribution must actually be funds from the contributor.

Example 8. Nick, an employee of Cherry Cola, Inc. contributed \$50 to the Dale for State Comptroller committee. Cherry Cola, Inc. reimbursed Nick \$50 for the contribution.

In this example, Nick is not the true contributor; Cherry Cola is the true contributor. Knowingly accepting such a contribution would result in penalties and possible criminal referral.

Anonymous Contributors

You cannot accept any **anonymous contributions**. If you inadvertently accept any anonymous contributions, they cannot be used and must be turned over to the Comptroller of the State of New York for deposit in the general treasury of the State.

However, if the identity of the anonymous contributor becomes known before the due date for filing of the next campaign financial disclosure report, you must either (a) return the contribution to the contributor or (b) retain and properly report it as a contribution subject to limits.

Anonymous contributions must be sent to:

Office of the State Comptroller
110 State Street, Second Floor
Attention: Remittance Control
Albany, NY 12236

What Are the Contribution Limits?

A **contribution limit** is the total amount you may accept from a single contributor in an election cycle. This limit depends on the office you are seeking. Primary and General limits are separate limits.*

Office	Primary	General
Governor	\$9,000	\$9,000*
Lieutenant Governor	\$9,000	* The Governor and Lieutenant Governor share the \$9,000 limit for the general election because both candidates run as a ticket.
Comptroller	\$9,000	\$9,000
Attorney General	\$9,000	\$9,000
State Senate	\$5,000	\$5,000
State Assembly	\$3,000	\$3,000

In addition to the contribution limit for your office, some contributors also have annual giving limits. For example, a corporation has an annual giving limit of \$5,000 in total for all political contributions.

Transfers

A **transfer** is any exchange of funds or anything of value between political committees authorized by the same candidate, or any exchange of funds between a party or constituted committee and a candidate or any of his authorized political committees.

NYS Election Law permits a candidate to transfer funds from a previous election cycle committee to their current committee. A multicandidate committee cannot transfer to a single candidate authorized committee.

Transfers are not considered contributions.

Legacy Funds

Legacy funds are funds that were raised in a previous election cycle but were not used for campaign expenditures. Candidates can retain and use these funds; however, they cannot use legacy funds to satisfy the Program threshold requirements.

Election Law 14-203(1)(i)(iii) states:

"(iii) Nothing in this section shall be interpreted to require a candidate who retains funds raised during any previous election cycle to forfeit such funds. Funds raised during a previous election cycle may be retained and used by the candidate for the candidate's campaign in the next election cycle, but funds shall not qualify for satisfying the threshold for participating in the public campaign finance program established in this title nor shall they be eligible to be matched."

Example 9. Sam for State Senate 2024 had a remaining balance of \$20,000 after the 2024 general election. In the next election cycle, Sam 2026 was established.

Sam for State Senate 2024 is allowed to transfer the \$20,000 to the Sam 2026 committee.

Example 10. A party committee (Democratic, Conservative, Republican or Working Families Party) is allowed to transfer funds to candidates.

The Conservative Party can transfer \$10,000 to Jane Doe for Assembly 2024.

How Can I Collect Contributions?

There are two ways someone can contribute to your campaign: monetary contributions and in-kind contributions.

What Are the Types of Monetary Contributions?

Monetary contributions refer to a contribution of funds in the form of money.

Certain types of monetary contributions must be accompanied by a contribution card if submitting that contribution for a matching funds claim, described in the section "Contribution Cards."

Check

Make sure each check:

- Has the contributor's name and address pre-printed on it; the contributor cannot use starter checks or a pre-printed check without an address unless they also complete a contribution card;
- Is payable to your committee (e.g., "Leon for Assembly"), not to another committee name, and not to the candidate;
- Includes the date and amount of the contribution; and,
- Is signed by the contributor.

Contributions by check do not require a contribution card (unless the contributor is using starter checks).

Check from a Joint Account

Checks drawn from a joint account are deemed to be given by the person who signed the check (the signatory), except in the case of contributions from a candidate's spouse or unemancipated child.

If multiple joint account holders are making the contribution, then you must collect all their names and the specific amounts attributed to each name. This information should be written in the memo portion of the check, in an attached letter, or in a contemporaneous document (such as an RSVP or solicitation response card).

Credit or Debit Card

Every contribution made by a credit or debit card must be accompanied by a corresponding contribution card or electronically capture all the elements of a contribution card, if submitting that contribution for a matching funds claim.

Third-Party Apps

You can use third-party apps such as ActBlue or WinRed to receive contributions and collect required contribution information. This required information is described in the section "Contribution Cards". Some third-party apps can automatically compile this information in a report to be submitted to the PCFB.

Other applications, like Venmo and Apple Pay, do not capture the required contribution information. It is your responsibility to ensure you capture and report all required contribution information.

Cash or Money Order

You may accept cash or money order contributions up to \$100, in the aggregate, from any single contributor during the election cycle. You must return any amount over \$100 to the contributor.

All cash or money order contributions must be accompanied by a contribution card if submitting that contribution for a matching funds claim, which is described in the section “Contribution Cards”.

Example 11. Danielle contributed \$100 in cash to Leon for Assembly. Six months later, she wants to make another contribution of \$75.

Leon for Assembly may not accept any more cash from Danielle, so this new contribution must be in the form of a check or credit card.

What Are the Types of In-Kind Contributions?

When a person, organization, or entity donates goods or services to your campaign free of charge or provides them at a discount not available to the general public, it is called an **in-kind contribution**.

The dollar amount of an in-kind contribution is either the actual price paid (documented with a receipt) or its fair market value.

The **fair market value** is the price anyone would normally pay for the good or service rendered. You can determine fair market value by searching the internet for comparable goods or by asking vendors of a similar product what they would normally charge for the product, service, or space.

The value of an in-kind contribution may not exceed the contribution limit. The dollar value of in-kind and monetary contributions by the same contributor are aggregated. In-kind contributions are not matched with public funds.

Volunteer Services

The services of campaign volunteers are not in-kind contributions if they are truly volunteering their own time and services. However, if someone (other than the campaign) pays the volunteer, or if the volunteer delegates their work to someone who is paid for the work, then the services performed are an in-kind contribution to your campaign and must be reported.

Volunteer Travel Expenses

The travel expenses of individuals who, on their own behalf, volunteer their personal services to any candidate or political committee to the extent such expenses are unreimbursed and do not exceed \$500 in value.

House Party

The election law permits the use of real or personal property and the cost of invitations, food, and beverages voluntarily provided by an individual to a

candidate or political committee on the individual's residential premises for candidate-related activities if such services do not exceed \$500 in value per house party.

What Information Must I Collect for Contributions?

You must keep records of the source and details of all contributions. You must collect the following information for every contribution:

- Type of contribution
 - Check
 - Cash or money order
 - Credit/debit card
 - In-kind
- Amount of contribution
- Contributor's full name and home address
- Contributor's employment information—occupation, employer name, and employer address—if a single contribution or the total of multiple contributions is \$100 or more

Contribution Cards

Contribution cards are only needed for certain contributions that are going to be claimed for match. Contributions made by cash, money order, credit card, or third-party app must contain information that is captured in a **contribution card**.

Contribution cards must:

- Collect the following information:
 - Contributor's name, residential address, phone and email address, and employment information
 - Type and amount of the contribution
 - Committee name
- Contain the following statement, with space for the contributor to sign and date beneath:

I certify that this contribution is being made from my personal funds, is not being reimbursed in any manner, and is not being made as a loan to the committee.
- Be completed, signed, and dated by the contributor at the time the contribution is made.
- Not be altered in any material manner once the contributor completes the contribution card.

Contributions with incorrect or incomplete information, or that have been altered, will not be matched with public funds.

Chapter 5

Submitting a Matching Funds Claim

Which Claims Are Matchable?

Claims must meet the following requirements to be eligible for public matching funds:

- Be an eligible monetary contribution: check, cash, money order, third-party app, credit card, or debit card.
- Be between \$5-\$250 in the aggregate for the election cycle.
- Be made by a natural person, over the age of 18, who is a resident of your district (or state for statewide office).

The \$250 limit threshold is measured by election cycle, not election. Primary and general elections occur within the same election cycle.

Example 1. John is running for State Senate in a primary election. On February 15, Carlos contributed \$250 to the John for State Senate committee for the primary election. John won the primary election. On August 12, Carlos contributed another \$250 to the John for State Senate committee for the general election.

Neither of Carlos' contributions are matchable because he exceeded the \$250 threshold.

However, the second contribution could be returned to Carlos, in which case his total contribution would be the original \$250 and would be matchable.

Example 2. Jane, a resident of Assembly District 90, has contributed \$10 to Lisa for the Assembly 101st District.

Jane's contribution is not matchable because she lives outside the 101st Assembly District.

Example 3. Ralph, a resident of Assembly District 101, contributed \$10 to Lisa for the Assembly 101st District.

Ralph's contribution is matchable because he lives within the 101st Assembly District.

Example 4. Nelson, a New York State resident, contributes \$2 to the Dale for Comptroller committee.

Nelson's contribution is not matchable, as only aggregate contributions between \$5-\$250 are matchable. If Nelson, later in the election cycle, contributes \$3, then the \$5 would be matchable.

How to Submit a Matching Claim

As a treasurer reports contributions, they have the option to claim the contribution for a match. You can make a claim using the NYSBOE EFS Web Application. The EFS Web Application User Guide can be found on the PCFB website.

What Documentation Do I Submit When Filing a Claim?

You must submit backup documentation for contributions you claim for a match.

- For checks, submit copies of the check.
- For credit cards, submit a copy of the contribution card and proof of processing.
- For money orders, submit a copy of the money order and contribution card.
- For cash, submit the contribution card.
- For third-party apps (ActBlue, WinRed etc.), submit a copy of the contribution card and proof of processing. Should a third-party app collect all contribution card information online, including the attestation statement, the information may be submitted to the treasurer in lieu of a contribution card.



Compliance Alert: Online Contributions

When committees collect contributions online, they must be sure that all required contributor information is collected. This transmitted information about the contributor acts in the place of a contribution card for these contributions.

How a Campaign Will Receive Public Campaign Funds

The committee will receive funds via an Electronic Funds Transfer (EFT). The initial payment will be generated from the first four reports (January/July/January and March). Subsequent payments will be generated from other periodic reports, election cycle reports, and weekly claims. Weekly claims will be available to be filed close to the election.

When Will I Receive Funds?

The PCFB will post a schedule of payment periods. State law requires that the PCFB schedule at least three payment dates within 30 days of an election; however, the PCFB may schedule more payment dates.



Compliance Alert: When Public Funds Payments Begin

The first payments of public matching funds for the 2024 Primary Election will begin Spring 2024.

The first payments of public matching funds for the 2024 General Election will begin in June 2024.

As a treasurer files disclosure reports, the treasurer can “claim” the contribution to be reviewed for public matching funds. PCFB staff will review these claims on an ongoing basis and will pay claims on the first available payment date.

Committees will also have the option to submit weekly matching claims during the weekly matching claim periods. The Weekly Claim schedule will be published on the calendar of scheduled payment dates and published on the PCFB website. The weekly claim schedule will be open in close proximity to the election.

Chapter 6

Public Matching Funds Payments

The Public Campaign Finance Program will only match **small-dollar contributions** that total between \$5 and \$250 for one election cycle.

An **election cycle** is the period of time that begins the day after the previous general election for a given office and ends on the date of the general election for that same office. For statewide offices, the election cycle is four years in length. For state legislative offices, the election cycle is two years in length.

If a contributor exceeds \$250 in an election cycle, candidates must either:

- Return any public matching funds connected to the contributor, or
- Refund the portion over \$250 to the contributor by a deadline set by the PCFB

Ratio for Statewide Offices

Contributions for statewide office (Governor, Lieutenant Governor, Comptroller, and Attorney General) are matched at a 6:1 ratio.

Example 1. Dale for State Comptroller committee is participating in the Public Campaign Finance Program and has met all the threshold requirements. Telly, a New York State resident, contributed \$10 to the committee.

Telly's contribution is eligible for a public match at a 6:1 ratio. The PCFB matches Telly's contribution with \$60 in public matching funds. Dale for State Comptroller will receive a total of \$70 (\$10 from Telly and \$60 in matching funds).

Example 2. On January 5, 2023, Jane, a New York State resident, contributes \$250 to the Marcus for Governor committee. This contribution is matched with public funds at a 6:1 ratio (\$1,500). On September 23, 2026, Jane contributes an additional \$250 to Marcus for Governor.

Because of the second contribution, Jane's total contribution for the 2023-2026 gubernatorial election cycle is \$500, over the \$250 limit for matchable contributions. Marcus for Governor must either return the \$250 contribution to Jane or reimburse the PCFB the \$1,500 in matching funds.

Ratios for State Senate and State Assembly

The matching ratios for state legislative office contributions depend on the amount contributed. The first \$50 of a contribution is matched at 12 times the amount contributed, the \$51-\$150 portion at 9 times the contribution, and the \$151-\$250 at 8 times the contribution. The chart below represents a breakdown of how the payment ratios work:

State Legislative Office Matching Ratios

Aggregate Dollar Contribution	Matching Ratio
\$0-\$4	0
\$5-\$50	12:1
\$51-\$150	9:1
\$151-\$250	8:1
\$251 and over	0

Example 1. Stefan for the Assembly 101st District is a participant of the Public Campaign Finance Program and has met all the threshold requirements. Mark, a resident of Assembly District 101, has contributed \$10 to Stefan for the Assembly 101st District.

Mark's contribution is eligible for a match at a 12:1 ratio. The PCFB matches Mark's \$10 contribution with \$120 in public matching funds. Stefan for Assembly 101st District will receive a total of \$130 (\$10 from Mark and \$120 in matching funds).

Example 2. Tania, a resident of Assembly District 101, has contributed \$60 to Stefan for the Assembly 101st District.

The first \$50 of Tania's contribution is eligible for a match at a 12:1 ratio, and the remaining \$10 is eligible at a 9:1 ratio. The PCFB matches Tania's contribution with \$690 in public matching funds $[(\$50 \times 12) + (\$10 \times 9)]$. Stefan for Assembly 101st District will receive a total of \$750 (\$60 from Tania and \$690 in public matching funds).

How Much Public Funding Is My Campaign Eligible to Receive?

The maximum amount of public funding depends on the office. There are some exceptions for candidates in non-competitive races, candidates running unopposed in a primary election, and candidates running in small party primaries.

Public Funding Matching Limits

Office	Primary Election	General Election
Governor	\$3.5 Million	\$3.5 Million
Lieutenant Governor	\$3.5 Million	* Amount shared with Governor
Comptroller	\$3.5 Million	\$3.5 Million
Attorney General	\$3.5 Million	\$3.5 Million
State Senate	\$375,000	\$375,000
State Assembly	\$175,000	\$175,000

Candidates Running in Non-Competitive Races

If a participating candidate is not opposed by a “competitive candidate” as defined in PCFB regulations, the candidate is only entitled to 25% of the limits outlined above. See the competitive candidate criteria in Chapter 7.

Candidates Running Unopposed in a Primary Election, With a Primary Election for the Same Office in Another Major Party

If a participating candidate is not opposed in their party's primary election, but there is a primary election in an opposing major party (Democrat or Republican) for the same public office, the participating candidate can receive up to 50% of the limits outlined above.

Example 3. Dale is running for State Comptroller and is unopposed for the Republican nomination. This means there is no Republican primary. There is a primary for State Comptroller in the Democratic Party. Even though Dale doesn't have a primary, much attention will be on the race. The candidate without a primary should be able to receive public matching funds to get their message out to the voters during this time.

As such, Dale is entitled to public matching funds for expenses incurred on or before the date of the primary election. They may receive up to \$1.75 million in public matching funds (half of the \$3.5 million limit outlined above).

Candidates Running in Small Party Primaries

If there are fewer than 1,000 people eligible to vote in a party's primary election, participating candidates will receive no more than \$5,000 in public matching funds.

This limitation currently impacts the Conservative and Working Families parties.

Example 4. Adam is running for State Assembly in the Working Families Party Primary Election in Assembly District 103. There are 547 enrolled voters in Assembly District 103. Adam is not running in any other primary election.

Adam may receive up to \$5,000 in public matching funds for the primary election.

Audit Reserve

Participating candidates must reserve a portion of funds to comply with a potential post-election audit. Committees must set aside and maintain in their campaign account an amount equal to 3% of the total matching funds received during an election cycle.

The audit process is described further in Chapter 11.

Deductions From Payments

If you commit certain infractions, the PCFB may reduce the total amount of public funds payable to your campaign. These infractions include:

- Use of public matching funds to make transfers or expenditures by your current committee to another committee controlled by the same candidate that is not involved in the current election;

- Use of public matching funds to make expenditures by your committee to pay expenses for, or debt stemming from, a previous election, including payments of penalties and public funds repayments;
- Outstanding civil penalties assessed by the PCFB as a result of your campaign's failure to comply with PCFB rules; and
- Instances where it is found the campaign received an overpayment of matching funds.

Infractions are described further in Chapter 13.

Suspension of Payments

Certain violations may result in the suspension of public fund payments if they are not promptly corrected. Such violations include, but are not limited to:

- Failing to file a complete and timely disclosure statement
- Exceeding contribution limits
- Making impermissible expenditures
- Submitting fraudulent backup documentation or matching claims

Violations are described further in Chapter 13.

Chapter 7

Competitive Candidate Criteria

As a candidate, you must be opposed by a competitive candidate to receive the full amount of public matching funds. The PCFB has created two different forms to certify that you are running against a competitive candidate. You must complete and submit the appropriate form to qualify to receive public matching funds.

- *PCF-23S Statewide Statement of Competitive Opposing Candidate Form* for Governor, Lieutenant Governor, Comptroller, and Attorney General candidates
- *PCF-23L Legislative Statement of Competitive Opposing Candidate Form* for State Senate and State Assembly candidates

The criteria for assessing your opponent's competitiveness are listed in the table below. They include categories such as your opponent's vote shares from past elections, your opponent's endorsements from other officials and organizations, and your opponent's relationships to other officeholders. Your opponent must only meet one criterion, in any category, for you to qualify to receive the full amount of public matching funds.

Your certification must indicate and provide documentation of which of these criteria the opposing candidate meets. You must sign the certification form and submit it to the PCFB at PCFB@elections.ny.gov. In the subject line, type your Filer ID followed by "Statement of Competitive Opposing Candidate Form."

The PCFB will confirm the competitive status of the opposing candidate.

Opposing Candidate Does Not Meet Competitive Criteria

If your opponent does not meet the established competitive criteria, you are only entitled to up to 25% of the total maximum public matching funds for the office you are seeking.

Competitive Candidate Criteria

	Senate and Assembly	Statewide Office
Past Election Results	<p>The opposing candidate has received 25% or more of the vote in an election for public office in an area encompassing all or part of the area that is the subject of the current election in the last eight years preceding the election of the covered office sought.</p>	<p>The opposing candidate has received 25% or more of the vote in an election for public office in a statewide election in the last eight years preceding the election of the covered office sought, or 25% or more of the vote in an election for public office in an area encompassing all of a city or county with a population of at least 495,000 people in the last eight years preceding the election of the covered office sought.</p>
Endorsements	<p>The opposing candidate has received:</p> <ul style="list-style-type: none">• The endorsement of a current or former statewide elected official, or a current or former federal elected official representing all or a portion of the area represented by the covered office sought, or a current or former United States Senator, or, in the case of a district that encompasses a portion of New York City, a	<p>The opposing candidate has received:</p> <ul style="list-style-type: none">• The endorsement of a current or former statewide elected official or a current or former United States Senator;• Endorsements from three or more current or former members of the House of Representatives representing a district in New York State;• A current or former President of the United States of America;

- current or former citywide elected official;
 - Three or more endorsements from other current or former state, county, city, town, or village elected officials who represent all or a part of the area covered by the election; or
 - Endorsements of one or more membership organizations with a membership of over 150 members.
- A combined twenty or more current or former members of the New York State Senate or New York State Assembly;
 - The endorsement of a current or former elected official who represents an area encompassing all of a city or county with a population of at least 295,000; or
 - Endorsements of three or more membership organizations with a membership of over 150 members.

Family Relationships	The opposing candidate's spouse, domestic partner, sibling, parent, or child holds or has held elective office in an area encompassing all or part of the area represented by the covered office sought in the past ten years.	The opposing candidate's spouse, domestic partner, sibling, parent, or child holds or has held elective office statewide, or in an area encompassing all of a city or county with a population of at least 495,000.
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Example 1. Carlos, a participating candidate, is running for Attorney General in a Primary election. Carlos' opponent in the Primary is Glenda. Carlos has not filed a certification showing that he is opposed by a competitive opponent.

The maximum amount of public matching funds Carlos may receive is \$875,000 (25% of the \$3.5 million from the chart above).

Example 2. Subsequently, Carlos filed a certificate showing that his primary opponent, Glenda, is competitive. The PCFB approved Carlos' request.

Now, the maximum amount of public matching funds Carlos may receive is \$3.5 million for the Primary election.

Example 3. Carlos filed a certificate showing that his Democratic New York State Senate primary opponent Glenda—who has never run for office and has no endorsements—has a sister, Tina, who was elected to the New York State Assembly six years earlier in a seat that overlaps the one Glenda is running for. The PCFB approved Carlos' certification.

Carlos received all the public matching funds he claimed.

Chapter 8

Expenditures

An **expenditure** is any gift, subscription, advance, payment, or deposit of money or anything of value spent in support of the candidate. The Election Law contains restrictions on how campaign funds can be spent.

What Are Qualified Expenditures?

Qualified campaign expenditures are expenditures that further the participating candidate's nomination or election, including debts incurred within one year before the election. Public funds can only be spent on qualified campaign expenditures.

Candidates participating in the Public Campaign Finance Program are subject to additional restrictions on how they can spend public matching funds.

How Can I Spend Public Funds?

You can only spend public funds on **qualified campaign expenditures**.

Most campaign expenditures are considered qualified campaign expenditures. These include campaign mailers, literature, T.V. and digital ads, staff salaries, office space, and computer hardware and software. Qualified expenditures can also include debts incurred within one year before the election if the debt furthers the candidate's election.

Public funds may only be used on qualified expenditures such as (including, but not limited to):

- Campaign literature
- Campaign mailings
- TV/radio/internet advertisements
- Campaign office rent/supplies
- Staff wages
- Fundraising expenses
- Campaign travel

However, there are certain things that public matching funds cannot be spent on, such as contributions to another candidate's campaign or expenses related to holding office for those who are incumbents.

Public funds may not be used on the following non-qualified expenditures, but using non-public campaign funds is permissible (including, but not limited to):

- Repayment of loans used to pay for non-qualified expenses or used to pay for qualified expenses incurred more than one year before the applicable election
- Transfers
- Contributions to other candidates/committees
- Cash expenditures
- Gifts
- Legal fees related to a criminal charge
- Ballot proposition expenses
- Expenditures related to duties of public office
- Payments to family/family-owned business
- Expenses related to challenging the ballot access of other candidates

Not Permissible Uses of Campaign Funds

The following campaign expenditures are not permissible uses of campaign funds or public funds:

- An expenditure in violation of any law
- An expenditure in excess of the fair market value of services, materials, facilities, or other things of value received in exchange

Compliance Alert: Transaction Types for Reporting

Because any public matching funds you receive may be combined in one account with all of your campaign funds, it is important that you keep track of the amount of public funds you receive and carefully document all of your expenditures.

All public funds received will be reported on the Public Fund Receipts transaction type.

All eligible campaign expenses that public funds can be used on will be recorded on the Qualified Expenditures transaction type.

Chapter 9

Reporting Financial Activity

Campaigns must report all financial activity of their committee. The PCFB will publish the dates for required filings in the annual Filing Calendar. Financial activity includes all contributions, receipts, expenditures, loans, refunds, and transfers.

You must submit an itemized list of all transactions in your disclosure statements. **Itemized** means all details of the transaction are reported – date, full name, complete address, method of payment, amount, and any other required information based on transaction type.

Campaign Finance Disclosure Statements

Participating candidates must file timely and thorough disclosure statements using the format provided by the State Board of Elections. If you do not file these statements, you risk enforcement action ranging from fines to the denial of public matching funds and disqualification from the Program.

For the 2024 election cycle, which began November 9, 2022, participating candidates will use the State Board of Elections' Electronic Filing System (EFS) Web Application to submit their disclosure statements and their matching funds claims. The EFS Web Application User Guide can be found on the PCFB website.

PCFB permits a treasurer to designate additional authorized users who can access the filer's EFS Web Application account. Treasurers may add or remove authorized users by submitting a *CF-07 Authorized User Designation/Removal for Electronic Filing System (EFS) Web Application Form* to PCFB. The authorized user will be able to log into the committee's account, create report drafts, and add/edit/delete transactions. The authorized user will not be able to submit any reports. This remains the sole responsibility of the treasurer of the committee. If the treasurer wishes to remove someone previously designated as an authorized user, the treasurer must submit a new version of the CF-07 form. If the treasurer successfully resigns from the committee, all authorized users designated by that treasurer will automatically lose access to the committee's account.

No-Activity Report

If the committee has had no financial activity to report since the last disclosure statement was filed, the committee must submit a “No-Activity Report” using the EFS Web Application.

Matching Fund Claims

There are two ways to submit matching funds claims to PCFB:

- As you file your required campaign finance disclosure statements. These claims will be paid on the first available payment date, as applicable. This is the easier method, as the committee is only required to disclose the transaction once.
- As a weekly claim. In election years, there will be a period before both the primary and general elections during which committees can also submit claims on a weekly basis. Weekly claims must be disclosed on the next applicable disclosure report. This method requires treasurers to take time to ensure all weekly claims are included within the disclosure report.

Reporting Contributions

You must submit an itemized list of all contributions in your disclosure statements, including contributions that are \$99 or less from a single source.

You must report the following information in your disclosure statements for all contributions:

- Whether the contribution is being claimed for matching funds
- The date the contribution was received by the committee
- The full name and address of each contributor
- For contributors that make contributions totaling \$100 or more in the aggregate, their occupation and business address
- The form of the contribution (e.g., cash, check, credit card, etc.)
- The number of the check, if applicable
- The amount of the contribution
- The date and amount of any contribution that was refunded to a contributor, as well as documentation of how the refund payment was made

Reporting In-Kind Contributions

You must report the following information in your disclosure statements for all in-kind contributions:

- The date the contribution was received by the committee
- The full name and address of each contributor
- For contributors that make contributions totaling \$100 or more in the aggregate, their occupation and business address
- The type and description of the in-kind contribution
- The amount of the contribution

In-kind contributions must be assessed at the fair market value.

Reporting Other Receipts Received

You must report the following information in your disclosure statements for all other receipts received:

- The date the receipt was received by the committee
- The full name and address of each receipt source
- The receipt type
- The form of the receipt (e.g., cash, check, credit card, etc.)
- The number of the check, if applicable
- The amount of the receipt

Reporting Expenditures

You must submit an itemized list of all expenditures in your disclosure statements, including expenditures that are \$49.99 or less in a single transaction.

There are two different transaction types in which to report campaign expenditures: qualified expenditures and then all other expenditures/payments.

Among the information that participating candidates must report on their disclosure statements for all expenditures are the following:

- The date of each expenditure
- The full name and address of each vendor or payee
- The purpose and/or explanation of each expenditure
- The form of the expenditure (e.g., cash, check, credit card, etc.)
- The number of the check, if applicable
- The amount of the expenditure
- The amount of remaining outstanding liability to the vendor or payee
- Information on vendors' subcontractors, including name, amount spent, and purpose or explanation of subcontractor's services, where the amount spent

on that subcontractor is more than \$10,000 for statewide offices, or \$5,000 for legislative offices

- For expenditures paid with a credit card: the candidate must report the specific transaction details, including vendor name, address, purchase price, and date of transaction
- For reimbursements: the candidate must report the specific transaction details, including vendor name, address, purchase price, and date of transaction
- The date and amount of any expenditure that was refunded to the committee, as well as documentation of how the refund payment was made

Reporting Transfers In

You must report the following information in your disclosure statements for all transfers in:

- The date the transfer was received by the committee
- The full name and address of each transferor
- The transfer type
- The form of the transfer (e.g., cash, check, credit card, etc.)
- The number of the check, if applicable
- The amount of the transfer

Reporting Transfers Out

You must report the following information in your disclosure statements for all transfers out:

- The date the transfer was given by the committee
- The full name and address of each transferee
- The transfer type
- The form of the transfer (e.g., cash, check, credit card, etc.)
- The number of the check, if applicable
- The amount of the transfer

Reporting Loans

Although loans are not matchable contributions, candidates must provide the PCFB with information regarding any loans on disclosure statements, including:

- The lender's, guarantor's, or other obligor's full name, residential address, occupation, and business address

- The date and amount of each loan
- The date and amount of any portion of a loan which has been forgiven or paid
- The date, amount, check number, or name of any third-party payor, for any loans that have been repaid

Tip: Interest on Loans

Loans from the candidate or the candidate's spouse must be interest free and cannot contain any finance charges. Interest rates and/or finance charges for loans from any other lender must be at or below the fair market rate.

**Compliance Alert: Reporting Loans**

Participating candidates must thoroughly document loans made to the committee by creating and executing loan agreements. These signed loan agreements must be created contemporaneously in writing and must provide for all terms and conditions of the loan. Similar documentation must be provided to PCFB when any or all of a loan or liability is forgiven by a lender.

**Compliance Alert: Loans From the Candidate**

Candidates may contribute or loan an aggregate amount up to three times the individual contribution limit to their authorized committee. This would include funds jointly held by the candidate and their spouse or unemancipated children. Contributions and loans from the candidate are added together for limit purposes.

Loans are described further in Chapter 10.

Reporting Outstanding Liabilities

You must report the following information in your disclosure statements for all outstanding liabilities:

- The date the liability was incurred by the creditor
- The full name and address of each creditor
- The purpose and/or explanation of each liability
- The original amount of the liability incurred

When Are Disclosure Statements Due?

The PCFB will publish a calendar with all the submission dates for required disclosures. The timing for these disclosure statements is set by statute and regulation, in particular Election Laws § 14-201 and 9NYCRR6200.2.

Periodic Disclosure Reports:

- January 15th
- March 15th – in election year only
- July 15th

Election Related Reports:

- 32 Day Pre-Primary
- 11 Day Pre-Primary
- July Periodic*
- 32 Day Pre-General/Special
- 11 Day Pre-General/Special
- 27 Day Post-General/Special

*The July Periodic will act as a Post-Primary Report

If any of these due dates fall on a Saturday, Sunday, or legal holiday, the disclosure statement is due on the next business day.

You can amend your disclosure reports after they are filed to correct any information submitted in disclosure statements.

Compliance Alert: 24-Hour Notices

Any contribution or loan of more than \$1,000 received between the day after the cut-off date of the 11 Day Pre-Election report and Election Day must be disclosed within 24 hours of receipt. 24 Hour Notices are submitted via the EFS Web Application. These transactions must also be disclosed on the committee's post-election disclosure report.

Compliance Alert: Amending Disclosure Reports

Disclosure reports can be amended after they are filed to add, subtract, correct, or supplement any information submitted in the report. All versions of a report are viewable to the public on the Board's Public Reporting website.



Compliance Alert: Weekly Claims

If a treasurer files a weekly claim, that information must be reported on the next applicable campaign financial disclosure report.



Compliance Alert: Don't Forget - We Are Here to Help!

PCFB staff is available to assist you with any questions you may have. The PCFB Call Center can be reached at (518) 473-2784, or you may email PCFB@elections.ny.gov for assistance.

Chapter 10

Pre-Election Review

How Long Do I Need to Keep Records?

Treasurers must keep, and provide to the PCFB upon request, all financial records for a minimum of **five years after the election**. These records include:

- Bank records
- Deposit slips
- Records of contribution cards for cash contributions, money orders, and cashier checks
- Bills
- Contracts
- Disbursements by check or credit card
- Loans
- Vendors and subcontracted goods and services
- Records from fundraisers
- Political communications
- Campaign materials

Tracking Your Eligibility

The candidate and treasurer are responsible for tracking their progress in meeting their eligibility thresholds. The PCFB will monitor the campaign's progress in meeting the eligibility thresholds throughout the election cycle. The status will be reflected in a report sent to the candidate called the *Candidate Threshold Status* report.

This report shows your campaign's audited progress toward reaching the two-part requirements (monetary threshold and matchable contributions) for receiving public funds. The report includes the dollar amount of eligible matchable contributions you have raised, as well as the number of matchable contributions that have been reported. The report reflects PCFB staff's review as of your most recent disclosure report and overall reporting history.



Compliance Alert: Redistricting for State Assembly

Pursuant to court order, the Assembly districts are to be redrawn for the 2024 election cycle, a process that is scheduled to be completed by the end of April 2023. Accordingly, any matchable contributions claimed for Assembly races prior to the finalization of the maps are subject to the finalization of the new Assembly district maps. If a contribution is within an Assembly district prior to the new maps but outside the district after the new maps are finalized, such contributions will not be matchable.

The PCFB reviews matching claims with each disclosure statement submission. These claims are subject to ongoing review by the PCFB. The report sent to you by the PCFB is for informational purposes only and does not require a response. However, if records maintained by your campaign show a different result, you should reach out to the PCFB to discuss the discrepancy.

Treasurers are responsible for ensuring that no single contributor exceeds the aggregate contribution limit to their particular campaign. Accepting excess contributions is a violation of Program requirements and can render the campaign ineligible for public funds. Campaigns that accept excess contributions will be subject to penalties. Accepting excess contributions may impact Program eligibility.

Penalties are further described in Chapter 12.

What Is a Compliance Review?

PCFB staff reviews the financial disclosure statements and matching fund claims you file on an ongoing basis. After its review, the PCFB will issue a preliminary review of the campaign's disclosure with a **compliance review**.

If the PCFB finds instances of non-compliance, you will receive a report summarizing these issues. If you have claimed contributions for match, the review also provides a list of matching claims preliminarily deemed invalid based on reporting, statutory ineligibility and/or documentation. The report may also include unresolved pending issues from past disclosure statements and claims. Any compliance issues found as part of the compliance review are sent only to treasurers and candidates.

Deficiencies the report may cite include, but not be limited to:

- Invalid matching claims
- Overcontributions
- Missing documentation

The treasurer will have an opportunity to correct any deficiencies or respond to the report with any comments or concerns you may have.

Campaigns must submit records for any bank(s) and merchant account(s) they used for the election. The PCFB will regularly reconcile your campaign's reported transactions with the transactions that appear on your bank records to ensure that all financial activity has been accurately disclosed.

Possible discrepancies in these reviews include:

- Missing statements and/or missing deposit slips
- Unreported transactions
- Uncleared transactions

If these discrepancies are found, the PCFB will contact your campaign to correct such discrepancies.



Compliance Alert: Don't Forget – We Are Here to Help!

PCFB staff is available to assist you with any questions you may have. The PCFB Call Center can be reached at (518) 473-2784, or you may email PCFB@elections.ny.gov for assistance.

Loans

During the election cycle, you may choose to take out a loan to cover expenses. You **may** accept loans from any person, firm, association, or corporation, and certain political committees. There is no limit to the amount of money a campaign may borrow; however, if the loan is not paid back by the date of the election, the outstanding balance will be considered a contribution for limit purposes by the lender or guarantor (this does not apply to loans from a party or constituted committee, as monies by a party or constituted committee are not subject to a contribution limit). This does not remove any obligation to repay the loan.

You are strongly cautioned to consider the applicable contribution limit as applied to the outstanding balance of the loan, as well as cautioned to review the

contribution history of the particular contributor who will be making the loan in order to avoid over-contributions for limit purposes.

Loans From Banks or Any Business Where Loans Are Made in the Regular Course of the Lender's Business

On election day, any unpaid portion of a loan made by a bank, or any business that makes loans as its regular course of business, shall be deemed a contribution for limit purposes from the obligor on the loan and by any other person endorsing, cosigning, guaranteeing, collateralizing or otherwise providing security for the loan.

Loans From Any of the Above Where Loans Are Not Made in the Regular Course of the Lender's Business

On election day, any unpaid portion of a loan made by any individual or entity who does not typically make loans in its regular course of business shall be deemed a contribution for limit purposes from the lender.

Example 1. Nick is running for State Assembly in the Primary election, where the individual contribution limit is \$3,000. The Nick for Assembly committee is starting to run low on funds. Todd agrees to loan Nick for Assembly \$60,000 to continue the campaign. By election day, Nick for Assembly has not paid back any amount of the loan from Todd.

This unpaid loan is now considered an individual contribution for limit purposes. As such, there would be an overcontribution from Todd for limit purposes. This does not remove any obligation to repay the loan and may lead to civil or criminal penalties.

You **may not** accept loans from the following, as they are specifically prohibited by law from making loans to candidates or political committees:

- Lobbyists (except, a lobbyist shall not be prohibited from making a loan to themselves or to their own political committee when such lobbyist is a candidate for office)
- Political Action Committees
- Labor Unions
- Independent Expenditure Committees

Self-Loans

A candidate may not expend any of their own funds on their campaign. This includes funds that are jointly held with a spouse or unemancipated children.

However, candidates may contribute or loan an aggregate amount up to three times the individual contribution limit to their authorized committee. This would include funds jointly held by the candidate and their spouse or unemancipated children. Contributions and loans from the candidate are added together for limit purposes.

Loans made by the candidate or their spouse must be interest-free and not contain any finance charges.

Example 2. Dale is running for State Comptroller in the Primary election, where the individual contribution limit is \$9,000. Dale wants to purchase advertisements on social media to promote the campaign; however, Dale for State Comptroller is running low on funds. Dale loans the committee \$60,000 to purchase social media advertisements. This loan is impermissible as it is more than three times the individual limit (\$27,000).

Dale is ineligible to receive public matching funds until the overage is repaid.

Example 3. Ruth is running for Lieutenant Governor in the Primary election, where the individual contribution limit is \$9,000. Ruth wants to purchase radio advertisements to promote the campaign; however, Ruth for Lieutenant Governor is running low on funds. Ruth loans the committee \$20,000 to purchase a radio advertisement.

This loan is permissible because it is less than three times the individual contribution limit (\$27,000) -- assuming Ruth has not also contributed more than \$7,000 in direct contributions.

Forgiven Debt/Liability

If your committee incurs a debt or liability to a vendor that is later forgiven, the amount associated with the forgiven debt/liability will be considered an in-kind contribution from the vendor to your campaign. This in-kind contribution is subject to contribution limits.

This is not the same as when a vendor refunds money because it did not provide the goods or services purchased.

Example 4. Dale for Comptroller contracts for airtime with EZ Listening radio station for \$60,000 to promote Dale in the Primary Election. Dale for Comptroller used all the airtime. EZ Listening later decided to forgive the \$60,000 agreed to in the contract.

The \$60,000 forgiveness is considered an in-kind contribution. It is impermissible because it exceeds the contribution limit of \$9,000.



Compliance Alert: Keeping Political Communications

The committee treasurer must keep copies of all committee political communications, including broadcast schedules, print ads, campaign literature, and more.

Chapter 11

Post-Election Audits

When an election ends, your responsibilities as a candidate to comply with the Election Law and PCFB rules continue, regardless of the outcome of the election.

Winding Down Your Campaign

After the election, you should begin taking steps to wind down your campaign and prepare for the post-election audit. Winding down your campaign consists of paying all outstanding debts/liabilities and ensuring your records are organized in preparation for a post-election audit.

All campaigns must file a disclosure statement after the election. For primaries, this is the July Periodic filing (acting as the post-primary report). For the general election, this is the 27 Day Post-General filing.

Post-election spending with public funds is narrowly restricted. You can make post-election expenditures with public funds, but only for routine activities involving nominal costs associated with closing a campaign and responding to the post-election audit. These expenditures must be made within 60 days of election day.



Compliance Alert: 3% Audit Reserve

Participating committees must set aside and maintain 3% of the total matching funds they received that cycle to be used for the costs of complying with a potential audit.

What Is the Post-Election Audit?

The **post-election audit** is a comprehensive review of your campaign's disclosure statements and supporting documentation. The purpose of the audit is to verify your campaign's compliance with the PCFB's rules and requirements.

Will My Campaign Be Audited?

All statewide candidates and candidates that receive more than \$500,000 in public funds will automatically be audited after the election. One-third of the remaining participating candidates will be selected by lottery to be audited.

The lottery will be weighted in subsequent elections such that districts that have recently been audited will be less likely to be audited in the next cycle.

How Long Does the Audit Take?

In general, audits can take up to 18 months from the relevant election. They can take longer if fraud, criminal activity, or knowing and willful violations of Article 14 of the Election Law are suspected.

Once the audit is complete, the PCFB will issue a *Draft Audit Report* to the committee. If this draft report finds that the committee has violated the Program rules or regulations and/or the Election Law, the PCFB will serve a *Notice of Alleged Violation(s)* along with the *Draft Audit Report*.

The committee will have an opportunity to respond to this draft report before a final report is issued and any further action is taken by PCFB.

Once the committee has responded or waived its right to respond to the *Draft Audit Report*, the PCFB will issue a *Final Audit Report* and undertake any necessary enforcement action.



Compliance Alert: Complying with an Audit

Compliance with post-election audits, including permitting PCFB staff to examine all of the committee's records, is a condition of applying to participate in the Program. Candidates and treasurers agree to this condition when they complete the *PCF-22 Application/Certification Form*.

Failure to comply with this requirement can be grounds for enforcement action and penalties, regardless of the outcome of the audit.

Chapter 12

Repayments

When Does a Campaign Have to Repay Public Matching Funds?

There are a few instances when a campaign must repay public matching funds:

- When it received more funds than it is entitled
- When public funds are spent on an impermissible purpose
- When there is a surplus of funds

What Is a Surplus of Funds?

Participating campaigns must reimburse the PCFB any surplus funds that are remaining after the election. **Surplus** is the difference between the amount of money raised and money spent by your campaign in a single election cycle.

This amount does not include legacy funds or transfers.

This surplus calculation can be expressed as:

$[(\text{Campaign contributions}) + (\text{public matching funds})] - (\text{campaign expenditures})$

If your campaign's total expenditures are less than the sum of the contributions received during an election cycle plus the matching funds received from the state, you must repay the difference back to the Program. This amount is capped at the amount of total matching funds you received.

Tip: Legacy Funds and Surplus

Transferred (legacy) funds are not used in the calculation of surplus. The only funds used to calculate the amount a candidate shall be required to repay are contributions received during an election cycle and matching funds received from the state.

What Expenditures Are Used in Calculating Surplus?

For purposes of calculating the surplus repayment, **campaign expenditures** include permissible expenditures existing under Title I of the Article 14 of the Election Law including for the purpose of holding a public office, or contributions to another campaign.

Tip: Public Matching Funds – Permissible Expenditures

Public matching funds cannot be used for purposes of holding a public office, or for making contributions to another campaign; however, a campaign may use other funds it receives, including contributions, for these purposes.

Example 1. Assembly candidate Commodus received \$15,000 in total contributions and \$50,000 in public matching funds, for a total of \$65,000 in campaign funds subject to a surplus repayment. The campaign spent \$10,000 on lawn signs, \$40,000 on TV ads, \$10,000 on newspaper ads, and made a \$5,000 contribution to Senator X.

That is \$65,000 in funds spent. The campaign expenditure amount used in calculating surplus payments is \$65,000.

The surplus payment is calculated as the sum of campaign contributions and public matching funds (\$65,000 total) minus campaign expenditures (\$65,000). Commodus would not owe the PCFB a surplus payment.

Example 2. Jane Doe raised \$50,000 in total contributions for her race for Governor and received \$25,000 in public matching funds.

Jane Doe spent \$40,000 on television ads, \$15,000 on office space, and \$10,000 on lawn signs, for a total of \$65,000 in expenditures. Jane Doe owes the PCFB a surplus payment of \$10,000.

Example 3. State Senate candidate Biff Webster raised \$20,000 in total contributions and received \$50,000 in public matching funds. He then spent \$20,000 on campaign bumper stickers, coffee mugs, and t-shirts, \$10,000 on lawn signs, and contributed \$30,000 to gubernatorial candidate Doe, for a total of \$60,000 in expenditures.

Biff Webster must pay the PCFB the \$10,000 remaining in surplus funds. Additionally, because Biff Webster used public money for his contribution to the Doe campaign, which is a non-qualified campaign expenditure, he may be liable for violating Program rules and issued further penalties.

Chapter 13

Enforcement

The PCFB is authorized to bring civil enforcement actions against participating candidates, treasurers, and committees for violations of NYS Election Law and SBOE and PCFB Rules & Regulations.

The PCFB can either act on a complaint or undertake an investigation upon its own initiative. This chapter contains a broad outline of the enforcement process when a complaint is received.

Making a Complaint About a Candidate, Treasurer, or Committee

Anyone can make a complaint to the PCFB alleging a violation of the election law or SBOE and PCFB regulations. Complaints shall be sent to PCFB through the online form on our website, by email, by mail, or by hand delivery.

When a complaint is made, it remains an internal matter for PCFB Enforcement.

Include the following information in your complaint:

- The complainant's full name, current residential address, telephone number, and email address;
- Date and time of the alleged violation;
- The place(s) the conduct occurred;
- The names of any witnesses; and,
- All documentary evidence in the complainant's possession.

Navigating the Enforcement Process

The enforcement process contains a number of stages:

- Notice of Complaint
- Notice of Alleged Violation
- Notice of Enforcement
- Notice of Hearing and Report of the PCFB
- Notice of Final Determination

If a complaint is made against your campaign, you are encouraged to reach out to PCFB enforcement staff at any stage of the enforcement process to try to negotiate a disposition.

Notice of Complaint

If the PCFB receives a complaint against you, your treasurer, or your committee, the PCFB will review that complaint for sufficiency. The PCFB will decide whether the complaint alleges a valid violation of the election law or PCFB and SBOE rules and regulations over which the PCFB has jurisdiction.

If the PCFB finds that the complaint states a valid violation, you will receive a written *Notice of Complaint* from the PCFB. This notice will describe the allegation against you or your treasurer and remind you to retain all your committee and financial documents (see Chapter 10).

Written Answer to the Notice of Complaint

You will have 20 business days (or fewer, depending on the proximity of the election) from the date you receive the *Notice of Complaint* to submit a written *Answer* to the PCFB. Your *Answer* must be sworn or affirmed, must set forth a response to all allegations in the complaint, and must be accompanied by any documentary evidence you have available.

Notice of Alleged Violation(s)

After receiving your *Answer* to the *Notice of Complaint*—or if you fail to submit one—the PCFB will decide whether to open an investigation into the conduct alleged in the complaint or the conduct that was discovered on the PCFB’s own initiative.

If the PCFB finds upon completing its investigation that you, your treasurer, or your committee has violated the election law or rule/regulation, the PCFB will send you a *Notice of Alleged Violation(s)*. The *Notice of Alleged Violation(s)* will list the PCFB’s findings of the violations it is alleging you have committed.

30-Day Cure Period

You have 30 days from receipt of the *Notice of Alleged Violation(s)* to correct the alleged conduct or transaction that formed the basis of the violation(s).

However, if the alleged violation is a failure to file financial disclosure statements or repay public matching funds, there is no cure period.

Notice of Enforcement

If you fail to correct the alleged violation within 30 days, the PCFB will send you a *Notice of Enforcement*. The *Notice of Enforcement* will detail the allegations against you, the specific laws/regulations the PCFB has found you have violated, and the authorized penalties for those violations.

You have 21 days from receipt of the *Notice of Enforcement* to request a hearing on the charges against you. The PCFB will provide a form for you to complete and return if you wish to contest the PCFB's findings in an in-person hearing or in writing.

If you fail to respond to the *Notice of Enforcement* within 21 days, the findings and associated penalties detailed in the *Notice of Enforcement* will be deemed final and submitted to the PCFB for final determination.

If the Board upholds the findings and penalties against you, the PCFB will file an action in Albany County Supreme Court to obtain a judgment against you.

Notice of Hearing and Report of the PCFB

If you request a hearing, the PCFB will send you a *Notice of Hearing* and the *Report of the PCFB*. This notice and report will contain a more detailed account of the allegations against you and the penalty you are facing.

You have 10 business days from receipt of the notice and report to file a written response called the *Answer to the Report*. In this response, you may detail all the facts, evidence, and defenses you believe are applicable. If you fail to return an *Answer to the Report*, the PCFB will move for a default decision.

You must also indicate if you would like an in-person hearing in the *Answer to the Report*. Hearings will be conducted before a Hearing Officer in accordance with the State Administration Procedure Act.

Notice of Final Determination

Following a hearing, or a failure to submit an *Answer to the Report*, the Hearing Officer will make a determination on the PCFB's charges against you. The Hearing Officer will also provide written findings of fact and conclusions of law. This determination will be considered and either accepted, rejected, or modified by the Commissioners of the PCFB. Following the Commissioners' determination, the PCFB will issue you a *Notice of Final Determination*.

PCFB enforcement staff will communicate with you to arrange to satisfy whatever penalties the PCFB has levied against you, your treasurer, or your committee. If there is no resolution within 30 days of service of the *Notice of Final Determination*, the PCFB will file an action in Albany County Supreme Court seeking a judgment.

What Are the Penalties for Common Violations?

Penalties for some of the more common violations are listed below. For a detailed list of violations and associated penalties, please refer to PCFB regulation (9 NYCRR 6221.46).

Late Filing and Failure to File Disclosure Statements

If you fail to timely file your disclosure statements, you will be charged the following amounts according to the office you are seeking:

- \$50 per day overdue, up to \$1,000, for State Senate and State Assembly
- \$100 per day overdue, up to \$3,500, for Lieutenant Governor, Attorney General, and Comptroller
- \$200 per day overdue, up to \$5,000, for Governor

If you do not file the missing disclosure statement by the deadline for the next disclosure statement, it will be considered a “failure to file,” and any matching funds claims made within that period will be denied.

Contribution Overages

Accepting contributions over the limit from any contributor type is prohibited.

If You Return the Overage...	Penalty
Before the PCFB issues a <i>Notice of Alleged Violation</i>	None
Within the 30-day cure period following issuance of a <i>Notice of Alleged Violation</i>	\$125 or 25% of the overage (whichever is greater)
After the expiration of the 30-day cure period	\$250 or 50% of the amount of the contribution (whichever is greater)

Cash Contributions Over \$100

Campaigns are prohibited from accepting cash or money order contributions in the aggregate from a contributor greater than \$100. The penalty for this violation

will generally be 25% of the overage plus the amount of the overage. If the over-the-limit portion is refunded, the penalty will be 25% of the overage.

Failure to Maintain Records or to Provide Records to the PCFB

Campaigns must maintain records, such as copies of checks, invoices, and bank records, to verify financial transactions reported in disclosure statements.

Campaigns must provide such records to the PCFB upon request and respond to specific questions regarding compliance with Program rules within a deadline provided by the PCFB.

- If the campaign provides requested documentation past the PCFB's deadline, the PCFB will issue a penalty of \$50 per day, up to either 2% of public funds received or \$500 (whichever is greater).
- If the campaign fails to respond, the PCFB will issue a penalty of either 10% of public funds received up to \$15,000 or \$1,000 (whichever is greater).

Fraud or Misrepresentation

If the PCFB finds that a candidate, treasurer, or committee has committed a material misrepresentation, fraud, or submission of false or fictitious information, the candidate will be expelled from the Program, ordered to return all public funds previously received, fined \$15,000, and the conduct will be referred to law enforcement.



Compliance Alert: Don't Forget – We Are Here to Help!

PCFB staff is available to assist you with any questions you may have. The PCFB Call Center can be reached at (518) 473-2784, or you may email PCFB@elections.ny.gov for assistance.

Chapter 14

How to Terminate an Authorized Committee

Since you can use only one authorized committee per elective office sought, some candidates may need to terminate an existing authorized committee and transfer the balance of funds to their new committee. This process must be done as soon as practicable.

Example 1. Jane Doe had an authorized committee, Jane Doe for Assembly 2022, for her 2022 Assembly Election. Jane Doe submitted a PCF-21 Committee Registration Form to indicate her interest in becoming a participating candidate for public matching funds in 2024 and created the Jane Doe for Assembly 2024 committee.

As Ms. Doe can only have one authorized committee per office sought, she will have to close her Jane Doe for Assembly 2022 committee and transfer any existing balances to the Jane Doe for Assembly 2024 committee.

In order to terminate an authorized committee, a filer must submit a fully completed paper *CF-18 Termination or Resignation Request Form* and a campaign financial disclosure termination report. The form can be submitted either by mail or in person. The final disclosure report is to be submitted using the EFS Web Application or a No-Activity Report can also be submitted on a paper CF-18 form. The CF-18 form must be completed in its entirety with the appropriate “Filing Period” and “Termination Report” boxes checked. The form must contain an original signature. Forms submitted by fax or by an electronic file attached to an email will be rejected.

The termination report must include all transactions from the cut-off date of the last report filed up to the date of the termination request. Any periodic or post-election report can be designated as a termination report. At other times, a filer can submit an off-cycle campaign financial disclosure report for termination purposes. The authorized committee termination will not be processed unless you meet all requirements for termination, including the filing of all delinquent reports. A termination is not complete until approved by the PCFB.

In addition to the documentation described above, filers must meet the following requirements to terminate their authorized committee:

- Submit all previously required campaign financial disclosure reports
- The committee must have an ending cash balance of \$0 in the bank account, which also must be reflected in the filer's final campaign financial disclosure termination report
- All outstanding loans or liabilities must be repaid or forgiven, including submission of letters of forgiveness
- There can be no negative cash balance on any report

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